



City of Nedlands

Planning and Development Reports


Committee Consideration – 10 May 2016
Council Resolution – 24 May 2016

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Council: 24 May 2016

PD17.16 (Lot 100) No. 6/158 Stirling Highway, Nedlands – Proposed Change of Use (From Showroom to Health Studio)

Committee	10 May 2016
Council	24 May 2016
Applicant	F45 Training Nedlands
Owner	Noosa Pty Ltd
Officer	Mr A D Bratley – Coordinator Statutory Planning
Director	Peter Mickleson – Director Planning & Development Services
Director Signature	
File Reference	DA2016/71 – ST6/158
Previous Item	Nil
Attachments	<ol style="list-style-type: none"> 1. Site Plan and Floor Plans (A3) 2. Proposed Signage Details (A3) 3. Applicant's Car Parking Provisions Assessment (A4)

1.0 Executive Summary

This application is for the proposed change in use of Unit 6 from a Showroom to a Health Studio (gymnasium), which will result in a shortfall of up to 17 car bays (refer to Attachments 1 and 2).

The proposal was advertised to nearby landowners for comment and during the advertising period 6 objections were received.

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

The application is recommended for approval despite not complying with the car parking requirements, as it is considered the nature of the proposed use and the differing peak hours of operation compared with other uses on the property, means that an adequate amount of car parking bays will be available for the use.

2.0 Recommendation to Committee

Council approves the application for the proposed change of use (from Showroom to Health Studio) at (Lot 100) No. 6/158 Stirling Highway, Nedlands, in accordance with the application received on 2 March 2016, subject to the following conditions and advice:

- 1. The development shall at all times comply with the approved plans.**
- 2. The car-parking bays, vehicular and pedestrian access ways, and signage being maintained by the landowner to the City's satisfaction.**
- 3. An acoustic report being submitted to and approved by the City prior to the health studio commencing (refer to Advice Note 2).**
- 4. The health studio complying with the recommendations of the acoustic report, to the City's satisfaction.**
- 5. The illuminated signage being of a low level not exceeding 300cd/sqm and may not flash, pulsate and/or chase.**
- 6. The signage shall not contain fluorescent, reflective or retro reflective colours and/or materials.**

Advice Notes specific to this proposal:

- 1. This decision constitutes planning approval only and is valid for a period of two years from the date of approval. If the subject development is not substantially commenced within the two year period, the approval shall lapse and be of no further effect.**
- 2. With regard to condition 3, the applicant/landowner is advised that the acoustic report is to include the following information as a minimum:**
 - a) Site Map identifying**
 - i. Location of noise sensitive premises**
 - ii. Outside noise sources**
 - iii. Topographical data, natural and constructed development and surrounding land uses which may affect noise propagation**
 - iv. Predicted noise measurement locations**
 - b) Site specific issues to be addressed**
 - i. Parking locations and operations with relation to noise i.e. car doors slamming, conversations of health studio users, entrance/exit noise to the premise**
 - ii. Mechanical exhaust and ventilation including noise paths**
 - iii. Air conditioning/refrigeration**
 - iv. Closest noise sensitive receivers**

- c) **Noise impact predictions from the proposed development**
 - v. **Noise comparison between existing and proposed used**
 - vi. **Comparison to relevant criteria, Environmental Protection (Noise) Regulations 1997 – assigned noise levels including influencing factor calculations**
 - d) **A noise management plan including the management of piped and live music and operational noise i.e weights, voices etc.**
3. **A separate Planning application is required to be lodged and approved prior to the erection/installation of any signage on the lot which does not form part of this approval.**
4. **The change of use will constitute a public building and the applicant will need to comply with both Health Act 1911 and Health (Public Buildings) Regulations 1992.**
- a) **The applicant shall lodge with the City a *Form 1 Application to Construct, Extend or Alter a Public Building*, prior to the City issuing a Building Permit.**
 - b) **Upon completion of construction and/or fit-out works, applicant shall lodge with the City a *Form 2 Application for Certificate of Approval* and a *Form 5 Certificate of Electrical Compliance* which has been completed by a licensed electrician.**
 - c) **Adequate staff and public sanitary conveniences shall be provided in accordance with the Building Code of Australia.**
 - d) **A building shall not be occupied unless it has been inspected by an Environmental Health Officer at the City and the City has issued both an Occupancy Permit and *Form 4 Certificate of Approval***
 - e) **Where it is intended for the building to be occupied by more than 50 persons, the building shall have more than one designated exit and there shall be sufficient aggregate exit width, separation, distances of travel and exit paths for the proposed number of persons and class of building.**
5. **The applicant and landowner are advised that Condition 5 and 6 are as a result of comments received from Main Roads Western Australia.**

3.0 Strategic Community Plan

KFA: Natural and Built Environment

This report addresses the Key Focus Area of Natural and Built Environment through adherence to the design requirements of Town Planning Scheme No. 2 (TPS 2), contributing to well-planned and managed development in the City of Nedlands.

4.0 Legislation / Policy

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

5.0 Budget / Financial Implications

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

6.0 Risk Management

Not applicable.

7.0 Background

Property address	(Lot 100) No. 6/158 Stirling Highway, Nedlands
Lot area	3,069m ²
Reserve/ Zoning	MRS Urban and Primary Regional Reserve TPS2 Office/Showroom
Use Class Permissibility under TPS 2 Zoning	AA – A use not permitted unless approval is granted by the City.

The subject site has frontages to Stirling Highway and Bulimba Road, and the existing single storey building on the site consists of 6 different tenants all being showroom uses. Nearby properties contain dwellings, a car park and commercial activities such as retail, offices and showrooms as seen in the location plan on the following page. The IGA supermarket is on the property which adjoins the eastern boundary of the subject property. Road widening upgrades are proposed to be made to the section of Stirling Highway immediately adjoining the property.



8.0 Application Details

The application seeks approval to change the use of Unit 6 from a showroom to a health studio (refer to Attachments 1 and 2), details of which are as follows:

1. The health studio is proposed to operate between Monday and Friday 5.15am to 8.45am, 9.15am to 10.15am and 5.00pm to 8.00pm, and on Saturdays 7.00am to 11.00am.
2. Clients will visit the premises by prior appointment only.
3. A total of 2 staff and up to 27 clients will be at the premises at any one time.
4. A Parking and Traffic Survey provided as part of the application concludes that:
 - a) The peak hours of operation for the health studio will be on weekdays between 5.00pm and 7.00pm;
 - b) The peaks hours of operation for the existing showroom uses is on Saturday between 10.00am to 11.00am; and
 - c) A car parking demand survey conducted by the consultants concludes that a maximum of 12 car bays were required during this period.

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

“The Tenancy is operating an F45 Training franchise on the premise. F45 Training is a group fitness program started in Sydney. Participants sign up for a class and turn up at the set time to be led through a group circuit. Each session is set by the head office in Sydney and participants are assisted by coaches on the ground. It is designed to create a community feel and team sport atmosphere. As part of the Quality control of F45 Training Franchise, maximum capacity in a class is capped at 27 to provide quality coaching services to all participants.”

This justification is based on an assessment undertaken by GTA Consultants with regard to the anticipated car parking demand of the proposal (Refer to Attachment 3).

9.0 Consultation

The proposal was advertised for 21 days to nearby landowners for comment in March 2016 due to variations proposed to the amount of onsite car bays required, and a health studio being an ‘AA’ use in the Office/Showroom zone under TPS 2

During the advertising period 6 objections were received. The following is a summary of the concerns raised:

- a) There being not enough car bays available;
- b) Traffic congestion being caused by those attending the proposed health studio; and
- c) Vehicles parking illegally along the street.

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

The potential impact the proposal will have on the area’s amenity is discussed in the following sections.

The application was also referred to MRWA as the property is affected by a Regional Road Reservation. No concerns were raised.

10.0 Statutory Provisions

The relevant provisions of Town Planning Scheme No. 2 (TPS 2) and the local planning policies (LPPs) which are not being met by the proposal are addressed in the following sections.

10.1 Town Planning Scheme No. 2

10.1.2 Existing Car Parking Demand

Forty nine (49) car bays exist on the property. Currently a total of 50 car bays are required, a deficit of 1 car bay therefore exists.

Car parking restrictions apply along the section of Bullimba Road in close proximity to the subject property. On street car parking is permitted adjacent to the property for a maximum of 1 hour between Monday and Friday 8.00am to 5.00pm. South of the property car parking is permitted for a maximum of 2 hours between Monday and Friday 8.00am to 6.00pm.

10.1.3 Future Car Parking Demand

If the health studio was to be approved the existing showrooms which would remain will require 44 car bays.

TPS 2 does not contain a prescribed minimum number of car bays for the use Health Studio, therefore the number of car bays required is at the City's discretion. Surrounding local governments' parking requirements for the use have been reviewed, and the following car parking requirements apply.

Local Government	Car Parking Provision	Car Parking Requirement	Car Bay Shortfall
City of Subiaco	<i>Health Studio</i> 1 bay per 15 m ² net lettable area*	<i>Health Studio</i> 15 bays required Unit 6 net lettable area = 229 m ²	14 car bay shortfall
Town of Claremont	<i>Health Studio</i> * 1 bay per 12.5 m ² gross leasable area *Referred to as Recreation – Indoor – Active use	<i>Health Studio</i> 22 bays required Unit 6 gross leasable area = 268 m ²	17 car bay shortfall

It should however be noted that the WAPC nominates the NSW Road Traffic Authority's *Guide to Traffic Generating Development* to be used for guidance where a local government has no parking standard for a particular use. This document recommends parking standards and outlines factors to be considered for a gymnasium use in a metropolitan sub-regional area. The document recommends for a gymnasium use that parking is provided at a:

1. Minimum provision: 4.5 bays per 100m² gross leasable floor area (12 bays required)
2. Desirable provision: 7.5 bays per 100m² gross leasable floor area (20 bays required)

Based on the above requirements, if the health studio was approved there would be a shortfall of between 7 and 17 car parking bays.

10.1.4 Applicant's Car Parking Demand Assessment

The applicant has provided a car parking demand assessment which has been prepared on their behalf by GTA Consultants (refer to Attachment 3).

The existing showroom uses which will remain should the health studio be approved by Council, operate at the following times:

1. Luis LaPegna and Veranda Coastal Living - Monday to Friday 10:00am-5:00pm; Saturday 10:00am-4:00pm
2. Regency Office - Monday to Friday 9:00am-5:00pm; Saturday 9:00am-5:00pm
3. Umbrella World - Monday to Friday 9:00am-5:30pm; Thursday 9:00-7:00pm; Saturday 8:30am-4:30pm
4. Tennis Only – Monday to Friday 9:00am-5:30pm; Thursday 9:00-7:00pm; Saturday 8:30am-4:30pm.

The peak hours of operation for these showroom uses would be on Saturday mornings based on a survey undertaken by GTA Consultants, with a maximum demand of 12 car bays for the existing tenancies observed at 11.00am.

Data in the assessment with regard to the property immediately adjoining the southern boundary has not been included in the above table as these car parking bays are owned by, and used by those visiting, the IGA supermarket.

The assessment also includes data obtained from other gymnasiums in the Perth Metropolitan Area collected between 1997 and 2013, and concludes the following:

“The data from the GTA Generation Database indicates that the gymnasiums surveyed had an average peak parking demand of 5.06 spaces per 100sq.m floor area. The database also noted that peak parking demands typically occurred between 5:00pm and 7:00pm on weekdays, with 6:00pm on Monday being the busiest time across the week.

Applying these rates to the proposed 268sq.m tenancy, it could be expected that the proposed health studio would generate a parking demand in the order of 14 spaces.”

10.2 Planning and Development (Local Planning Schemes) Regulations 2015

Clauses	Assessment Comment	Satisfies
<p><i>Planning and Development (Local Planning Schemes) Regulations 2015</i></p> <p><i>Under Schedule 2 Part 9 clause 67 (Matters to be Considered by Local Government) the following provisions are to be taken into consideration:</i></p> <p>a) <i>The compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;</i></p> <p>b) <i>The amenity of the locality; and</i></p> <p>c) <i>Any submissions received on the application.</i></p>	<p>Signage is the only alteration proposed to the external appearance of the building, the type and size of which is compliant with Local Planning Policy – Advertising Signs.</p> <p>During the advertising period concerns were raised regarding traffic congestion and the amount of car bays available.</p> <p>A Parking and Traffic Survey submitted as part of the application concludes that there will be an ample amount of car bays available for the health studios.</p> <p>No concerns were raised by the applicant's Traffic Consultants, the City's Engineer and/or Main Roads Western Australia (MRWA) with regard to traffic movements and/or volumes created as a consequence of the proposed health studio.</p> <p>Activities conducted inside the Health Studio shall comply with the <i>Environmental Protection (Noise) Regulations 1997</i></p>	<p>Yes</p>

10.3 Local Planning Policy – Advertisement Signs

The following types of signage is proposed as part of the application:

- a) A wall sign of 2.8sqm in area which is 3.2m above natural ground level (NGL) is proposed on the Bulimba Road façade which is to be illuminated using existing lights facing down onto the building;
- b) A wall sign of 1.98sqm in area which is 3.3m above NGL is proposed on the rear façade which is to be illuminated using existing lights facing down onto the building; and
- c) An infill sign 0.8sqm in area is proposed to be attached to an existing hoarding sign within the primary street (Stirling Highway) setback area.

The proposed signage is similar in size compared to what currently exists, also no additional methods of illuminating the signage is proposed. The signage is compliant with the Advertisement Signs Local Planning Policy and will not have a significant impact on the local area's amenity.

11.0 Conclusion

The proposal is compliant with the City's TPS 2 and Policy requirements with the exception of car parking.

If the application was approved by Council there will be a shortfall of up to 17 car bays. This is considered acceptable as the peak hours of operation for the health studio would differ from the other businesses on the same property. Based on the survey undertaken by the applicant's consultants for the property it can also be concluded that an adequate number of car bays will still be available on Saturdays being the peak demand period for the showrooms which will remain.

There are no concerns with regard to traffic volumes and/or movements, or noise associated with the proposed health studio

It is recommended that the application be approved by Council.

PD18.16 (Lot 373) No. 19B Broadway, Nedlands – Proposed Change of Use (From Single Dwelling to Shop)

Committee	10 May 2016
Council	24 May 2016
Applicant	Vinnicombe Property Group
Landowner	M and E Vinnicombe
Officer	Mr A D Bratley – Coordinator Statutory Planning
Director	Peter Mickleson – Director Planning & Development Services
Director Signature	
File Reference	DA2016/78 – BR2/19
Previous Item	Nil
Attachments	<ol style="list-style-type: none"> 1. Site Plan (A3) 2. Photograph of the property as seen from 17 Cooper Street (A4)

1.0 Executive Summary

This application is for a proposed change in use from a single dwelling to a shop, which will result in a shortfall of 26 car bays on site (refer to Attachment 1). The existing dwelling concerned is located at the rear of a commercial property which adjoins properties containing shops and restaurants.

The proposal was advertised to nearby landowners for comment and during the advertising period one objection was received.

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

The application is recommended for approval despite not complying with the car parking requirements, as it is considered the nature and scale of the proposed use, and the differing peak hours of operation compared with other uses on the property, means that an adequate amount of car parking bays will be available for the use.

2.0 Recommendation to Committee

Council approves the application for the proposed change of use (from Single Dwelling to Shop) at (Lot 373) No. 19B Broadway, Nedlands, in accordance with the application received on 9 March 2016, subject to the following conditions and advice:

1. The development shall at all times comply with the approved plans.
2. The car-parking bays, vehicular and pedestrian access ways being maintained by the landowner to the City's satisfaction.
3. The operation complying with definition for the use 'Shop' stipulated under Town Planning Scheme No. 2 (refer to Advice Note 1).

Advice Notes specific to this proposal:

1. The applicant/landowner is advised that the use 'Shop' is defined as being the following under Town Planning Scheme No. 2:

“Means any building wherein goods or services are exposed or offered for sale by retail and without limiting the generality of the foregoing shall include:

a) shops for the sale of foodstuffs generally, clothing, drapery, furniture and furnishings, footwear, hardware, electrical goods, sporting goods, toys and secondhand goods; jewellers, chemists, stationers, newsagents, variety stores, photographic studios and supplies, florists, dry-cleaning agencies, barbers and hairdressers; and liquor stores;

b) but shall not include a service office, a general office, a professional office or a market.”

2. A separate Planning application is required to be lodged and approved prior to the erection/installation of any signage on the lot.
3. Adequate staff and public sanitary conveniences shall be provided in accordance with the Building Code of Australia.
4. This decision constitutes planning approval only and is valid for a period of two years from the date of approval. If the subject development is not substantially commenced within the two year period, the approval shall lapse and be of no further effect.

3.0 Strategic Community Plan

KFA: Natural and Built Environment

This report addresses the Key Focus Area of Natural and Built Environment through adherence to the design requirements of Town Planning Scheme No. 2 (TPS 2), contributing to well-planned and managed development in the City of Nedlands.

4.0 Legislation / Policy

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

5.0 Budget / Financial Implications

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

6.0 Risk Management

Not applicable.

7.0 Background

Property address		(Lot 373) No. 19B Broadway, Nedlands
Lot area		819m ²
Reserve/ Zoning	MRS	Urban
	TPS2	Retail Shopping
Use Class Permissibility under TPS 2 Zoning		P

The subject site currently contains a newsagency shop, a bakery with internal and external seating areas (approved as a shop), and a single dwelling at the rear as shown on the locality plan on the following page. Under Town Planning Scheme No. 2 (TPS 2) the single dwelling is a non-conforming use (refer to Attachments 1 and 2).

In the rear portion of the property are car parking bays, pedestrian access to which is obtained from Broadway via an access way which adjoins the property's southern boundary. Access to the car bays is also possible via 17 Cooper Street which the City owns and is used as a public car park. A reciprocal access agreement for pedestrian and vehicular access between 17 Cooper Street and 19 Broadway has existed since June 2005.

Surrounding properties contain commercial uses such as 'Ned's Restaurant' and 'Bites Restaurant'.



8.0 Application Details

The application seeks approval to change the use of the rear premises from a single dwelling to a shop (refer to Attachment 1), details of which are as follows:

The applicant has advised that currently a tenant has not been found for the premises, therefore no details are available with regard to the hours of operation, number of staff and/or signage. It is their intention to advertise the premises for lease as a shop if the application is approved by Council.

9.0 Consultation

The proposal was advertised for 21 days to nearby landowners for comment in March and April 2016 due to variations proposed to the amount of onsite car bays required under TPS 2.

During the advertising period 1 objection was received. The only concern raised was in relation to there not being enough car bays on site.

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

The potential impact the proposal will have on the area's amenity is discussed in the following sections.

10.0 Statutory Provisions

The relevant provisions of TPS 2 which are not being met by the proposal are addressed in the following sections.

10.1 Town Planning Scheme No. 2

10.1.1 Existing Car Parking Demand

Car Parking Provision	Car Parking Requirement	Car Bays Available Onsite	Existing Car Bay Shortfall
<i>Shop</i> 8.3 bays per 100sqm of leasable floor area. <i>Single Dwelling</i> 2 bays per dwelling	<i>Shop 1 (Newsagents)</i> 9 bays minimum <i>Shop 2 (Bakery)</i> 18 bays minimum <i>Single Dwelling</i> 2 bays minimum Total = 29 car bays required	10 car bays	19 car bay shortfall

In addition to the above table, the following on street car parking restrictions exist in close proximity to the property:

1. Cooper Street – 15 minutes maximum, Monday to Friday, 8am to 5pm
2. Broadway – 5 minutes maximum, Monday to Friday, 7am to 6pm.

10.1.2 Future Car Parking Demand

Car Parking Provision	Car Parking Requirement	Car Bays Available Onsite	Proposed Car Bay Shortfall
<p><i>Shop</i> 8.3 bays per 100sqm of leasable floor area.</p>	<p><i>Shop 1 (Newsagents)</i> 9 bays minimum</p> <p><i>Shop 2 (Bakery)</i> 18 bays minimum</p> <p><i>Shop 3 (Proposed)</i> 9 bays minimum</p> <p>Total = 36 car bays required</p>	10 car bays	26 car bay shortfall

10.2 Planning and Development (Local Planning Schemes) Regulations 2015

Regulations Clause	Assessment Comment	Satisfies
<p>Under Schedule 2 Part 9 Clause 67 (Matters to be Considered by Local Government) of the Regulations, the following provisions are to be taken into consideration:</p> <p>a) The compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development.</p> <p>b) The adequacy of —</p> <p>i. the proposed means of access to and egress from the site; and</p> <p>ii. arrangements for the loading, unloading, manoeuvring and parking of vehicles;</p>	<p>If approved, the use will result in an additional shortfall of 7 car bays, a total shortfall of 26 car bays.</p> <p>As the future tenant is currently unknown the applicant is unable to confirm the hours of operation. Considering that it is a shop being applied for it is assumed that it will operate similar to the existing shops on the property (Monday to Saturday 8am to 5.30pm).</p> <p>The anticipated peak hours of operation for the proposed shop will differ to those uses (restaurants) on nearby properties.</p> <p>The nature and scale of the proposed use means that local residents are more likely to visit the premises and therefore not require use of private vehicles. Those who do use a private vehicle to get to the shop will only occupy a car bay for a short amount of time compared with other nearby uses.</p> <p>The location of the proposed use at the rear of the property will mean that it will not get as much exposure to potential customers compared to those uses fronting onto Broadway. Therefore the amount of customers likely to visit the premises is not anticipated to be significant.</p>	Yes

<p>c) The amount of traffic likely to be generated by the development, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;</p> <p>d) Any submissions received on the application;</p>	<p>No external alterations are proposed to be made to the building.</p> <p>Considering the above, the proposed use will not have a significant impact on the amenity of the local area.</p>	
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11.0 Conclusion


The proposal is compliant with the City’s TPS 2 and Policy requirements with the exception of car parking.

If the application was approved by Council there will be a shortfall increase of 7 bays compared with what currently exists. This is considered acceptable for the following reasons:

- a) The peak hours of operation for the shop are expected to differ from some other businesses nearby (i.e. restaurants and bakery);
- b) The size of the shop only being approximately 91sqm, and its location at the rear of the property where it will get little exposure for potential customers, means that traffic volumes and/or noise emissions are not anticipated to be an issue;
- c) No external alterations are proposed to be made to the building; and
- d) Those who do use a private vehicle to get to the shop are expected to only occupy a car bay for a short amount of time compared with those visiting other nearby uses.

Considering the above, it is recommended that the application be approved by Council.

PD19.16 (Lot 75) No. 35 Shann Street, Floreat – Retrospective Privacy Screening
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Committee	10 May 2016
Council	24 May 2016
Applicant	I and A Mirmikidis
Landowner	I and A Mirmikidis
Officer	Andrew Bratley – Coordinator Statutory Planning
Director	Peter Mickleson – Director Planning & Development Services
Director Signature	
File Reference	DA2016/80 – SH1/35
Previous Item	Nil
Attachments	<ol style="list-style-type: none"> 1. Site Plan 2. Elevations 3. Photographs of the privacy screening towards 33 Shann Street 4. Photographs of the privacy screening towards 35 Shann Street

1.0 Executive Summary

A retrospective development application has been received to retain an existing privacy screen adjacent to the eastern (side) boundary of the property which is 2.1m high in lieu of 1.8m (refer to Attachments 1 to 4), and got brought to the City's attention as a consequence of concerns being received.

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

The proposed privacy screen is deemed to satisfy the requirements of TPS 2, it is therefore recommended that Council approves the application.

2.0 Recommendation to Committee

Council approves the retrospective development application to retain a privacy screen adjacent to the eastern (side) boundary at (Lot 75) No. 35 Shann Street, Floreat, subject to the following conditions and advice:

- 1. The development shall at all times comply with the approved plans; and**
- 2. The privacy screening shown on the approved plans being maintained by the landowners to the City's satisfaction.**

Advice Notes specific to this approval:

- 1. Any fencing and/or further privacy screening behind the street setback area which is more than 1.8m in height above natural ground level and within 0.9m of a dividing lot boundary, requires approval from the City prior to erecting.**

3.0 Strategic Community Plan

KFA: Natural and Built Environment

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

4.0 Legislation / Policy

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

5.0 Budget / Financial Implications

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

6.0 Risk Management

Not applicable.

7.0 Background

Property address	(Lot 75) No. 35 Shann Street, Floreat	
Lot area	875m ²	
Zoning/ Reserve	MRS	Urban
	TPS 2	Residential R12.5

The property contains a single dwelling and semi mature vegetation, and its topography falls towards the western (side) boundary as shown on the locality plan below. There is a difference of approximately 0.4m in natural ground level between 33 and 35 Shann Street, Floreat.



8.0 Application Details

The applicant seeks retrospective development approval to retain a privacy screen of up to 2.15m in height and 12.6m in length adjacent to the eastern (side) boundary of the property, behind the street setback area. The screening is constructed from timber (refer to Attachments 1 to 4).

By way of justification in support of the proposal the applicant has advised that the screening has been erected to provide more privacy for their outdoor living area which has a lower natural ground level than 33 Shann Street.

9.0 Consultation Not Undertaken

As a submission was received from the affected landowners outlining their concerns the application was not formally advertised to them for comment. The following is a summary of the concerns received:

- a) The over height section being constructed using metal that is not in keeping with the existing fencing; and
- b) The structure preventing the asbestos part of the dividing fence from being replaced in future.

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

The impact the privacy screening is having on the adjoining landowners is discussed in the following section.

10.0 Statutory Provisions

The relevant provisions of Town Planning Scheme No. 2 (TPS 2) and the local planning policies (LPPs) which are not being met by the proposal are addressed in the following sections.

10.1 Fill and Fencing Local Planning Policy

Policy Clause	Assessment Comment	Complies
<p>4.0 <i>Fencing Height Requirements</i></p> <p><i>Dividing fences shall have a maximum height of 1.8m above any approved or deemed-to-comply fill or retaining under the R Codes.</i></p>	<p>The privacy screening is 2.1m in height above natural ground level.</p>	<p>No</p>

Variations to this provision can be considered subject to satisfying the following provisions:

Clauses	Assessment Comment	Satisfies
<p>Fill and Fencing Local Planning Policy</p> <p><i>10.0 Amenity</i></p> <p><i>When determining development applications for dividing and/or boundary fences, consideration will be given to whether erection of the fence would have an adverse effect on the safety or convenience of any person.</i></p>	<p>The screen is 0.3m higher than that permitted under the Policy and is constructed using timber.</p> <p>The areas on 33 Shann Street immediately adjoining the screening contain a garage and vegetation at various stages of maturity. The outdoor living area is towards the south-eastern portion of the property.</p> <p>The screening does not obstruct driver sightlines nor create significant amounts of overshadowing on 33 Shann Street.</p> <p>The screening is deemed to not have a detrimental impact on the neighbours' amenity.</p>	<p>Yes</p>

11.0 Planning and Development (Local Planning Schemes) Regulations 2015

Clauses	Assessment Comment	Satisfies
<p>Planning and Development (Local Planning Schemes) Regulations 2015</p> <p><i>Under Schedule 2 Part 9 clause 67 (Matters to be Considered by Local Government) the following provisions are to be taken into consideration:</i></p> <p><i>a) The compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development.</i></p> <p><i>b) The amenity of the locality.</i></p> <p><i>c) Any submissions received on the application.</i></p>	<p>The screen's height compared to the existing dividing fence, its appearance and its location along the dividing lot boundary, means that it does not have a detrimental impact on the amenity of adjoining properties.</p>	<p>Yes</p>


12.0 Conclusion

Retrospective development approval is being sought to retain an existing privacy screen of up to 2.15m in height and 12.6m in length adjacent to the eastern (side) boundary of the property, behind the street setback area

The screening is compliant with all the applicable requirements except for being 2.15m in height in lieu of 1.8m.

The appearance, height and location of the screening means that it does not have a detrimental impact on the neighbours' amenity and therefore it is recommended that the application be approved by Council.

PD20.16 (Lot 585) No. 51 Kingsway, Nedlands – Proposed Carport and Patio

Committee	10 May 2016
Council	24 May 2016
Applicant	Modern Decoration Pty Ltd
Landowner	L Chen and D Majri
Officer	Andrew Bratley – Coordinator Statutory Planning
Director	Peter Mickleson – Director Planning & Development Services
Director Signature	
File Reference	DA2016/19 – KI3/51
Previous Item	Nil
Attachments	<ol style="list-style-type: none"> 1. Site Plan 2. Elevations 3. Photograph of the proposed patio location on 51 Kingsway 4. Photograph of the proposed patio location as viewed from 49 Kingsway

1.0 Executive Summary

A development application has been received to construct a carport and patio on the property (refer to Attachments 1 and 2).

The application was advertised for comment for the following reasons:

- a) The property falls within a Controlled Development Area under Town Planning Scheme No. 2 (TPS 2); and
- b) The patio is proposed to have a nil setback in lieu of 1.5m from the northern (side) boundary.

During the advertising period one objection was received.

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

The proposed carport complies with TPS 2 and the carport policy requirements, and the patio is deemed to satisfy the design principles of the Residential Design Codes (R-Codes). It is therefore recommended that Council approves the application.

2.0 Recommendation to Committee

Council approves the development application to construct a carport and patio at (Lot 585) No. 51 Kingsway, Nedlands, subject to the following conditions and advice:

- 1. The development shall at all times comply with the approved plans.**
- 2. This development approval pertains to the patio and carport only.**
- 3. All sides of the carport shall remain open, including the front facing the street.**
- 4. All stormwater from the development, which includes permeable and non-permeable areas, shall be contained onsite by draining to soak-wells of adequate capacity to contain runoff from a 20 year recurrent storm event. Soak-wells shall be a minimum capacity of 1.0m³ for every 80m² of calculated surface area of the development.**
- 5. All street trees in the verge are to be retained and shall not be removed without prior written approval from the City's Manager Parks Services.**

Advice Notes specific to this approval:

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

3.0 Strategic Community Plan

KFA: Natural and Built Environment

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

4.0 Legislation / Policy

- *Planning and Development Act 2005 (Act).*
- Metropolitan Region Scheme (MRS).
- *Planning and Development (Local Planning Schemes) Regulations 2015*
- City of Nedlands Town Planning Scheme No. 2 (TPS 2).
- Residential Design Codes (R-Codes).
- Council Policy – Neighbour Consultation.
- Carports and Minor Structures Forward of the Primary Street Setback Local Planning Policy

5.0 Budget / Financial Implications

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

6.0 Risk Management

Not applicable.

7.0 Background

Property address	(Lot 585) No. 51 Kingsway, Nedlands	
Lot area	880m ²	
Zoning/ Reserve	MRS	Urban
	TPS 2	Residential R12.5

The property contains a single dwelling and associated outbuildings. Its topography is relatively flat as shown on the locality plan on the following page, and the natural ground level of 51 Kingsway is approximately 0.3m higher than 49 Kingsway.

Timber fencing of approximately 1.8m in height, and a garage with a parapet wall approximately 7m in length and 3m in height, exist along the dividing lot boundary between 49 and 51 Kingsway. Along the portion of dividing fencing not adjoining the parapet wall a screen/latticing of approximately 0.6m in height has been erected, which is partially covered by vegetation (refer to Attachments 3 and 4). The overall height of this dividing fencing and screen/latticing is approximately 2.4m.



8.0 Application Details

The applicant seeks development approval to construct a carport and patio at the property (refer to Attachments 1 and 2), details of which are as follows:

- a) A gable roofed carport is proposed to be constructed within the primary street setback area of the property.
- b) The carport is proposed to be 36sqm in area and 3.5m in overall height above natural ground level.
- c) The carport is proposed to be setback 1m from the northern (side) boundary and 3.5m from the primary street boundary.
- d) The patio is proposed to be constructed behind the street setback area of the property.
- e) The patio is proposed to be 16m in length and have a roof pitch of 3 degrees sloping towards 49 Kingsway.
- f) The patio is proposed to have a nil setback from the northern (side) boundary.
- g) The natural ground level is not proposed to be altered.

By way of justification in support of the proposal the applicant has advised that the proposed patio will be screened by an existing over height fence along the dividing lot boundary, and the patio will allow them to utilise the area concerned.

9.0 Consultation

The application was advertised to nearby landowners for comment due to the property falling within a Controlled Development Area (CDA) under Town Planning Scheme No. 2 (TPS 2), and due to the patio being proposed to have a nil side setback in lieu of 1.5m. During the advertising period 1 objection was received. The following is a summary of the concerns raised:

- a) The visual impact of the patio due to the reduced side setback; and
- b) Stormwater run-off from the patio entering the adjoining property.

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

The potential visual impact the patio may have on the adjoining landowners is discussed in the following section.

10.0 Statutory Provisions

The relevant provisions of Town Planning Scheme No. 2 (TPS 2), the Residential Design Codes and the local planning policies (LPPs) which are not being met by the proposal are addressed in the following sections.

10.1 State Planning Policy 3.1 – Residential Design Codes

Deemed-to-comply Requirement	Proposed	Complies
5.1.3 Lot Boundary Setback Buildings setback from lot boundary in accordance with Tables 2a and 2b.	The patio is proposed to have a nil setback in lieu of 1.5m from the northern (side) boundary	No

Variations to this provision can be considered subject to satisfying the following design principles:

Design Principles	Assessment Comment	Satisfies
Buildings set back from lot boundaries so as to: <ul style="list-style-type: none"> • Reduce impacts of building bulk on adjoining properties; • Provide adequate direct sun and ventilation to the building and open spaces on the site and adjoining properties; and • Minimise the extent of overlooking and resultant loss of privacy on adjoining properties. 	Timber fencing of approximately 1.8m in height, and a garage with a parapet wall approximately 7m in length and 3m in height, exist along the dividing lot boundary between 49 and 51 Kingsway. Along the portion of dividing fencing not adjoining the parapet wall a screen/latticing of approximately 0.6m in height has been erected, which is partially covered by vegetation (refer to Attachments 3 and 4). The overall height of this dividing	Yes

	<p>fencing and screen/latticing is approximately 2.4m.</p> <p>The patio adjoins the southern boundary of 49 Kingsway, therefore no significant overshadowing will be experienced by the neighbours.</p> <p>The natural ground level is not proposed to be altered as part of the application therefore no visual privacy concerns exist.</p>	
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10.2 Planning and Development (Local Planning Schemes) Regulations 2015

Clauses	Assessment Comment	Satisfies
<p><i>Planning and Development (Local Planning Schemes) Regulations 2015</i></p> <p><i>Under Schedule 2 Part 9 clause 67 (Matters to be Considered by Local Government) the following provisions (relevant to this development) are to be taken into consideration:</i></p> <p><i>a) The compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development.</i></p> <p><i>b) The amenity of the locality.</i></p> <p><i>c) Any submissions received on the application.</i></p>	<p>The patio will be partially screened by timber fencing along the nearest dividing lot boundary, and a garage with a parapet wall on 49 Kingsway. Along the portion of dividing fencing not adjoining the parapet wall a screen/latticing exists along the top of the dividing fencing, which is partially covered by vegetation (refer to Attachments 3 and 4).</p> <p>The proposal complies with the visual privacy and overshadowing requirements of the R-Codes.</p> <p>During the advertising period concerns were raised regarding stormwater run-off potentially entering the adjoining property. If Council approves the application it is recommended that a condition be included requiring all stormwater run-off be contained on site.</p>	<p>Yes</p>


11.0 Conclusion

Development approval is being sought to construct a carport and patio on the property.

The application is compliant with all the applicable requirements except for the patio being proposed to have a nil setback in lieu of 1.5m from the northern (side) boundary.

The appearance, height and location of the patio means that it will not have a detrimental impact on the neighbours' amenity and is therefore deemed to satisfy the design principles of the R-Codes. It is recommended that the application be approved by Council.

PD21.16 (Lot 26) No. 2B Campsie Street, Nedlands – Retrospective Front Fence

Committee	10 May 2016
Council	24 May 2016
Applicant	Mr S Yeoman
Owner	Mr S Yeoman
Officer	Julian Berzins – Statutory Planning Officer
Director	Peter Mickleson – Director Planning & Development Services
Director Signature	
File Reference	DA2016/22
Previous Item	Nil
Attachments	<ol style="list-style-type: none"> 1. Survey plan 2. Site plan and elevation 3. Applicants justification 4. Photos of fencing on lots adjoining and directly opposite subject property 5. Site Photographs

1.0 Executive Summary

A retrospective development application has been received to retain an existing solid fence within the property's primary street setback area (refer to attachments 1 and 2), which got brought to the City's attention as a consequence of concerns being received.

The application was advertised to neighbouring landowners due to the fence being solid to a height greater than 1.2m above the Natural Ground Level (N.G.L). Two objections were subsequently received.

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

The fence is not considered to satisfy the design principles of the Residential Design Codes (R-Codes) nor the Design Principles, as the development does not positively contribute to the streetscape and sets an undesirable precedence for properties within the area. As a result, the retrospective application is recommended to be refused by Council.

2.0 Recommendation to Committee

Council refuses the retrospective application for solid fencing within the primary street setback area of Lot (26) No. 2B Campsie Street, Nedlands, received 2 February 2016, for the following reasons:

1. The proposal does not satisfy the design principles stipulated under clauses 5.2.4 (street walls and fences) of the Residential Design Codes and not complying with the City's Fill and Fencing Local Planning Policy, due to the solid fencing infill not positively contributing to the streetscape.
2. The fencing setting an undesirable precedence for the locality.
3. The solid front fence does not represent the orderly and proper planning of the City and conflicts with cl. 6.5.1 of Town Planning Scheme No. 2.

Advice Notes specific to this refusal:

1. The applicant is advised that if the solid fencing within the primary street setback area is not removed within 28 Days from the date of this decision, the City may issue a Planning Infringement Notice (PIN) as an offence under Regulation 42 of the Planning and Development Regulations 2009 has been committed. A PIN carries an initial penalty of up to \$500.00 and can be issued on multiple occasions by the City prior to taking legal action.
2. The location of any waste receptacles shall be behind the street alignment and so as not to be visible from a street or public place, in accordance with the *City of Nedlands Health Local Law 1997*.

3.0 Strategic Community Plan

KFA: Natural and Built Environment

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

4.0 Legislation

- *Planning and Development Act 2005 (Act)*.
- Metropolitan Region Scheme (MRS).
- City of Nedlands Town Planning Scheme No. 2 (TPS2).
- *Planning and Development (Local Planning Schemes) Regulations 2015 (2015 Planning Regulations)*.
- Residential Design Codes of WA 2015 (R-Codes).
- *Designing Out Crime Planning Guidelines 2006*
- Council Policy – Fill and Fencing.
- Council Policy – Neighbour Consultation.

5.0 Budget / Financial Implications

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

6.0 Risk management

Nil.

7.0 Background

Lot area	442m ²
Metropolitan Region Scheme Zoning	Urban, Other regional roads
Town Planning Scheme No. 2 Zoning	Residential R10
Detailed Area Plan/Outline Development Plan	Yes
Controlled Development Area	No

The subject property is located on Campsie Street at the end of a cul-de-sac and is a grouped dwelling that shares a common wall and roof with the dwelling located at 2A Campsie Street. Refer to attachment 1 and the locality plan on the following page. The property falls within a detailed area plan for the Aberdare Road Locality.

In October 2015 the applicant contacted the City requesting information relating to building a fence on the property and was provided copies of the City’s Fill and Fencing policy and the Aberdare Road Design Guidelines.

In early 2016, it was brought to the City’s attention that the fence had been installed along the primary street boundary without approval being obtained. Subsequently a retrospective development application was received for the fencing.



8.0 Application Details

The applicant seeks retrospective approval for the solid front fence, details of which are as follows:

1. The fence has been erected along the property's primary street boundary.
2. The fence is 1.8m in height 10m in length, with solid acoustic infill panels.

By the way of justification in support of the development the applicant has advised that the fencing is required to reduce noise, headlight glare and create privacy from the footpath. Refer to attachment 4.

9.0 Consultation

The development application was advertised to affected landowners for comment due to the fence being solid above 1.2m in height. Two objections were received.

The following is a summary of the concerns received:

- a) The additional height of the fencing will not reduce noise associated with passing traffic.
- b) The fence has resulted in the applicants bins being re-located in front of the adjoining neighbour's property.

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

The impacts the fencing is having on the areas amenity is discussed in the following sections.

10.0 Statutory Provisions

The relevant provisions of Town Planning Scheme No. 2 (TPS 2), Residential Design Codes (R-Codes) *and* the local planning policies (LPPs) which are not being met by the proposal are addressed in the following sections.

10.1 Town Planning Scheme No. 2

10.1.2 Aberdare Road Design Guidelines

TPS 2 Provision	Assessment/Comment	Complies
Front boundary walling or fencing is not permitted unless approval is granted by Council for the purpose of noise attenuation/headlight glare;	The applicant has indicated that the fence has been erected for the purpose of noise attenuation and headlight glare. However, Campsie Street is not a designated primary or district distributor or integrator arterial road, and the property is at the end of a cul-de-sac. Traffic and pedestrian volumes are low and noise and headlight glare would not be any more significant than all other properties within the City.	No

10.1.3 Amenity

TPS 2 Provision	Assessment/Comment	Complies
Under clause 5.5.1 Council may refuse to approve any development if in its opinion the development would adversely affect the amenity of the surrounding area having regard to the likely effect on the locality in terms of the external appearance of the development, traffic congestion and hazard, noise or any other factor inconsistent with the use for which the lot is zoned.	<p>The fence has an unacceptable impact on the amenity of the streetscape by virtue of its solid appearance within the primary street setback area.</p> <p>Solid fencing is not common within the locality, as shown in attachment 3. The fencing therefore sets an undesirable precedence.</p> <p>If the solid infill panels were reduced in height, the impact of the fence will be reduced.</p>	No

10.2 State Planning Policy 3.1 – Residential Design Codes

10.2.1 Street Walls and Fences

Deemed-to-Comply Requirement	Proposed	Complies
Front fences within the primary street setback area that are visually permeable above 1.2m of natural ground level, measured from the primary street side of the fence.	The fence is solid to 1.8m in height above the natural ground level.	No

Variations to the Deemed-to-Comply requirements can be considered subject to satisfying the following Design Principle provisions:

Design Principles	Assessment/Comment	Satisfies
Front fences are low or restricted in height to permit surveillance (as per Clause 5.2.3) and enhance streetscape (as per clause 5.1.2), with appropriate consideration to the need:	The solid section of the fence along the boundary provides no street surveillance or passive surveillance of the property. Limiting the height of solid front fencing is a key principle of the State Governments documents <i>Designing Out Crime</i> (2006).	No
For attenuation of traffic impacts where the street is designated as a primary or district distributor or integrator arterial; and	The fence has been erected for the purpose of noise attenuation and headlight glare. However, Campsie Street is not a designated primary of district distributor or integrator arterial road. The property is also at the end of a cul-de-sac. Traffic volumes are traditionally low.	No
For necessary privacy or noise screening for outdoor living areas where the street is designated as a primary or district distributor or integrator arterial.	The area behind the fence is the property's only outdoor living area. However, Campsie Street is not a designated primary or district distributor or integrator arterial road.	No

10.3 Council Policy – Fill and Fencing

Policy Provision	Proposed	Assessment/Comment	Complies
The height of solid fencing shall be to a maximum of 1.2 metres from natural ground level.	The fence is solid to 1.8m in height above the natural ground level.	Limiting the height of solid fencing and permitting visually permeable infill above, provides security without compromising the surveillance of the street or the dwelling behind a solid wall.	No
The height of visually permeable fencing to a maximum height of 1.8 metres from natural ground level; and	The fence is solid to 1.8m in height above the natural ground level.	<p>A visually permeable section of fencing above 1.2m increases passive surveillance of the street, in accordance with the relevant legislation (R-codes and Designing Out Crime).</p> <p>The solid fence as seen in attachment 3 reduces the amenity of the surrounding area and is not in keeping with the other fences within the locality.</p>	No

11.0 Other Matters of Concern

During the advertising period concerns were also received with regard to the re-location of the bins at No.2b Campsie Street, as a result of the fence being constructed now negatively impacting the amenity of the adjoining landowner. The submitter is advised that the location of waste receptacles is administered through the City of Nedlands *Health Local Law 1997* and as this is not a planning matter and has not been considered in this assessment.

12.0 Conclusion


The solid fence does not satisfy the design principles of the R-Codes in terms of its height and its impact on the streetscape, nor is it designed with the objectives of designing out crime. It is therefore recommended that the retrospective application be refused by council. However, recommended conditions are provided below if Council resolves to approve the application.

12.1 Recommended Conditions if Application is approved

Council approves the application for a retrospective solid fence at Lot (26) No. 2B Campsie Street Nedlands, in accordance with the application and plans received on 2 February 2016, subject to the following conditions:

- 1. The fence be continuously maintained by the landowner to the satisfaction of the City.**
- 2. The applicant making application to the City for a Building Permit within 28 days of the decision for acknowledgement of the unauthorised works.**

PD22.16 (Lot 15) No.87 Melvista Avenue, Nedlands – Addition (Garage)

Committee	10 May 2016
Council	24 May 2016
Applicant	E & C Carson
Owner	E & C Carson
Officer	Julian Berzins – Planning Officer
Director	Peter Mickleson – Director Planning & Development Services
Director Signature	
File Reference	DA16/96
Previous Item	Nil
Attachments	<ol style="list-style-type: none"> 1. Plans 2. Existing parking arrangements along Melvista Avenue 3. Existing street elevation

1.0 Executive Summary

A development application has been received to construct a double car garage adjacent to an existing single storey dwelling. The garage is not compliant with the deemed-to-comply provisions of the Residential Design Codes (R-Codes) due to having a boundary wall in lieu of the required 1m side setback. The application was therefore advertised to neighbouring landowners and no objections were received.

The setback of the garage is not considered to satisfy the design principles of the R-Codes, as the development would not positively contribute to the existing streetscape and its approval would set an undesirable precedence for properties with a low density code. As a result, the application is recommended to be refused by Council.

2.0 Recommendation to Committee

Council refuses the development application for a double garage to be constructed at (Lot 15) No.87 Melvista Avenue, Nedlands, received on 24 March 2016, for the following reasons:

1. The proposal not satisfying the Design Principles stipulated under clause 5.1.3 (Lot Boundary Setback) of the Residential Design Codes due to the proposed nil boundary setback of the garage not positively contributing to the streetscape and prevailing development context.
2. The proposal setting an undesirable precedence in terms of a boundary wall being visible from the primary street on a low density property.
3. The garage boundary wall in the R10 zone does not represent the orderly and proper planning of the City and conflicts with cl. 6.5.1 of Town Planning Scheme No. 2.
4. The proposal not satisfying provisions (m) and (n) of the Planning and Development (Local Planning Schemes) Regulations 2015 cl.67, as the proposal for a boundary wall is incompatible with low density zone and will negatively impact the character of the locality.

Advice specific to this approval:

1. The applicant is advised that the construction of a carport forward of the primary street setback would be considered subject to complying with Town Planning Scheme No.2 and Councils carport policy.

3.0 Strategic Community Plan

KFA: Natural and Built Environment

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

4.0 Legislation

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

5.0 Budget / Financial Implications

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

6.0 Risk management

Nil.

7.0 Background

Lot area	1019m ²
Metropolitan Region Scheme Zoning	Urban
Town Planning Scheme No. 2 Zoning	Residential R10
Detailed Area Plan/Outline Development Plan	No
Controlled Development Area	No

The property contains an existing dwelling (built in 1940) and a single car garage. The single storey rear additions and swimming pool shown on the plans (attachment 1) were approved in March 2016 as part of a separate development application. An aerial image showing the location of the property follows.



8.0 Application Details

The applicant seeks approval to construct a double garage in place of an existing single garage. The garage is proposed to be 5.4m in length and 2.6m in height, with a boundary wall along the eastern boundary.

9.0 Consultation

The development application was advertised to affected landowners for comment due to the garage proposed to have a nil setback in lieu of 1m from the eastern (side) boundary with no objections received. The affected landowner to the east has completed a pro forma agreeing to the construction of the boundary wall.

The potential impact the garage will have on the areas amenity and streetscape is discussed in the following sections.

10.0 Statutory Provisions

The relevant provisions of the Residential Design Codes (R-Codes) and the Town Planning Scheme No.2 which are not being met by the proposal are addressed in the following sections.

10.1 State Planning Policy 3.1 – Residential Design Codes

10.1.1 Lot Boundary Setback

Deemed-to-Comply Requirement	Proposed	Complies
The garage is required to be setback a minimum of 1m from the eastern boundary in accordance with Table 2a of the R-Codes.	The garage is proposed to be located on the side boundary.	No

Variations to the Deemed-to-Comply requirements can be considered subject to satisfying the following Design Principle provisions:

Design Principles	Assessment/Comment
Impact of Building Bulk	<p>If the boundary wall was approved, it would have an unacceptable impact on the streetscape due to its appearance and set an undesirable precedence which may result in a proliferation of boundary walls usually associated with areas of higher residential density coding's.</p> <p>There is an ample amount of space available to have the garage located elsewhere on site, alternatively to have an open double carport constructed in front of the property similar to the neighbouring property.</p>

<p>Positively contributes to the prevailing development context and streetscape.</p>	<p>The proposed garage boundary wall will not positively contribute to the streetscape of Melvista Avenue. The area bound by Louise Street/Sutcliffe Street (east) and Vincent Street/ Adelma Road (west) is characterised by existing single dwellings which were constructed prior to 1950.</p> <p>The properties facing Melvista Avenue all maintain a 9m setback and do not have boundary walls visible from the street.</p> <p>Attachment 2 illustrates that the car parking provided along this section of Melvista Avenue is informal with cars parked in the driveways or down the side of the dwelling rather than in garages.</p> <p>Nearby there is one double carport located forward of the primary street setback, as per City policy, other than this parking is located in the driveways (uncovered) or behind the front setback area on other properties.</p>
<p>Access to direct sunlight and ventilation</p>	<p>As the garage shall be to the west of 89 Melvista Avenue and the garage shall be single storey in nature, the proposal complies with the overshadowing requirements of the R-Codes.</p>
<p>Overlooking and privacy loss</p>	<p>The garage is not a habitable room and has no windows, therefore no visual privacy concerns exist.</p>

10.2 Town Planning Scheme No. 2

TPS 2 Provision	Assessment/Comment	Complies
<p><i>5.5.1 Council may refuse to approve any development if in its opinion the development would adversely affect the amenity of the surrounding area having regard to the likely effect on the locality in terms of the external appearance of the development.</i></p>	<p>The proposed garage shall be 5.4m in length and have a wall height of 2.6m above natural ground level.</p> <p>Properties within the locality (zoned R10) are not permitted to have boundary walls.</p> <p>The subject property is 1019m² and shall have a rear setback to the dwelling of 18m. Considering the above there is the ability to locate parking elsewhere on site, albeit the future swimming pool would need to be relocated.</p> <p>If the boundary wall was approved, it would have an unacceptable impact on the amenity of streetscape and set an undesirable precedence which may result in a proliferation of boundary walls within low density zones.</p>	<p>No</p>

10.3 Planning and Development (Local Planning Schemes) Regulations

Clause 67 under Schedule 2 (Deemed Provisions) of the Regulations stipulates that in considering a development application due regard is to be given to the following matters, amongst others:

- (m) The compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development; and*
- (n) The amenity of the locality including the following — (ii) the character of the locality;*

As discussed throughout this report the construction of a boundary wall within the R10 zone is incompatible with the provision of the R-Codes and TPS No.2. The appearance of the wall on the boundary will negatively impact the character of the Melvista Avenue locality and set an undesirable precedence within the area for more boundary walls to be constructed in the future.

11.0 Conclusion

The proposal is for a double car garage to the eastern side of the existing single storey dwelling at the subject property. The proposal involves variation to the deemed-to-comply provisions of the R-Codes being the reduced side lot boundary setback. This component of the application is considered to not be compliant with the relevant design principles of the R-Codes.

Accordingly the application is recommended to be refused by Council.

11.1 Recommended Conditions if Application is Approved

If Council resolves to approve the application the following wording and conditions are recommended.

Council approves the development application to construct a garage at (lot 15) No. 87 Melvista Avenue, Nedlands, in accordance with the application and plans received on 24 March 2016, subject to the following conditions:


- 1. This approval only pertains to the garage boundary wall on the approved plans.**
- 2. The parapet wall being finished to a professional standard within 14 days from its practicable completion and be maintained thereafter by the landowner to the satisfaction of the City.**
- 3. All stormwater from the development, which includes permeable and non permeable areas, shall be contained onsite by draining to soak-wells of adequate capacity to contain runoff from a 20 year recurrent storm event. Soak-wells shall be a minimum capacity of 1.0m³ for every 80m² of calculated surface area of the development.**

- 4. All footings and structures to retaining walls, fences and parapet walls, shall be constructed wholly inside the site boundaries of the Certificate of Title.**

Advice specific to this approval:

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

PD23.16	Proposed Amendments to Fill and Fencing Local Planning Policy (LPP)
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Committee	10 May 2016
Council	24 May 2016
Applicant	City of Nedlands
Officer	Andrew Bratley – Coordinator Statutory Planning
Director	Peter Mickleson – Director Planning & Development Services
Director Signature	
File Reference	PLAN-LPP-00003
Previous Item	PD49.15 – November 2015
Attachments	<ol style="list-style-type: none"> 1. Existing Fill and Fencing Local Planning Policy (June 2014) 2. Proposed Amended Fill and Fencing Local Planning (Approved by Council for the purpose of public consultation)

1.0 Executive Summary

The purpose of this report is for Council to consider whether to adopt the amended Fill and Fencing Local Planning Policy (amended LPP). Refer to Attachment 1 and 2.

In November 2015, Council resolved (En Bloc Resolution 10/-) to approve the draft amended LPP for the purpose of public consultation. As a consequence of comments received during the advertising period modifications have been made to the draft amended LPP, which are highlighted in Attachment 2.

The amended LPP is proposed to consolidate the existing standards to establish new standards by which development applications for fencing and fill will be assessed.

The amended LPP states what Council considers appropriate fencing, guides decision making on development applications for fencing and fill, and thereby gives certainty to the community as to what is acceptable.

Adoption of the amended LPP will render the Local Law obsolete. A separate report will be presented to Council in future with regard to the Local Law's proposed revocation.

It is recommended that Council adopts the draft amended LPP with the inclusion of the highlighted modifications.

2.0 Recommendation to Committee

Council:

1. **Adopts the draft Fill and Fencing Local Planning Policy with amendments.**

3.0 Strategic Community Plan

KFA: Governance and Civic Leadership

Regular review of the City's policies ensures that they remain relevant and meaningful to the local community.

4.0 Legislation

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

5.0 Budget / Financial Implications

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

The creation of local planning policies does not have a financial implication for the City. Advertising of the Policy is within the City's approved budget.

6.0 Risk management

If Council resolves not to adopt the amended LPP it will result in uncertainty for the community over what is considered acceptable by Council in relation to fencing and may result in inconsistent decision making on Applications for Planning Approval relating to fencing.

7.0 Background

The City currently controls fencing by requiring an applicant to obtain:

- a) a Licence under the Local Law;
- b) development approval under Town Planning Scheme No. 2 (TPS 2); and
- c) a Building Permit.

The effect is that an applicant is required to obtain three separate approvals from the City which is very onerous on an applicant, both in terms of time for processing the approvals and fees required.

The development approval covers amenity issues and the building permit covers the structural issues. The matters to be considered in the fencing license application

duplicates both the amenity and structural issues covered in a development approval and building permit.

There are no significant objectives under the Local Law by which to assess a License and the Local Law dimensions. As such, Administration recommends revoking the Local Law, which will eliminate the requirement to obtain a licence from the City under that local law.

The requirement to obtain development approval under TPS 2 and a Building Permit under the Building Code of Australia will remain. However, the existing Fill and Fencing Local Planning Policy does not contain specific assessment criteria by which to determine suitable fencing material(s).

In order to provide that specific assessment criteria, the City is recommending that the amended LPP be adopted. The amended LPP will provide assistance to guiding decision making without the need for an additional application fee and if the amended LPP is required to be updated it is significantly easier to amend than a Local Law.

In November 2015, Council resolved (En Bloc Resolution 10/-) to approve the draft amended LPP for the purpose of public consultation. As a consequence of comments received during the advertising period modifications have been made to the draft amended LPP, which are highlighted in Attachment 2.

8.0 Statutory Provisions

Schedule 2 clause 5 of the *Planning and Development (Local Planning Schemes) Regulations 2015* prescribes the provisions relating to amending local planning policies.

If Council resolves to adopt the amended LPP, the Council is to publish notice of the Policy once in a newspaper circulating in the district. The policy will have effect on publication of the notice.

9.0 Consultation

The amended LPP was advertised in accordance with the process outlined in Schedule 2 clause 4 of the Regulations which involved a notice of the amended LPP being published in a newspaper circulating in the district, and in addition to this a notice was published on the City's website.

During the advertising period one submission was received which raised the following concerns in relation to timber picket fencing:

- i) Not offering the appropriate amount of privacy or security to either neighbour.
- ii) Offer minimal noise reduction due to the gaps between the slats.
- iii) Do not comply with current pool regulations.
- iv) Impact on home values.
- v) Not long lasting.

The proposed provisions relating timber picket fencing are discussed in the following section.

10.0 Timber Picket Fencing

The provisions proposed as part of the draft amended LPP in relation to timber picket fencing on residential lots are consistent with what is currently stipulated under the Fencing Local Law.

In accordance with the Dividing Fences Act the type of dividing fencing to be erected and its maintenance is a civil matter between the affected landowners. If it is believed that it will not provide adequate privacy and/or security then the landowner(s) can choose an alternative material. The Building Commission has guidelines as to how fencing materials can be negotiated between different landowners, and the maintenance of such fencing.

Landowners are responsible for ensuring that any fencing proposed to be erected near to a swimming pool complies with the applicable BCA requirements and Australian Standards. The City has regard to the type of existing and proposed fencing when determining applications for swimming pools to ensure compliance.

The potential impact fencing has on noise levels between properties and on house values are not matters consideration is given to when determining applications.

11.0 Proposed Amendments to Draft Policy

Having further reviewed the draft amended LPP, the following table outlines the amendments proposed to be made (highlighted in Attachment 2):


Proposed Amendments	Reason for Amendment
Reference to the amended Policy being prepared in accordance with the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> , not TPS 2.	<p>The process for amending a local planning policy under the recently introduced Regulations compared to TPS 2 does not differ. There is therefore no need to re-advertise the amended policy as a result of this alteration.</p> <p>This minor alteration has been made to ensure that the correct legislation was adhered to when preparing the policy.</p>
Remove the word 'picket' from clause 8.2 a) and include " <i>consisting of pickets or overlapping panels</i> ".	To ensure that residents are aware that they are not restricted to only being able to use pickets when erecting timber fencing.

<p>Include clause 8.8: <i>“An owner or occupier of a residential lot shall not have an electrified fence”</i>.</p>	<p>Currently no provision proposed relating to electrified fencing on residential lots. The potential impact such fencing may have on the safety of residents means that it should not be permitted.</p>
<p>Not permit an owner or occupier of a lot to have a fence constructed wholly or partly of razor.</p>	<p>Having further reviewed the draft Policy this proposed amendment was deemed as being necessary. The potential impact such fencing may have on the safety of the public means that it should not be permitted.</p>

12.0 Conclusion

The amended LPP will ensure the City has an appropriate local planning framework in place by which to assess development applications relating to fill and fencing. As such, it is recommended that the amended LPP be adopted by Council.

PD24.16	Proposed Amendment to Town Planning Scheme No. 2 – Lots 12830, 12829, 11329, 10024, 9722 and 10162 Bedbrook Place, and Lot 11605 Lemnos Street, Shenton Park – Request to Adopt
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Committee	10 May 2016
Council	24 May 2016
Applicant	TPG Town Planning, Urban Design and Heritage
Owner	Various
Officer	Andrew Bratley – Coordinator Statutory Planning
Director	Peter Mickleson – Director Planning & Development Services
Director Signature	
File Reference	PLAN-IRC-00031
Previous Item	Item PD29.15 – May 2015 Item PD33.15 – July 2015
Attachments	1. Request to Amend Town Planning Scheme No. 2 2. Bushfire Hazard Assessment Report provided by applicant.

1.0 Executive Summary

The purpose of this report is for Council to consider adopting an amendment to Town Planning Scheme No. 2 (TPS 2) which proposes to:

- a) Rezone Lots 12830, 12829, 11329, 10024, 9722 and 10162 Bedbrook Place, and Lot 11605 Lemnos Street, Shenton Park, from Public Purpose – Hospital to Special Use; and
- b) Include provisions under Schedule V (Special Use Zone) relating to which land uses would be permitted on the properties if rezoned.

The *Planning and Development (Local Planning Schemes) Regulations 2015* (Regulations) which came into effect on 1 October 2015, have created three streams of amendments being ‘complex’, ‘standard’ and ‘basic’.

The proposed amendment is deemed to be ‘complex’ as the subject area is not addressed by any local planning strategy.

In May 2015, Council resolved to not initiate further amendments to TPS 2 to allow for the new local planning scheme to be completed. The Draft Local Planning Strategy (Draft LPS) also identifies the need for more comprehensive planning for the area. For these reasons it is recommended that Council does not adopt the amendment.

2.0 Recommendation to Committee

Council:

1. **Does not adopt the proposed scheme amendment to rezone Lots 12830, 12829, 11329, 10024, 9722 and 10162 Bedbrook Place, and Lot 11605 Lemnos Street, Shenton Park, from Public Purpose – Hospital to Special Use; and amend Schedule V (Special Use Zone), for the following reasons:**
 - a) **Council resolving at its May 2015 Ordinary Meeting not to initiate further amendments to Town Planning Scheme No. 2 due to the preparation of Local Planning Scheme No. 3; and**
 - b) **The need for more comprehensive planning for the area taking into consideration the potential redevelopment of all the lots along Bedbrook Place and those lots immediately to the north.**
2. **Instructs Administration to consider the proposed rezoning of the lots along Bedbrook Place and those lots immediately to the north, when preparing Local Planning Scheme No. 3.**

4.0 Strategic Community Plan

KFA: Natural and Built Environment

KFA: Governance and Civic Leadership

This report addresses the Key Focus Areas of Natural and Built Environment and Governance through adherence to the requirements of TPS 2 and the MRS.

5.0 Legislation

- *Planning and Development Act 2005 (Act).*
- Metropolitan Region Scheme (MRS).
- *Planning and Development (Local Planning Schemes) Regulations 2015 (Regulations)*
- City of Nedlands Town Planning Scheme No. 2 (TPS2).
- Perth and Peel @ 3.5 Million - Western Australian Planning Commission
- State Planning Policy 4.1 - State Industrial Buffer Policy
- State Planning Policy 3.7 – Planning in Bushfire Prone Areas

6.0 Budget / Financial Implications

Nil.

7.0 Risk management

By adopting the amendment Council misses the opportunity for more comprehensive future planning to be done for the local area, which can be undertaken when the City prepares Local Planning Scheme No. 3.

8.0 Background

The subject lots are owned by the Alzheimer’s Australia WA Ltd, the Arthritis Foundation of WA, the State of WA and Westcare Inc. According to the Statewide Bushfire Mapping produced by the DFES the lots fall within a Bushfire Prone Area. Lots 11329, 11605, 12829 and 12830 on the western side of Bedbrook Place fall within the Subiaco Wastewater Treatment Plant odour buffer. Refer to the locality plan below.

Locality Plan



The subject lots are currently zoned Public Purpose reservation but have not historically been identified correctly in relation to the actual use of each site. For example, the Arthritis Foundation and Alzheimers to the southwest of Bedbrook Place, all have Water Corporation reservation status. These appear to have all been incorrectly mapped by not having a specific delineation from the adjoining sites, with a specific relevant designation assigned for each site. An MRS amendment (MRS Amendment 1275/57) was received mid-2015 to rectify this situation.

In July 2015, Council resolved the following with regard to MRS Amendment 1275/57:

“Supports Metropolitan Region Scheme Amendment 1275/57 – Proposal 23 (part of) to transfer Lots 11329, 12829 and 12830 Bedbrook Place and Lot 9866, 11605 and 12496 Lemnos Street, Shenton Park from the Public Purpose (WSD) reservation to the Public Purpose (Special Use) reservation, subject to further designation to clarify the permitted use of each of the sites.”

To date the MRS Amendment has not been determined by the Minister for Planning.

In April and May 2016, the Draft LPS was advertised for public comment. Under the Draft LPS Shenton Park is identified as an area where comprehensive planning is necessary to resolve land use within and surrounding the Subiaco Wastewater Treatment Plant odour buffer.

The City has recently commenced preparing Local Planning Scheme No. 3.

9.0 Details of Amendment

The TPS 2 amendment proposes to:

- a) Rezone Lots 12830, 12829, 11329, 10024, 9722 and 10162 Bedbrook Place, and Lot 11605 Lemnos Street, Shenton Park, from Public Purpose – Hospital to Special Use; and
- b) Include provisions under Schedule V (Special Use Zone) relating to which land uses would be permitted on the properties if rezoned.

Refer to Attachment 1 for the request received by the City to amend TPS 2.

The provisions proposed under Schedule V of TPS 2 shall allow for:

- a) Buildings up to 18 metres in height, which equates to 4 to 5 storeys (commercial) and 5 to 6 storeys (non-commercial i.e. a hostel).
- b) Non-residential uses usually associated with the Office/Showroom zone such as warehouses, showrooms and lunch bars, to be considered on both sides of Bedbrook Place.
- c) The uses Boarding House, Educational Establishment, Hostel and Caretaker’s Dwelling being able to be considered on the lots along the eastern side of Bedbrook Place, as they fall outside of the Subiaco Wastewater Treatment Plant odour buffer.
- d) Other uses (e.g. single, grouped and multiple dwellings) only being able to be considered on the lots along the eastern side of Bedbrook Place if a structure plan has been approved over them.

By way of justification in support of the proposed amendment, the applicant has advised the following:

“It is considered that the proposed amendment should be supported for the following reasons:-

- *The 'Public Purpose - Hospital' reservation does not accurately reflect the existing landownership (being a mix of non-government agencies) and current development on the subject land (being a mix of residential, office, commercial and health related services);*
- *The proposed rezoning will reconcile the difference between the planning intent for 'Public Purpose' reserves under the MRS and TPS2 and the nature of the specific landownership and existing land uses at the subject site, with the subject land currently accommodating a mix of residential, office, commercial and health related land uses that are more closely aligned with the intent of the 'Urban' zone under the MRS and 'Special Use' zone under TPS2;*
- *The proposed amendment is considered straightforward, and its principal affect will be to more accurately reflect the landownership and current use of the subject land, as the proposal seeks to rectify the situation whereby the land is reserved for a purpose which is not likely to occur on the sites;*
- *The subject land is predominantly developed, and therefore any future development on the sites under the 'Special Use' zone will be small in scale and is not likely to have a significant impact on the environment, the functioning of service infrastructure in the area, or the general amenity of the locality; and*
- *The proposed scheme amendment will meet the requirements of the Water Corporation whilst also meeting the expectations of Alzheimer's Australia WA and the Arthritis Foundation of WA.”*

10.0 Statutory and Strategic Provisions

10.1 Planning and Development (Local Planning Schemes) Regulations 2015

The Regulations which came into effect on 1 October 2015, have created three streams of amendments being 'complex', 'standard' and 'basic'.

The amendment is deemed to be 'complex' under Part 5 Division 1, Regulation 34 complex amendment clause (b) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, as it is not addressed by any local planning strategy.

If the amendment is adopted it will be referred to the Environmental Protection Authority to decide whether an environmental review is required.

It should be noted that the landowners may request the Western Australian Planning Commission's (WAPC) advice on whether in its opinion the amendment is deemed 'complex'. If the WAPC deems the amendment to be a different type (i.e. 'standard') then the resolution must be amended accordingly.

If the amendment is deemed 'complex' a further resolution from Council will be required before advertising commences. If the amendment is deemed 'standard' the amendment would need be advertised without further resolution.

10.2 Draft Local Planning Strategy

Shenton Park is identified under the following provisions of the Draft LPS as an area where comprehensive planning is necessary, particularly within proximity to the Subiaco Wastewater Treatment Plant odour buffer and the Shenton Park Hospital Redevelopment Area.

“5.9.5 Shenton Park

Strategies:

Minimise the encroachment of sensitive land uses and residential development within the Subiaco WWTP odour buffer area.

As a priority, comprehensively plan for the precinct to resolve land use within and surrounding the Subiaco WWTP odour buffer.

With urgency, plan for land within proximity to the redevelopment/development sites of the Shenton Park Hospital Redevelopment and Lot 4 Underwood Avenue.”

“9.3.4 Activity Centres

Planned future Activity Centres

At present there is only one additional future activity centre planned in the City of Nedlands. This centre is intended to be part of the planned redevelopment of the Shenton Park Rehabilitation Hospital and surrounds.”

Comprehensive planning would involve identifying suitable density codings and zonings. Assessments would also be undertaken in terms of vegetation and infrastructure (including traffic).

Whilst the amendment proposes a provision under Schedule V which requires a structure plan be approved, this only applies if uses other than those stipulated are proposed on those lots along the eastern side of Bedbrook Place. This is not deemed to be comprehensive enough as it would not include all the lots along Bedbrook Place and Lot 4 Underwood Avenue (the area immediately north of Bedbrook Place).

Further thought could also be given with regard to those lots along the eastern side of Bedbrook Place which shall potentially contain transitional land uses, taking into consideration the existing industrial uses to the west and the future residential uses on the former Shenton Park Hospital site to the east. If comprehensive planning was undertaken in this area more guidance with regard to, for example, setbacks and site coverage would be available.

The amendment would allow for buildings of up to 18 metres in height, which equates to 4 to 6 storeys, to be constructed. This is considered acceptable as:

- a) The current maximum building height requirement of 10 metres above the mean natural ground level under clause 5.11 of TPS 2 is considered too restrictive, particularly on large lots in areas such as Bedbrook Place where predominately non-residential uses exist.
- b) The topography of the subject area means that in some cases buildings constructed to the maximum height may appear as being less than this.

10.3 Perth and Peel @ 3.5 million

The Perth and Peel @ 3.5 Million document provides specifics for applying the principles of urban development that apply to the sub-regional areas. These principles relate to the overarching themes developed from Directions 2031. The document sets out a revised infill target for the City, being 4,400 dwellings by 2050.

This document identifies the subject area as a potential redevelopment corridor.

Comprehensive planning is required in the locality as per the Draft LPS in order to provide guidance as to how this area should be redeveloped in future.

10.4 Bushfire and Vegetation Requirements

According to the Statewide Bushfire Mapping produced by the DFES the subject area falls within a Bushfire Prone Area. As a consequence, a bushfire hazard assessment (assessment) report was provided by the applicant in accordance with State Planning Policy 3.7 – Planning in Bushfire Prone Areas. This assessment identifies the bushfire risk rating for the subject lots and the area within a 100m radius. Refer to Attachment 2 for the Bushfire Hazard Assessment Report provided by applicant.

The assessment shows the majority of the subject area as currently having a moderate bushfire risk rating, with portions of Lots 10162, 11329 and 12829 having an extreme bushfire risk rating. If however the majority of vegetation present was to be cleared to accommodate future development a low bushfire risk rating would exist across the entire subject area and therefore no bushfire requirements would apply.

Potentially significant vegetation exists within the subject area, and if comprehensive planning was undertaken there is the opportunity for future development on the properties to be designed so that any significant vegetation identified could be kept.

According to the information provided by the applicant, in July 2014 a flora vegetation assessment was undertaken for the subject area. However despite being requested, a copy of this assessment has not been provided to the City to date.

The subject lots fall within a biodiversity corridor which was proposed as part of the Biodiversity Local Planning Policy. Prior to 2011, the City undertook a vegetation study which resulted in a draft Biodiversity Local Planning Policy, recognising good and very good condition remnant vegetation and proposing a corridor between Lot 4 conservation area to the north and Shenton Park Bushland to the south. There were several options put forward for the location of the corridor. Several of the sites within this amendment area are included within these proposed corridor options. The draft LPP was advertised for comment, but to date the Policy has not been progressed further.

11.0 Proposed Modifications

If Council resolves to adopt the amendment it is recommended that the following modifications (highlighted in the following table) be made to the proposed Schedule V provisions:

Proposed Modifications	Reason
<p>Modify clauses i) for Lots 12830, 12829 and 11329, 10024, 9722 and 10162 Bedbrook Place, and Lot 11605 Lemnos Street, to the following:</p> <p><i>“All development standards, with the exception of Clause 5.11 (Maximum Building Height), shall generally be in accordance with the requirements of the ‘Office/Showroom’ zone, as outlined in clause 5.4, Table II and Schedule 3 and may be varied at the discretion of Council.”</i></p>	<p>The word ‘generally’ implies that it will not be mandatory for development to comply with all the standards and therefore should be removed.</p> <p>Reference to clause 5.4, Table II and Schedule 3 and the ability to vary these requirements is not necessary as this is set out in TPS 2 already.</p> <p>The additional wording regarding clause 5.11 clarifies that the clause is not applicable for these lots.</p>
<p>Modify clause iii) for Lots 12830, 12829 and 11329 Bedbrook Place, and Lot 11605 Lemnos Street, and clause iv) for Lots 10024, 9722 and 10162 Bedbrook Place, to the following:</p> <p><i>“Notwithstanding the provisions of clause 5.11, The maximum building heights (this is the distance between the point where the base of the wall meets the natural ground level and measured to the highest point of a wall or roof of a building vertically above that point excluding minor projections) of any building shall be 18 metres.”</i></p>	<p>The inclusion of the word ‘notwithstanding’ would mean that not all of the maximum building height requirements under clause 5.11 of TPS 2 could be varied. Despite what clause i) stipulates, proposed development would still be restricted to a maximum of 2 storeys as per clause 5.11 of TPS 2, and there could be confusion as to what other parts of clause 5.11 of TPS 2 would apply despite this proposed clause iii). Therefore the wording highlighted should be removed.</p>

<p>Modify clause iii) for Lots 10024, 9722 and 10162 Bedbrook Place, to the following:</p> <p>“iii) <i>Other uses may be considered by Council following approval of a Structure Plan Local Development Plan.</i>”</p>	<p>A Local Development Plan would be more appropriate mechanism than a Structure Plan. A Local Development Plan more appropriately deals with setbacks, density coding, building heights and site coverage amongst other aspects.</p>
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12.0 Conclusion

The subject area is identified under the Draft LPS as requiring comprehensive planning within proximity to the Subiaco Wastewater Treatment Plant odour buffer and the Shenton Park Hospital Redevelopment Area.

Comprehensive planning would allow for land uses and, if applicable, density codings to be suitably located, as well as assist with identifying which areas of vegetation could be kept. It would also ensure that adequate infrastructure is available or whether any upgrades are necessary.

In addition to this, Council has previously resolved to not initiate further amendments to TPS 2 to allow for the new local planning scheme to be completed.

Considering the above, the amendment at this stage is considered premature and would result in planning not deemed comprehensive enough. It is therefore recommended that Council does not adopt. It is however recommended that the proposed rezoning of the lots along Bedbrook Place and those lots immediately to the north, get taken into consideration when preparing Local Planning Scheme No. 3.

12.1 Recommended Wording if Amendment is Adopted

If Council resolves to adopt the amendment the following wording is recommended.

Council:

1. Deems the amendment to be ‘complex’ under Part 5 Division 1, Regulation 34 complex amendment clause (b) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, for the following reason:

“b) *An amendment that is not addressed by any local planning strategy.*”

2. Adopts the proposed scheme amendment to rezone Lots 12830, 12829, 11329, 10024, 9722 and 10162 Bedbrook Place, and Lot 11605 Lemnos Street, Shenton Park, from Public Purpose – Hospital to Special Use; and amend Schedule V (Special Use Zone) of Town Planning Scheme No. 2, subject to the following modifications being made to the Schedule V provisions prior to the amendment being submitted to the Western Australian Planning Commission:

- a) Modify clauses i) and iii) for Lots 12830, 12829 and 11329 Bedbrook Place, and Lot 11605 Lemnos Street, to the following:
- “i) All development standards, with the exception of Clause 5.11 (Maximum Building Height), shall be in accordance with the requirements of the ‘Office/Showroom’ zone; and”*
 - “iii) The maximum building heights (this is the distance between the point where the base of the wall meets the natural ground level and measured to the highest point of a wall or roof of a building vertically above that point excluding minor projections) of any building shall be 18 metres.”*
- b) Modify clauses i), iii) and iv) for Lots 10024, 9722 and 10162 Bedbrook Place, to the following:
- “i) All development standards, with the exception of Clause 5.11 (Maximum Building Height), shall be in accordance with the requirements of the ‘Office/Showroom’ zone;”*
 - “iii) Other uses may be considered by Council following approval of a Local Development Plan; and”*
 - “iv) The maximum building heights (this is the distance between the point where the base of the wall meets the natural ground level and measured to the highest point of a wall or roof of a building vertically above that point excluding minor projections) of any building shall be 18 metres.”*
- c) The inclusion of provisions relating to how remnant vegetation on the lots will be protected.