

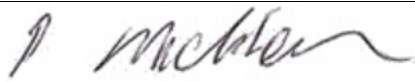
Planning and Development Reports

Committee Consideration – 11 August 2015
Council Resolution – 25 August 2015

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PD34.15	(Lot 67) No. 2/150 Stirling Highway Nedlands – Proposed Change of Use (From Showroom to Health Studio)
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Committee	11 August 2015
Council	25 August 2015
Applicant	Anytime Fitness Australia Pty Ltd
Landowner	Alabama Holdings (WA) Pty Ltd
Officer	Mr A D Bratley – Coordinator Statutory Planning
Director	Peter Mickleson – Director Planning & Development Services
Director Signature	
File Reference	DA2015/182 – ST6/150
Previous Item	Nil

1.0 Executive Summary

This application is for the proposed change in use of Unit 2 from a Showroom to a Health Studio (gymnasium). The health studio is proposed to operate 24 hours, 7 days a week. The application also seeks approval for associated signage consisting of one wall sign on the northern and southern facades, and an infill sign to be placed on an existing pylon structure.

The proposal was advertised to nearby landowners for comment and during the advertising period two 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.

1.1 Recommendation to Committee

Council approves the application for the proposed change of use (from Showroom to Health Studio) at (Lot 67) No. 2/150 Stirling Highway, Nedlands, in accordance with the application received on 2 June 2015, 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. The illuminated signage being of a low level not exceeding 300cd/sqm and may not flash, pulsate and/or chase.
4. 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. 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.
3. Adequate staff and public sanitary conveniences shall be provided in accordance with the Building Code of Australia.
4. The landowner is advised that the operation of the health studio is required to comply with the *Environmental Protection (Noise) Regulations 1997*, in relation to noise.
5. The applicant and landowner are advised that Condition 3 and 4 are as a result of comments received from Main Roads Western Australia. In addition to this, it provided the following advice:
 - a) The property is significantly affected by the existing Metropolitan Region Scheme (MRS). However, MRS major amendment 1210/41 proposes to decrease the current MRS land requirement as shown on Drawing No. 1.7145. This is still subject to the completion of the amendment process. Further information on amendment 1210/41 is available on the Department of Planning's website at the following link: <http://www.planning.wa.gov.au/publications/6242.asp>
 - b) The project for the upgrading/widening of Stirling Highway is not in Main Roads current 4 year forward estimated construction program and all projects not listed are considered long term. Please be aware that timing information is subject to change and that Main Roads assumes no liability whatsoever for the information provided.

1.2 Strategic Community Plan

KFA: Natural and Built Environment

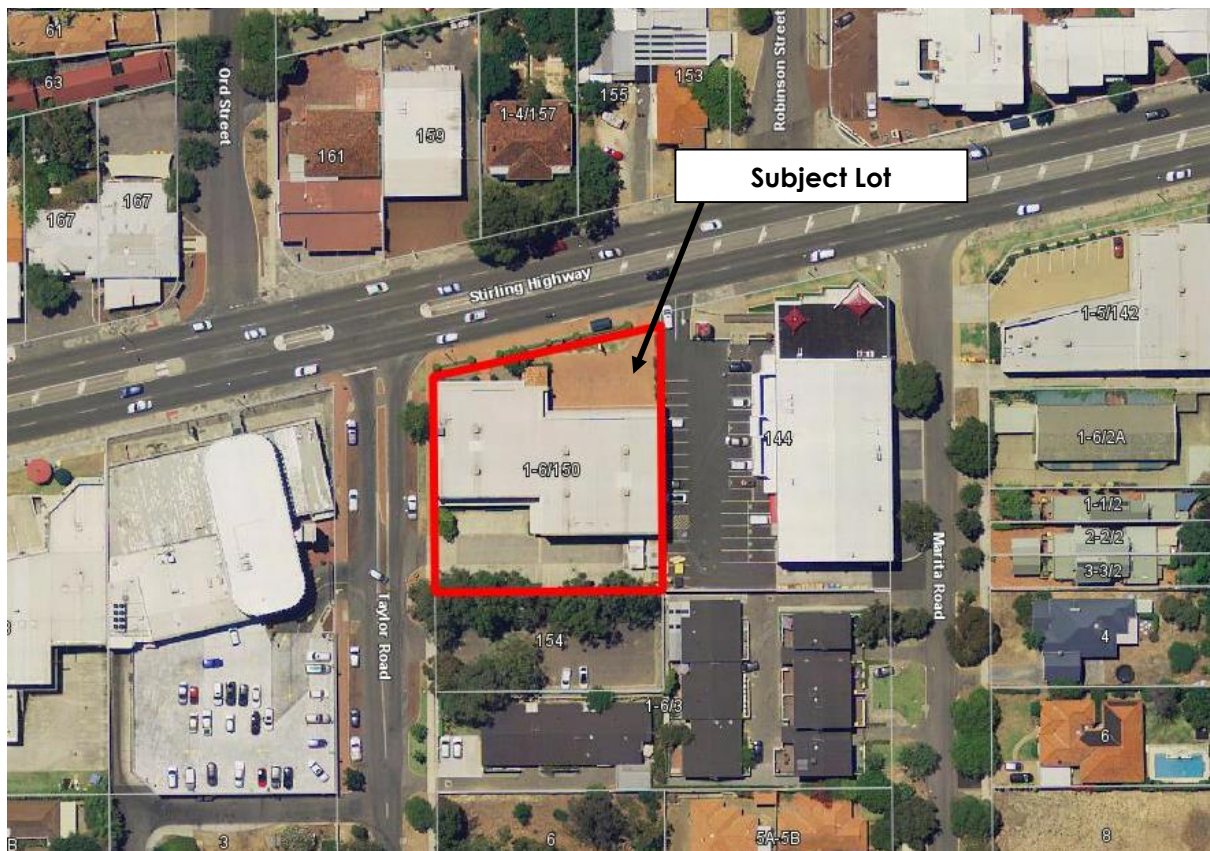
This report addresses the Key Focus Area of Natural and Built Environment through adherence to the design requirements of TPS 2, contributing to well-planned and managed development in the City of Nedlands.

2.0 Background

2.1 Site Description

Property address	(Lot 8) No. 6/150 Stirling Highway, Nedlands
Lot area	2,227m ²
Reserve/ Zoning	MRS TPS2 Urban and Primary Regional Reserve 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 Taylor Road, and the existing two storey building on the site consists of four 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 opposite side of Taylor Road to the subject property. Road widening upgrades are proposed to be made to the section of Stirling Highway immediately adjoining the property.



2.2 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.

3.0 Budget / Financial Implications

Not applicable.

4.0 Risk Management

Not applicable.

5.0 Introduction

The application seeks approval to change the use of Unit 2 from a showroom to a health studio, details of which are as follows:

- a) A gymnasium is proposed which will operate 24 hours a day, seven days a week, including public holidays.
- b) The gymnasium will occupy a gross floor area of 375sqm, in a building which has an aggregate gross floor area of 1186sqm.
- c) Two staff (a gym manager and gym assistant) and a maximum of three personal trainers will be on site at any one time.
- d) Staff will be present on site between Monday and Thursday 10.00am to 7.00pm, Friday 10.00am to 4.00pm and Saturday 10.00am to 2.00pm.
- e) Thirty two (32) car parking bays exist on site, access to which will continue to be obtained from Stirling Highway and Taylor Road. On street car parking bays exist within the immediate vicinity of the property.
- f) Two illuminated wall signs are proposed, one on the northern and one on the southern façade of the building. One infill sign is also proposed to be installed on an existing pylon sign structure within the Stirling Highway street setback area.
- g) By way of justification in support of the application, the applicant has advised the following:

“Anytime Fitness gyms are designed to be lower in scale and impact compared to other gyms. Based on usage statistics for numerous other Anytime Fitness gymnasiums around WA, there is an expected usage of the gymnasiums of around 12 – 19 persons maximum during the AM and PM peak times (7am – 9am peak, 5.30pm – 7pm peak).”

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).

7.0 Town Planning Scheme No. 2

The following provisions of TPS 2 apply to such proposals.

7.1 Amenity

TPS 2 Clause	Assessment Comment
<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, traffic congestion and hazard, noise or any other factor inconsistent with the use for which the lot is zoned”</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>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>Considering the above, the proposed use is not anticipated to have a significant impact on the area’s amenity.</p>
<p>Under clause 6.4 (Consideration of Applications) under TPS 2 the following provisions are to be taken into consideration:</p> <p>(a) The nature and intensity of the proposed use or development will not detrimentally affect the locality in terms of its environmental impact by way of its hours of operation, illumination, emission of any kind and the effect on any use or development within the locality;</p> <p>(b) the vehicular and pedestrian access, including on-site circulation and</p>	<p>Despite the proposed hours of operation, the scale and nature of the proposed use and type of signage proposed means that its impact on the local environment shall be minimal.</p> <p>Considering the peak hours of operation for the proposed use compared with uses on the property and nearby commercial premises, and having referred the application to MRWA for comment, the proposal shall not have a detrimental impact from a traffic safety perspective.</p>

provision for deliveries will not create any danger; (c) the vehicle flows to and from the subject land will not be disruptive to existing traffic movements or circulation patterns; and (d) that any traffic generated must be capable of being accommodated within existing streets.	
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7.2 Existing Car Parking Demand

Thirty two (32) car parking bays exist on site, nine car bays at the front of the building and the remainder of the car bays at the rear of the building. All four tenancies within the building are currently occupied by showroom uses, which require a total of 26 car bays, therefore a surplus of six car bays exists.

7.3 Car Parking Requirements

If the health studio was to be approved by Council the remaining showrooms would require 18 bays based on the TPS 2 car parking requirements, leaving a surplus of 14 bays for the proposed Health Studio.

TPS 2 does not contain a prescribed minimum number of car bays for a Health Studio use, therefore the number of car bays required is at Council's discretion. In recommending whether the provision of car bays is sufficient for the proposed use, the City has reviewed surrounding local governments' and the Western Australian Planning Commission's (WAPC) parking requirements for the use Health Studio, as shown in the table below.

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.

Authority	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> 16 bays required Unit 2 net lettable area = 240m ²	2
Town of Claremont	<i>Health Studio</i> 1 bay per 12.5 m ² gross leasable area	<i>Health Studio</i> 30 bays required	16

		Unit 2 gross leasable area = 375 m ²	
WAPC	Minimum provision: 4.5 bays per 100m ² gross leasable floor area	<i>Gymnasium</i> 17 bays required Unit 2 gross leasable area = 375 m ²	3
	Desirable provision: 7.5 bays per 100m ² gross leasable floor area	<i>Gymnasium</i> 28 bays required Unit 2 gross leasable area = 375 m ²	14

7.4 Applicant's Car Parking Demand Assessment

The applicant has provided a car parking demand assessment (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:

- Carpet Court – Monday to Friday 9.00am to 5.00pm, Saturday 10.00am to 2.00pm, Sunday Closed
- Warehouse 3 (Furniture) – Tuesday to Saturday 9.30am to 5.00pm, Monday and Sunday Closed
- Orbit Fitness (Showroom) – Monday to Wednesday and Friday 9.00am to 5.30pm, Thursday 9.00am to 8.00pm, Saturday 9.00am to 5.00pm, Sunday Closed

The peak hours of operation for these showroom uses would be on Saturday.

The assessment considered how frequently the car parking bays on the property are currently occupied and how long for on Saturday. The following table outlines the findings:

Area	Total Car Parking Supply	Peak Demand Time(s)	Peak Car Parking Demand	Observed Vacant Spaces	Vacancy (%)
150 Stirling Highway	32 bays	11.30am, 12.30pm, 1.00pm and 2.30pm	9 bays	22 bays	69%

Portion of Taylor Road immediately adjoin 150 Stirling Highway	14 bays	12.30pm	8 bays	6 bays	43%
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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 7 other gymnasiums in the Perth Metropolitan Area collected between 1997 and 2013, and concludes the following:

- *“The proposed gymnasium is expected to generate a peak parking demand of 19 spaces.*
- *The peak parking demand associated with the proposed gymnasium is expected to occur after 5.00pm on weekdays, where all other uses within the subject site close no later than 5.30pm on a typical weekday.*
- *Accessible and overflow car parking capacity was observed to be available in neighbouring car parking areas.”*

Based on the assessment, during the peak hours of operation for the showrooms on the property, 69% of the onsite car parking bays and 43% of the on street car parking bays shall be vacant. Considering the different peak hours of operation for the health studio compared with the showrooms and the amount of car parking bays which will be vacant, the applicant considers there will be an ample amount of car parking bays available.

8.0 Local Planning Policy – Advertisement Signs

Two illuminated wall signs are proposed, one on the northern and one on the southern façade of the building. One infill sign is also proposed to be installed on an existing pylon sign structure within the Stirling Highway street setback area.

The proposed signage is compliant with Local Planning Policy – Advertisement Signs.

9.0 Consultation

The proposal was advertised in accordance with clause 6.3.1 (Special Procedures) of TPS 2 for 21 days to nearby landowners for comment in June 2015. During the advertising period two objections were received. The following is a summary of the comments received from affected landowners during the advertising period.

Summary of comments received	Officer's technical comment
<p>Objection</p> <p>a) There is already a limited number of car parking on the property.</p> <p>b) There is very limited street parking available because of the very busy IGA supermarket opposite.</p> <p>c) Under the property's Body Corporate Agreement the unit where the health studio is proposed is allocated 6 car parking bays.</p>	<p>a) If the application was approved by Council there will be a shortfall of between 2 and 16 car parking bays having reviewed surrounding local governments' and the WAPC parking requirements. 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 for the property it can also be concluded that the frequency and occupancy rate for the onsite car parking bays would mean that an adequate number of car bays shall be available on Saturdays when all of the businesses are operating.</p> <p>b) Noted. On street car parking bays exist along Taylor Road which is limited to 1 hour between 8.00am- and 5.00pm Monday to Friday, and 8.00am to 1.00pm Saturday on both sides of the road. The survey provided concludes that during the peak hours of operation for the showrooms at 150 Stirling Highway up to 43% of the bays in close proximity to the property are vacant.</p> <p>c) Noted. The City can only apply the car parking requirements stipulated under the applicable planning related legislation.</p>
<p>Objection</p> <p>Car parking would be a major problem.</p>	<p>Noted. Refer to responses to previous submission.</p>
<p>Note: A full copy of all relevant consultation feedback received by the City has been given to the Councillors prior to the Council meeting.</p>	

Further to the affected landowners' consultation, the application was also referred to MRWA as the property is affected by a Regional Road Reservation. MRWA advised that the proposal was deemed acceptable.

10.0 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 between 2 and 16 car parking bays having reviewed surrounding local governments' and the WAPC parking requirements. 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 for the property it can also be concluded that the frequency and occupancy rate for the onsite car parking bays would mean that an adequate number of car bays will still be available on Saturdays when all of the businesses are operating.


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.

11.0 Attachments

1. Site and Tenancy Plans, and Elevations (A3)
2. Enlarged Elevations (A3)
3. Applicant's Gymnasium Car Parking Provision Assessment (A4)
4. Applicant's Planning Permit Application Report (A4)

PD35.15	(Lot 579) No. 17 Viking Road, Dalkeith – Three Storey Single House
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Committee	11 August 2015
Council	25 August 2015
Applicant	Milankov Designs and Project Management Pty Ltd
Owner	H Indra
Officer	Kate Bainbridge – Senior Statutory Planning Officer
Director	Peter Mickleson – Planning & Development
Director Signature	
File Reference	DA14/514

1.0 Executive Summary

The proposal is for a three storey single house, cabana and pool. The application was advertised for comment due to proposed building setback variations. During advertising one objection and non-objection 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, where objections to variations have been received.

The development is not considered to meet the relevant 'deemed-to-comply' and 'design principles' of the R-Codes and as a result, the application is recommended for refusal.

1.1 Recommendation to Committee

Council refuses the application for a Three Storey Single House at (Lot 579) No. 17 Viking Road, Dalkeith, in accordance with the application received on 16 October 2014 and amended plans received on 22 April 2015, for the following reasons:

1. The upper floor lot boundary setbacks to the eastern side boundary are not considered to comply with the 'deemed to comply' or 'design principles' of Clause 5.1.3 (Lot boundary setbacks) of the Residential Design Codes, specifically Design Principle for Clause 5.1.3, P3.1 – *reduce impacts of building bulk on adjoining properties*; and
2. The reduced upper floor lot boundary setbacks to the eastern side boundary adversely impact the amenity of adjoining landowners due to the building's bulk and appearance as per Clause 5.5.1 of Town Planning Scheme No. 2.

1.2 Strategic Community Plan

KFA: Natural and Built Environment

KFA: Governance and Civic Leadership

The proposed development relates to the Natural and Built Environment Key Focus Area in relation to:

- Land Use Planning;
- Development approvals and compliance; and
- Streetscape.

The proposed development relates to the Governance and Civic Leadership Key Focus Area in relation to:

- Consultation and engagement; and
- Council decision-making.

2.0 Legislation / Policy

- *Planning and Development Act 2005* (the **Planning Act**).
- City of Nedlands Town Planning Scheme No. 2 (**TPS2** or **Scheme**).
- Residential Design Codes of WA 2013 (**R-Codes**).
- Council Policy – Neighbour Consultation.
- Council Policy – Fill & Fencing.
- Local Planning Policy 6.23 – Carports and Minor Structures Forward of the Primary Street.

3.0 Consultation Process

The initial proposal was available for viewing at the City's offices as part of the notification process (sign on site) from the 22 October to 5 November 2014.

The current proposal was referred to the neighbouring landowners by the applicant from the 15 May 2015 to 15 June 2015, during which one non-objection was received.

The current proposal was advertised by the City to all impacted neighbouring landowners from the 16 – 30 June 2015. One objection was received.

Required by legislation:	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
Required by City of Nedlands policy:	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>

4.0 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.

5.0 Risk management

N/A

6.0 Background

6.1 Property Details

Property address	(Lot 579) No. 17 Viking Road, Dalkeith
Lot area	1011.7m ²
Metropolitan Region Scheme	Urban
Town Planning Scheme No. 2	Residential – R10

The subject site is currently vacant as shown on the locality plan (**attachment 1**), with a 2m slope from the street to the rear of the lot and the west side being approximately 0.5m higher than the eastern side of the lot. The adjoining properties to the east, west and north are two-storey. The properties on the other side of Viking Road are a mixture of single and two storey.

6.2 Details of application

The application is for a three storey single house comprising of an undercroft garage, two levels of habitable space above, rear cabana and pool. The proposal has been assessed under the provisions of the City's Town Planning Scheme No. 2, relevant council policies and the Residential Design Codes.

7.0 Discussion

The proposal is for a three storey dwelling with undercroft garage and two levels of habitable space, a rear cabana and a swimming pool as depicted in the submitted plans (**Attachment 2 – 7**).

The development complies with the City's Town Planning Scheme No. 2, Council Policies and the 'deemed-to-comply' provisions of the R-Codes with the exception of the following:

- a) The cabana is proposed to be setback 1m from the rear boundary in lieu of the required 6m; and
- b) The upper floor of the dwelling is not setback from the eastern side boundary in accordance with Table 2A of the R-Codes.

These proposed variation are discussed in the following sections.

The applicant for the proposed development has also provided several comments on the objections which have been raised (refer to **Attachment 8**).

Residential Design Codes

The following assessment of the variations is based upon the ‘design principles’ of the Residential Design Codes.

7.1.2 Cabana setback to rear boundary

The cabana is required to be setback 6m from the rear boundary in accordance with Clause 5.1.3 and Table 1 of the R-Codes. The proposal has a 1m rear setback. Design principle P3.1 (Lot boundary setbacks) requires the following:

“Buildings set back from lot boundaries so as to:

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

The following is in response to these design principles, with regard to the current proposal plan.

Design Principle	Administration Response
Impact of building bulk	The cabana is an open on three sides (northern side enclosed for privacy) and the structure is of single storey height. The cabana is located centrally to the lot adjacent to the rear boundary, ensuring that the rear neighbouring landowner is the only impacted neighbouring landowner. The rear neighbour also has a cabana structure also within their rear setback and pool area adjacent. Therefore the presence of similar type structures and single storey nature of the cabana ensures that the impact of building bulk is consistent with other properties within the locality.
Access to direct sunlight and ventilation	The cabana is an open structure and located to the north of the dwelling ensuring that the proposed dwelling and neighbouring dwellings’ have adequate access to sunlight and ventilation.
Overlooking and privacy loss	The cabana has a solid wall to the rear ensuring that noise and light will not spill onto the northern neighbour’s property. The cabana has large setbacks to the eastern and western side boundaries and is not proposed to be elevated so as to cause any visual privacy concern. Therefore the location of the cabana will not result in any overlooking or loss in privacy for neighbouring landowners.

7.1.1 Upper floor setbacks to eastern side boundary

The upper floor is required to be setback from the eastern side boundary in accordance with Clause 5.1.3 and Table 2A of the R-Codes. The proposal has the following setback variations:

Floor (Direction) – Room (eg. GF (W) - Bedroom 1)	Length	Height	Major Openings?	Required Setback	Proposed Setback
Master ensuite to balcony	14.61	9.2	N	2.5	1.6
Bed 4 ensuite to balcony	23.3	8.3	N	3.3	2.3
Bed 4 to balcony	26	7.75	N	3.8	3.5

The variations can be attributed to the height of the proposed dwelling, with the high-side of the skillion roof being to the eastern side boundary and the eastern side being slightly lower than the western side of the lot. The lengths of the wall have been articulated with the smaller sections of wall length having compliant setbacks to the eastern side boundary, with the bulk of the building not being setback the required distances. The setback variations were advertised to the impacted eastern neighbouring landowner, who has objected to the proposal. Design principle P3.1 (Lot boundary setbacks) requires the following:

“Buildings set back from lot boundaries so as to:

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

The following is considered in response to these design principles, with regard to the current proposal plan.

Design Principle	Administration Response
Impact of building bulk	<p>The lack of articulation provided for the upper floor along with the height of the proposal does not adequately reduce the impact of building bulk. The building will appear imposing and out of context with surrounding residences being of one or two storey height. There are two examples of three storey dwellings within the street at No. 27 and No. 29 Viking Road, however these are compliant with the deemed to comply for lot boundary setbacks and have a fairly two storey appearance as viewed from the street.</p> <p>The driveway gradient is not at the maximum permitted, and therefore the garage could be lowered further to reduce the height of the proposal. The height of the under-croft is 3.086m which can also be minimised to reduce the height of</p>

	<p>the proposal. The ground floor has a plate height of 3.086m and the upper floor has a plate height of 2.914m which can also be marginally reduced to better comply. The skillion roof structure is 1.9m above the ceiling of the upper floor. The pitch of the skillion roof could be reduced or the design modified to have the low side of the roof to the eastern side boundary.</p> <p>Additionally, given the size of the lot and the size of the dwelling, the design could be further modified to increase setbacks to the eastern side boundary.</p>
Access to direct sunlight and ventilation	The neighbouring landowner being to the east of the subject property will still receive adequate access to sunlight and ventilation with the exception of winter afternoons.
Overlooking and privacy loss	The upper floor has no major openings with screening provided to the balcony and high-light windows provided to habitable rooms ensuring privacy is maintained.

In this instance, it is considered that the proposal meets the relevant 'design principles' of the R-Codes in relation to rear cabana setback but not for the upper floor setbacks to the eastern side boundary and therefore the proposal is recommended for refusal.

7.2 Town Planning Scheme no. 2

Under Table 1 (Use Class Table) of TPS 2 the use 'Dwelling House – Single' is permitted on properties zoned Residential under the Scheme subject to compliance with the provisions of TPS2. The proposal is considered compliant with the provisions of TPS 2.

In considering any application Council is to have due regard to the following matters in accordance with Clause 6.4 (Consideration of Applications) of TPS 2:

TPS2 Clause	Assessment Comment
(a) The nature and intensity of the proposed use or development will not detrimentally affect the locality in terms of its environmental impact by way of its hours of operation, illumination, emission of any kind and the effect on any use or development within the locality	Although the land use is considered consistent with the residential zoning the development is not considered to meet the design principles of the R-Codes in relation to lot boundary setbacks. The bulk and setbacks of the proposal are considered to have a potential impact upon the amenity of the eastern neighbour's property and also the appearance of the development within the streetscape. The surrounding development is of single or modest two storey design within the immediate streetscape. Further up on Viking Road there are two three-storey dwellings, however these dwellings have been

	designed to be compliant with the height and lot boundary setback requirements of the Scheme and R-Codes, and as such do not detrimentally affect the existing character of the neighbourhood.
(b) The plot ratio, site coverage, setbacks, height, landscaping and parking provisions are in keeping with the general character of the locality	<p>As discussed earlier in the report, the proposal can be modified to provide greater articulation of the upper floor through increases to the setback of the bulk of the building. There are also other design modifications to reduce the height of the proposal which will in-turn decrease the required setbacks such as:</p> <ul style="list-style-type: none"> - lowering the development to have the maximum permitted driveway gradient; - lowering the ceiling height for the basement; - lowering the ceiling height for the ground floor and upper floor - reducing the skillion roof pitch - changing the design of the skillion roof (i.e. higher side not to the lower side of the lot). <p>The City recommends the above is explored to achieve greater compliance with the deemed to comply and design principles of the R-Codes to better reflect the character of the development in the locality, and in particular reduce the bulk of the building on the site.</p>
(c) The vehicular and pedestrian access, including on-site circulation and provision for deliveries will not create any danger	Vehicle and pedestrian access is compliant.
(d) The vehicle flows to and from the subject land will not be disruptive to existing traffic movements or circulation patterns	Traffic generation is within normal residential levels.
(e) That any traffic generated must be capable of being accommodated within existing streets	Complies.

(f) Any other matter considered relevant by Council.	None.
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As mentioned above, the development is considered to be not consistent with the bulk and scale of other dwellings within the locality and as a result variations to the lot boundary setbacks to the eastern side boundary may have a negative impact on both the adjoining neighbouring landowner and also the streetscape amenity of the locality.

7.3 Council and Local Planning Policies

7.3.1 Council Policy – Fill & Fencing

The proposal includes a front fence which is proposed to be 1.2m in height above natural ground level at the front boundary and solid in nature. The fencing is therefore compliant with the R-Codes and the City's Fill and Fencing Council Policy.

7.3.2 Local Planning Policy 6.23 – Carports and Minor Structures Forward of the Primary Street

The proposal includes a gatehouse within the front setback area the gatehouse does not propose water impermeable roofing, is less than 4m² in area and has a post height of 3.5m above natural ground level. The structure is considered to be complimentary to the residence with the material of construction being similar to the residence and is therefore not considered to detract from the visual amenity of the streetscape. The proposed gatehouse is therefore considered compliant with the City's Local Planning Policy 6.2.3 – Carports and Minor Structures Forward of the Primary Street Setback.

7.4 Submissions

The proposal was advertised in accordance with Council Policy – Neighbour Consultation to nearby landowners for comment. During the advertising period 1 objection and 1 non objection were received. Below is a summary of comments received from the neighbour consultation.

Summary of comments received	Officer's technical comment
<p>SUBMISSION 1 – OBJECTION</p> <p>We very strongly object to variations to the setbacks</p> <p>We are not in agreement with the proposal to reduce the setback at our shared boundary with the subject property for the variations between 0.3m and 1m from what is required as well as the rear setback variation of 1m in lieu of 6m.</p>	<p>Noted. The City believes that the setbacks provided do not comply with both the 'deemed to comply' and 'design principles' of the R-Codes and therefore have recommended the application for refusal.</p>
<p>The size of the proposed dwelling illustrates the need for the setbacks to be adhered to.</p>	<p>The City's recommendation is for refusal based on the appearance of building bulk as viewed from neighbouring properties and the street.</p>
<p>The massive size of the proposed structure is not in keeping with low density residential dwellings within the area as is the aim of the R-Codes.</p>	<p>See above comment.</p>
<p>The topography of the site has the lot slope towards the west and north. When taking the topography into account with the height/size of the structure, it will be imposing and have a dramatic effect in reducing sunlight and ventilation to our property.</p>	<p>The City has noted that the topography is a significant factor in the proposed development and as such has looked into driveway gradient, plate heights and the pitch and design of the skillion roof. It is also noted that there is a build up for the ground floor and a lack of cut towards the rear of the dwelling. These design modifications should be explored by the applicant to reduce the appearance of building bulk as viewed from neighbouring properties and as such the application has been recommended for refusal.</p>
<p>There does not appear to be any provision for the garden setting at the subject property which we believe is an aim of the City's TPS2 and the R-Codes.</p>	<p>The open space is compliant with the required 60% inclusive of the covered outdoor living areas raised more than 0.5m or over 50m² in area. The variations in question are in relation to the upper floor and cabana which do not contribute to site coverage.</p>

<p>The R-Codes are written to provide adequate separation of residences in order to ameliorate the impact of building bulk.</p>	<p>The 'design principles' states that where there is a variation to the 'deemed to comply' provisions, the design must reduce the impact of building bulk on adjoining properties. The City believes that the design does not do enough to reduce the impact of building bulk on adjoining properties.</p>
<p>In summary, the proposed residence will be placing the front of our home in shadow in the afternoon, will reduce the effects of sea breezes from the South West and give us nothing more than its imposing bulk beside us. We would be very disappointed if there was any variation to the standard setbacks and separation which the R-Codes were put in place to protect.</p>	<p>Whilst it is noted that the size of the residence will impact upon neighbouring landowners' access to winter sun in the afternoons to the front of the dwelling, existing vegetation already has this effect on the neighbouring landowners' dwelling and therefore it is considered that the proposed dwelling will not have an impact on your access to sunlight and ventilation, given your outdoor living area is to the north of the neighbours' dwelling and access to winter morning sun is not impacted.</p>
<p>SUBMISSION 2 – NO OBJECTION</p>	<p>Noted.</p>

7.0 Conclusion


The proposal is for a three-storey single house on the property. The proposal involves two lot boundary setback variations under the 'deemed-to-comply' provisions of the R-Codes. Whilst the rear cabana setback variation is considered to satisfy the 'design principles' of the R-Codes, the upper floor setbacks to the eastern side boundary are not considered compliant with the relevant 'design principles' of the R-Codes, nor the amenity provisions of TPS2.

Accordingly, the application is recommended to be refused by Council.

8.0 Attachments

1. Locality Plan
2. Site Plan
3. Basement Plan
4. Ground Floor Plan
5. Upper Floor Plan
6. Elevations South and East
7. Elevations North and West
8. Applicant Submission
9. Site photographs

PD36.15	(Lot 2) No. 5B Bulimba Road Nedlands – Additions (Two Patios) to Grouped Dwelling
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Committee	11 August 2015
Council	25 August 2015
Applicant	Eden Outdoor Living
Owner	C Bailey
Officer	Kate Bainbridge – Senior Statutory Planning Officer
Director	Peter Mickleson – Planning & Development
Director Signature	
File Reference	DA2015/160

1.0 Executive Summary

The proposal is for a patio addition to a single dwelling. The application proposes variations to the building setback and outdoor living area requirements of the Residential Design Codes and was therefore advertised for comment. 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 objections to variations have been received.

The development is considered to meet the relevant 'deemed-to-comply' and 'design principles' of the R-Codes, relevant Council Policies and provisions of the City's Town Planning Scheme No. 2 (TPS2). As a result, the application is recommended for approval with conditions.

1.1 Recommendation to Committee

Council approves the application for Additions (Patio) to Single House at (Lot 2) No. 5B Bulimba Road, Nedlands, in accordance with the application received on 16 February 2015 and amended plans received on 05 March 2015, subject to the following conditions and advice notes:

- 1. The development shall at all times comply with the approved plans.**
- 2. All stormwater from the development, which includes permeable and non-permeable areas, shall be contained onsite.**
- 3. All footings and structures to the proposed patio, shall be constructed wholly inside the site boundaries of the Certificate of Title.**

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.

1.2 Strategic Community Plan

KFA: Natural and Built Environment

KFA: Governance and Civic Leadership

The proposed development relates to the Natural and Built Environment Key Focus Area in relation to:

- Land Use Planning;
- Development approvals and compliance; and
- Streetscape.

The proposed development relates to the Governance and Civic Leadership Key Focus Area in relation to:

- Consultation and engagement; and
- Council decision-making.

2.0 Legislation / Policy

- *Planning and Development Act 2005* (the **Planning Act**).
- City of Nedlands Town Planning Scheme No. 2 (**TPS2** or **Scheme**).
- Residential Design Codes of WA 2013 (**R-Codes**).
- Council Policy – Neighbour Consultation.

3.0 Consultation Process

The application was initially advertised from the 2 – 16 June 2015 with one letter of non-objection received.

Subsequently amended plans were received and advertised from the 2 – 16 July 2015 with one letter of objection received.

4.0 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.

5.0 Risk management

N/A

6.0 Background

6.1 Property Details

Property address	(Lot 2) No. 5B Bulimba Road, Nedlands
Lot area	447m ²
Metropolitan Region Scheme	Urban
Town Planning Scheme No. 2	Residential – R20

The subject site is a rear grouped dwelling as depicted on the locality plan (**Attachment 1**). The site currently has a single storey residence with the dwelling and existing patio setback 1.5m from the rear and southern side boundary.

6.2 Details of application

The City received an application for two patios at the subject property on 8 May 2015. The proposal is to replace existing patios, one being the front verandah and the other being the rear alfresco. The dwelling has an existing building on the boundary to the front lot (5 Bulimba) and a large uncovered area to the north of the dwelling.

The City requested amended plans from the applicant to address the amount of covered outdoor living area and the reduced rear setback/boundary structure for the rear patio which were received 26 May 2015 and subsequently advertised to the impacted neighbouring landowners for two weeks. One non-objection was received during the consultation period.

However, during the advertising period the applicant informed they did not wish to proceed with the reduced rear patio and would submit a revised proposal in due course with similar dimensions to the initial proposal but with translucent sheeting sections to ensure the outdoor living area received adequate access to winter sun. The amended plans which are the subject of this application were received by the City on the 2 July 2015 and re-advertised to the impacted neighbouring landowners. One letter of objection was received during the consultation period.

7.0 Discussion

The proposal involves the replacement of two existing patios on the subject property, one being the front verandah to the dwelling and one being to the rear outdoor living area, as depicted in the submitted plans (**Attachment 2**).

The development complies with the City's Town Planning Scheme No. 2, Council Policies and the 'deemed-to-comply' provisions of the R-Codes with the exception of the following:

- a) The rear patio proposes to have the posts on the boundary and eaves setback 0.5m from the rear boundary making the patio a building on boundary. There is an existing boundary wall to the front lot, therefore there will be boundary walls up to more than one lot boundary;
- b) Additionally the patio is 9.66 metres in length in lieu of the maximum 9 metres length permitted within the R20 zone; and
- c) The rear patio proposes only 9.6m² uncovered outdoor living area in lieu of the required two thirds (20m²) uncovered outdoor living area.

The following assessment of the variations is based upon the 'design principles' of the Residential Design Codes.

The applicant for the proposed development has also provided several comments on the objections which have been taken into consideration as part of the assessment (refer to **Attachment 3**).

7.1 Residential Design Codes

7.1.1 Building on boundary

The rear patio with posts on the boundary and eaves setback 0.5m is considered to be a boundary structure under the provisions of the R-Codes. Under the 'deemed-to-comply' requirements of the R-Codes, only one lot boundary is permitted a building on boundary and within the R20 zone, the maximum length permitted is 9 metres or one third of the boundary length whichever is the greater. There is an existing building on boundary to the front lot (5 Bulimba) meaning that more than one boundary is proposed to have a building on boundary and the length of the proposed rear patio is proposed to be 9.66 metres in length. As a result the proposed rear patio is to be assessed against the relevant design principles of the R-Codes. Design Principle P3.2 (Lot Boundary Setback) of the R-Codes requires the following:

"Buildings built up to boundaries (other than the street boundary) where this:

- *makes more effective use of space for enhanced privacy for the occupant/s or outdoor living areas;*
- *does not compromise the design principle contained in clause 5.1.3 P3.1 (wall setbacks, see below);*
- *does not have any adverse impact on the amenity of the adjoining property;*
- *ensures direct sun to major openings to habitable rooms and outdoor living areas for adjoining properties is not restricted; and*
- *positively contributes to the prevailing development context and streetscape."*

Further to this, design principle P3.1 (wall setbacks) requires the following:

“Buildings set back from lot boundaries so as to:

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

The following is considered in response to these design principles, with regard to the current proposal plan.

Design Principle	Administration Response
Effective use of space	The patio proposes to maximise coverage of the outdoor living area to maximise functional outdoor living area throughout the year. The open space for the site is compliant with the deemed to comply provisions and the site will still have an outdoor area which is north facing and uncovered, however not accessible from a habitable room. This area is accessible through the laundry and around the rear of the dwelling.
Impact of building bulk	The patio is an open structure with a wall height of 2.4m with translucent sheeting proposed for sections of the roofing to permit adequate sunlight into the area. The building bulk is comparable to a patio setback 1m with eave overhang of 0.5m.
Access to direct sunlight and ventilation	The patios will not impact upon the neighbouring landowner's access to sunlight and ventilation with the structure being single storey and only slightly larger in area than the existing patio structures. The western rear neighbouring landowner will not be impacted in terms of access to winter sun with the additional patio area (compared to the existing rear patio) being towards the southern side of the property. The southern neighbouring landowner has vegetated outdoor living area adjacent to the proposed patio ensuring minimal impact upon functional outdoor living area and habitable rooms.
Overlooking and privacy loss	The proposal does not alter the existing ground level and will replace existing patios, ensuring no change in current privacy.
Amenity impact	The structures do not change the use of these areas but rather increase the functionality and improve the appearance of the development for the landowner/resident of the dwelling. The appearance of the development is consistent with the dwelling and considered to have negligible impact upon the amenity of neighbouring properties.
Access to direct sun to major	See above.

openings & outdoor living areas	
Contribution to prevailing development context and streetscape	The development is not visible from the street and is consistent with existing development on the property and neighbouring properties within the locality.

7.1.2 Outdoor living areas

Under the ‘deemed-to-comply’ requirements of the R-Codes, properties within the R20 zone are required to provide a minimum 30m² outdoor living area, with two thirds of this area being uncovered. The proposed rear patio leaves only 9.6m² uncovered outdoor living area in lieu of the required 20m².

As previously mentioned the uncovered area to the north of the dwelling is not accessible from a habitable room of the dwelling and therefore cannot be considered as outdoor living area, however can be informally used by the residents during winter months if the covered area is too cold and/or dark. The applicant has provided translucent sheeting for sections of the rear patio to increase the amount of sunlight into the outdoor living area. Additionally, the landowner currently utilises this area for outdoor living purposes and is aware of the amount of sunlight that this area receives throughout the year and would not request additional coverage without the need to provide additional shade for this area. For these reasons, it is considered that the proposal meets the intent of the R-Codes requirements, as discussed below:

Design principle P1.1 (Outdoor living areas) of the R-Codes requires the following (emphasis added):

“Outdoor living areas which provide spaces:

- capable of use in conjunction with a habitable room of the dwelling;*
- open to winter sun and ventilation; and*
- optimise use of the northern aspect of the site.*

The following is considered in response to these design principles, with regard to the current proposal plan.

Design Principle	Administration Response
Capable of use in conjunction with a habitable room of the dwelling	The patio does not proposed to change to the location of the outdoor living area. This area has existing access from the living area of the dwelling.
Open to winter sun and ventilation	The roofing material has translucent sheeting to permit access to sunlight. The patio is open on two sides to permit adequate ventilation into this area.
Optimise use of the northern aspect of the site	The location of the outdoor living area is existing.

In this instance, it is considered that the proposal meets the intent of the relevant 'design principles' of the R-Codes in relation to the provision of lot boundary setbacks and outdoor living areas, and therefore is supported by the City.

7.2 Town Planning Scheme no. 2

In considering any application Council is to have due regard to the following matters in accordance with Clause 6.4 (Consideration of Applications) of TPS 2:

TPS2 Clause	Assessment Comment
a) The nature and intensity of the proposed use or development will not detrimentally affect the locality in terms of its environmental impact by way of its hours of operation, illumination, emission of any kind and the effect on any use or development within the locality	No change to land use.
b) The plot ratio, site coverage, setbacks, height, landscaping and parking provisions are in keeping with the general character of the locality	<ul style="list-style-type: none"> • Site coverage not impacted (patio area less than 50m²) • Height is single storey • Landscaping and parking not proposed to change • Character of locality not proposed to be altered
c) The vehicular and pedestrian access, including on-site circulation and provision for deliveries will not create any danger	No change proposed.
d) The vehicle flows to and from the subject land will not be disruptive to existing traffic movements or circulation patterns	No change proposed.
e) That any traffic generated must be capable of being accommodated within existing streets	No change proposed.
f) Any other matter considered relevant by Council	Nil.

Considering the use of the land is not proposed to change and the development is considered to meet the 'deemed to comply' or 'design principles' of the R-Codes, it is considered that the development is also compliant with the above considerations.

7.3 Submissions

The proposal was advertised in accordance with Council Policy – Neighbour Consultation to nearby landowners for comment. During the advertising period one (1) objection was received. Below is a summary of comments received from the neighbour consultation.

Summary of comments received	Officer's technical comment
We object because the setback of the rear patio is too close to the shared boundary. It will be aesthetically displeasing, visually challenging and give a sense of being boxed in. It is also likely to impact on the re-sale value of our property.	The patio is an open structure with the only boundary structure being posts at 2.4m in height, ensuring the structure will not contribute to the appearance of building bulk. A setback of 1m to the posts with eave over-hang of 0.5m will appear similar to the proposal. The orientation is favourable to ensure that neighbouring properties will not be impacted in terms of access or ventilation. The rear area is already used as an outdoor living area and therefore there is not additional impact in terms of overlooking or any loss in privacy.
We believe the best option is for the application to be put on hold pending the sale of our property.	The value of the subject property and neighbouring properties is not a valid planning consideration.

8.0 Conclusion


The proposal is for two patios (front verandah and rear alfresco) on the property. The proposal involves variations to the 'deemed-to-comply' provisions of the R-Codes being the reduced boundary setback, the length of building on the boundary and the reduced uncovered outdoor living area provided. The variations are considered to be compliant with the relevant 'design principles' of the R-Codes.

Accordingly, the application is recommended to the Council for approval subject to conditions.

9.0 Attachments

1. Locality Plan.
2. Site Plan/ Elevations.
3. Applicant submission.
4. Site photographs.

PD37.15	Metropolitan Region Scheme Amendment 1293/57 – Shenton Park Hospital Redevelopment – Lot 3240 (No. 6) Selby Street, Shenton Park – Request for Comment
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Committee	11 August 2015
Council	25 August 2015
Applicant	Western Australian Planning Commission
Owner	Royal Perth Hospital Shenton Campus
Officer	Andrew Bratley – Coordinator Statutory Planning
Director	Peter Mickleson – Director Planning & Development Services
Director Signature	
File Reference	PLAN-SP-00003
Previous Item	Nil

1.0 Executive Summary

The redevelopment of this property, amongst others, has been recognised by the State Government as a key priority. In 2014 it was agreed by the Western Australian Planning Commission (WAPC) that an Improvement Plan and Improvement Scheme were the most appropriate mechanisms to facilitate the redevelopment. The Improvement Plan was gazetted on 3 July 2015 and the Improvement Scheme is currently in the advanced stages of being prepared.

The Improvement Scheme will revoke the MRS and Town Planning Scheme (TPS) and will effectively be the Town Planning Scheme for the site until such time as the WAPC decide to remove it and 'normalise' the site. When the Improvement Scheme is removed, the MRS and TPS will take effect again.

In order to ensure there is an appropriate planning framework at the point in time when the land is 'normalised', the WAPC has proposed an Amendment to the MRS to transfer the property from Public Purpose – Hospital to Urban. The WAPC is now seeking formal comment on this amendment.

As part of this amendment process, the City has the option of recommending to the WAPC that the site is concurrently rezoned 'Development' under the City's Town Planning Scheme. This would avoid the need for the City to go through a separate amendment process to zone the site following the MRS amendment.

Given that the redevelopment of the site has been determined by the implementation of the gazetted Improvement Plan for the site, and the Improvement Scheme and other

statutory documents are nearing completion, it is accepted that the MRS amendment and concurrent TPS amendment would be appropriate to ensure there is an appropriate planning framework in place for when the MRS and TPS take effect again.

1.1 Recommendation to Committee

Council advises the Western Australian Planning Commission that it:

- 1. Supports Metropolitan Region Scheme Amendment 1293/57 – to transfer Lot 3240 (No. 6) Selby Street, Shenton Park, from the Public Purpose – Hospital reserve to the Urban zone; and**
- 2. Requests the WAPC to concurrently amend the property’s zoning under the City’s Town Planning Scheme No. 2 to “Development”.**

1.2 Strategic Community Plan

KFA: Natural and Built Environment

Land use planning is an important component of the natural and built environment. Council has the opportunity to influence land use outcomes by participating in and making comments on proposals as they are developed.

KFA: Governance and Civic Leadership

Part of the Council’s leadership role is to comment on and influence the final outcomes of developments occurring within the City.

3.0 Legislation / Policy

- *Planning and Development Act 2005* (Act).
- Metropolitan Region Scheme (MRS).
- City of Nedlands Town Planning Scheme No. 2 (TPS2).
- Draft Perth and Peel @ 3.5 Million - Western Australian Planning Commission

4.0 Consultation Process

The proposal is currently being advertised for comment by the WAPC, which includes advertising to affected landowners and relevant stakeholders such as the City of Nedlands.

5.0 Budget / Financial Implications/Risk management

Nil.

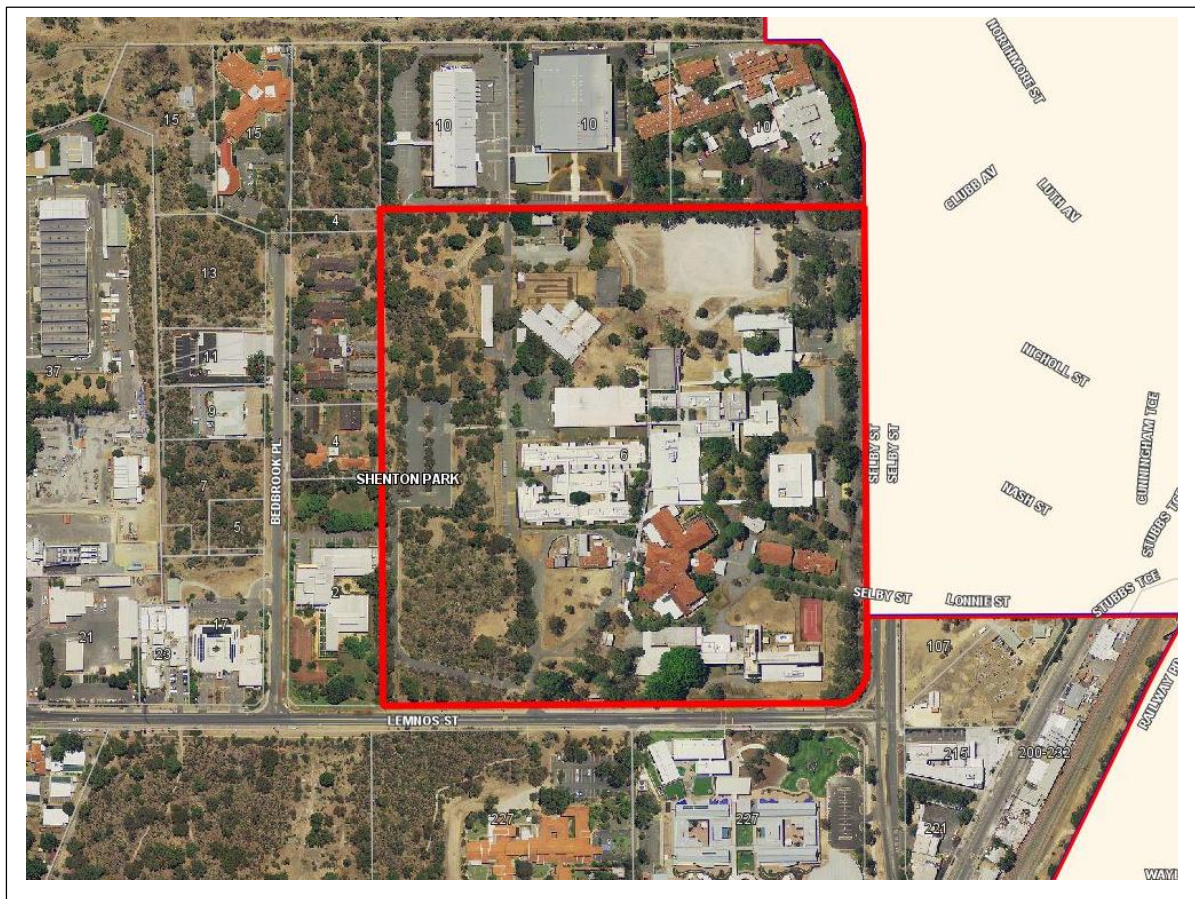
6.0 Background

6.1 Site details

The lot is currently zoned Public Purpose - Hospital reservation (refer Attachment 1) and contains buildings previously used in conjunction with the Shenton Park Rehabilitation Hospital.

The Shenton Park Rehabilitation Hospital ceased operation in late 2014, when hospital uses transferred to the State Rehabilitation Centre at Fiona Stanley Hospital. Since this occurred, the buildings on site have become surplus to requirements, providing an opportunity for the redevelopment of the site.

The Perth and Peel @3.5 million document identifies the property as potentially falling within a redevelopment corridor.



6.1 Master Plan consideration

When the WAPC was investigating the site and establishing what they considered to be the most appropriate planning framework for the site, a non-statutory Master Plan was prepared and advertised to the community and stakeholders for comment.

In February 2015, Council was asked to provide comment on the draft master plan. Two (2) options were put forward for consideration.

Council resolved to advise Landcorp that it does not support either option and requested several items including specific setbacks, heights, uses, landscaping and environmental considerations, together with the retention and rehabilitation of bushland between the Lemnos Street entrance and the western boundary.

A copy of the resolution is set out below:

“Council:

Provides the following feedback to Landcorp in relation to the Shenton Park Redevelopment;

- 1. It supports neither option A nor B but requests all of the land between the Lemnos Street access and the western boundary of the site be allocated for retention of existing natural bushland, with degraded areas rehabilitated;*
- 2. There should be a minimum 20m building setback from Selby and Lemnos Streets and 5m setbacks from other boundaries;*
- 3. The following land uses should be accommodated on site;*
 - A hall for Shenton College;*
 - Commercial/research uses associated with the Nextgen Data Centre;*
 - A Medi-hotel incorporating the existing hydro-therapy pool;*
 - Sites 13-16 should be developed last to accommodate as yet unknown land uses;*
- 4. Building heights should not be excessive and attention should be given to the roof scapes of lower buildings;*
- 5. Buildings and carparks should fit around existing trees as much as possible. New plantings should be local species;*
- 6. Redevelopment of the site should employ best practice in water sensitive design, energy efficiency and waste recycling; and*
- 7. All development within the site recognise the access requirements of people of all abilities e.g. design of paths, accommodation etc.”*

6.2 Structure Plan, Policies and Design Guidelines

Following the Master Plan and submission period, the WAPC decided the Improvement Plan and Improvement Scheme would be the mechanism for facilitating development on the site. The IS will effectively will be the Town Planning Scheme for the site.

In addition to this, a Structure Plan has is being prepared, together with Local Planning Polices (LPP's) and Design Guidelines.

It is the Structure Plan, Local Planning Polices and Design Guidelines, together with the Improvement Scheme, which will include the detail regarding the location of the

uses, provision of open space and retention of existing bush land, density, setbacks, heights and environmental considerations.

These documents will be formally advertised to Council for comment, once they have been completed. At that point in time, the Council will be able to provide detailed recommendations for the WAPC to consider in relation to these specific provisions for the site.

7.0 Discussion

7.1 Scope of consideration

As discussed above, the detailed provisions for the redevelopment of the site are being formulated by WAPC and will be advertised for comment in the near future.

For this reason, this report only considers the recently proposed MRS Amendment for the site, for which the Council is currently been asked for formal comment.

The amendment proposes to amend the MRS zoning from its current Public Purpose zoning to Urban zoning (refer Attachment 2). The site will then need to be rezoned under the City's Town Planning Scheme. Given that an Improvement Plan is in place for the site, the MRS amendment will not be utilised until after the site has been 'normalised'.

As part of the MRS Amendment process, the Council can request the WAPC rezone the City's TPS concurrently. Alternatively, the Council would need to undertake the process itself after the MRS rezoning. If the Council chooses to do the rezoning separately and the WAPC has approved the MRS Amendment, the site will remain 'unzoned' under the TPS until such time as the City has rezoned it. This will mean there will be no provisions set for the site during the interim period.

The WAPC can concurrently rezone the site 'Development' under the TPS which means a Structure Plan would need to be approved prior to any development of the site. A Structure Plan provides the provisions for the site (i.e setbacks, heights, uses, density etc).

In reality, a Structure Plan would have already been approved for the site as part of the IS process and by the time the site is 'normalised' and the MRS and TPS again takes effect, it is expected the site would have been redeveloped.

Notwithstanding this, it is considered prudent to ensure there is an appropriate zoning in place before the IS is removed.

7.2 Environmental Protection Act 1986

As part of the Scheme Amendment process the WAPC was required to refer the proposed amendment to the Environmental Protection Authority (EPA) for assessment.

The EPA has advised that the proposed amendment does not require formal assessment under Part IV of the *Environmental Protection Act 1986*, but it has provided advice on the key environmental factors for the site as follows:

“The EPA notes that there is Banksia woodland in ‘Very Good’ condition located on the western side of the subject site. This woodland provides a vegetated linkage between Shenton Bushland and Underwood Avenue Bushland (both Bush Forever Sites).

The EPA supports the proposal to retain the Banksia woodland in Public Open Space and to also retain as much remnant vegetation as possible, The EPA expects that this advice will be implemented as part of the local planning scheme and subsequent subdivision and development applications.”

This advice effectively highlights the Bush land on the western side of the site and expects consideration of this in the scheme and subsequent planning approvals. In this case, the ‘Scheme’ is the Improvement Scheme and the provisions for the subdivision and development planning approvals will be in the Improvement Scheme and subsequent Structure Plan, Policies and Design Guidelines.

All of these documents will be made available by the WAPC for formal comment in the near future.

8.0 Conclusion


The proposal to concurrently rezone the property under the MRS and TPS 2 is consistent with Perth and Peel @ 3.5 Million and would allow for the redevelopment of the property as is currently being planned for under the Improvement Plan process.

Although, the MRS and TPS amendments are not strictly required at this time given the site will be administered under the Improvement Scheme for some time, it is considered prudent to amend the MRS & TPS to ensure that when they take effect again, an appropriate framework is in place.

9.0 Attachments

1. Current MRS zoning
2. Proposed MRS zoning

PD38.15	Lot 108 (No. 83) Minora Road Dalkeith – Proposed Carport, Alfresco, Outbuilding and Front Fence
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Committee	11 August 2015
Council	25 August 2015
Applicant	Mr D Coveney
Landowner	Mr D & Mrs L Coveney
Officer	Mr J Berzins –Statutory Planning Officer
Director	Peter Mickleson – Director Planning & Development Services
Director Signature	
File Reference	DA2015/102 – MI3/83
Previous Item	Nil

1.0 Executive Summary

The application seeks approval to construct a carport, alfresco area, outbuilding and front fence.

Variation to the lot boundary setback provisions of the Residential Design Codes (R-Codes) are proposed with regard to the location of the carport and outbuilding proposed. Comment was therefore sought from nearby landowners and one objection was received during the advertising period. Additionally, the carport is proposed to be 6m² in excess of the maximum carport size, varying a mandatory provision of the Town Planning Scheme No. 2 (TPS).

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 impact of the carport and outbuildings location is considered to be minimal, subject to setting the outbuilding back 1m from the boundary and reduction in the overall size of the carport to a mandatory 36m². As such the application is recommended for approval subject to conditions.

1.1 Recommendation to Committee

Council approves the application for a Carport, Alfresco, Outbuilding and Front Fence at Lot 108 (No. 83) Minora Road Dalkeith, in accordance with amended plans received on 16 June 2015, subject to the following conditions:

- 1. The outbuilding being setback 1m from the northern (rear) boundary and revised plans showing this being submitted to, and approved by, the City prior to the lodgement of a building application.**
- 2. The roof plan area of the carport shall not be greater in area than 36m² and revised plans showing this being submitted to and approved by the City prior to the lodgement of a building application.**
- 3. All sides of the carport shall remain open, including the elevation facing the street in accordance with the City of Nedlands Policy 6.23 Carports and Minor Structures Forward of the Primary Street Setback.**
- 4. All stormwater from the development, which includes permeable and nonpermeable 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. The crossover shall be constructed and maintained thereafter by the owners of 83 Minora Road, to the Council's Crossover Specifications.**

Advice Notes specific to this proposal:

- 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 4 located at least 1.8m from any building, and at least 1.8m from the boundary of the block.**
- 2. The applicant / landowner to obtain levels for crossovers from the Council's Infrastructure Services under supervision onsite, prior to commencement of works.**
- 3. 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.**

1.2 Strategic 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) and the Residential Design Codes (R Codes), contributing to well-planned and managed development in the City of Nedlands.

1.3 Legislation / Policy

- Planning and Development Act 2005 (the Planning Act).
- Metropolitan Region Scheme (MRS).
- City of Nedlands Town Planning Scheme No. 2 (**TPS2** or **Scheme**).
- Residential Design Codes of WA 2013 (**R-Codes**).
- Council Policy – Neighbour Consultation.
- Council Policy – Fill and Fencing (**Fill and Fencing Policy**).
- Local Planning Policy 6.23 – Carports and Minor Structures Forward of the Primary Street Setback (**Carport Policy**).

2.0 Consultation Process

The proposal was advertised in accordance with Council Policy – Neighbour Consultation to nearby landowners for comment in June 2015. During the advertising period one objection was received.

Concerns were received with regard to the height of the proposed store, the visual impact of the proposed zero lot wall and exposed guttering.

3.0 Budget / Financial Implications

Not applicable.

4.0 Risk Management

Not applicable.

5.0 Background

Property address	Lot 108 (No. 83) Minora Road, Dalkeith
Lot area	1012m ²
Zoning / MRS	Urban
Reserve / TPS2	Residential at R10 density
Density Code	

The subject property currently contains a double storey dwelling, swimming pool and an existing garage/workshop with a nil setback from the eastern boundary. As shown in the locality plan below.

A solid brick fence up to 2.7m in height exists along the boundary between 83 and 81 Minora Road and a brick fence up to 1.8m in height along the rear boundary between 83 Minora Road and 80 Viking Road.

The initial proposal for this development was for a garage, however as only carports are permitted within the 'street alignment' in accordance with LPP 6.23 *Carports and Minor Structures Forward of the Primary Street Setback*, the applicants modified their proposal to propose a carport.

The topography of the property falls from the east to the west.



Locality Plan

6.0 Introduction

The proposal involves the following (refer to **attachments 1 and 3**):

- a) A 20m² storeroom is proposed to be built up to the side and rear (northern and eastern) boundaries of the property. The storeroom is to have a skillion roof 2.1m – 2.5m in height.
- b) A gable roofed carport is proposed to be setback 5m from the street boundary and up to the side (eastern) boundary, the materials of which will blend with the dwelling.
- c) An alfresco area is proposed to the rear of the existing dwelling it is to be located 1m from the side (western) boundary and 13m from the rear (northern) boundary, and shall be built at natural ground level.
- d) A new front fence is proposed to run along the entire front (southern) boundary of the property. The fence is proposed to consist of 750mm high solid infill, 1.8m high brick piers and visually permeable wrought iron infill to a maximum 1.8m in height.

7.0 Discussion

The application is compliant with the applicable requirements except for the matters discussed in the following sections.

Consultation with impacted neighbouring landowners regarding the proposed variations resulted in one submission being received, which raised objection to aspects of the proposed development. The comments were taken into consideration with a condition of approval recommended to modify the proposal to provide a 1m setback from the northern (rear) boundary. The comments received are addressed in section 8.0 of this report.

7.1 The Proposed Outbuilding

The proposed storeroom will vary planning requirements as follows:

- The storeroom is proposed to be setback nil from the northern boundary in lieu of 6m.
- The storeroom is proposed to be setback nil from the eastern boundary in lieu of 1m.
- The storeroom is proposed to have a skillion roof with a maximum wall height of 2.5m in lieu of 2.4m.

The following is in response to the relevant design principles:

Design Principle	Administration Response
Reduce impacts of building bulk on adjoining properties;	Due to the location of the storeroom on the boundary and difference in natural ground levels between the properties, the building's bulk will have an impact on the main outdoor living area of 80 Viking Road (refer to attachment 4). An ample amount of space exists for it to be moved away from the boundary and not obstruct access to other buildings.
Provide adequate direct sun and ventilation to the building and open spaces on the site and adjoining properties; and	The application was assessed as 'deemed-to-comply' under CI 5.4.2 <i>Solar access for adjoining sites</i> of the R-Codes. Shadows will be cast from the north of the property to the south (i.e. onto the applicants own property rather than the neighbouring property).
Minimise the extent of overlooking and resultant loss of privacy on adjoining properties; and Ensures direct sun to major openings to habitable rooms and outdoor living areas for adjoining properties is not restricted.	The storeroom has no windows overlooking any part of the neighbours property and is non-habitable in nature being occupied neither frequently nor for extended periods of time.
P3.2 Makes more effective use of space for enhanced privacy for the occupant/s or outdoor living areas;	The location of the store built up to the existing 2.7m high wall makes effective use of space as it will not be seen from the neighbours at 81 Minora Road. The proposed location further separates pool equipment from the main dwelling allowing increased use of the back yard.

7.2 The Proposed Carport

The proposed carport will vary planning requirements as follows:

- The carport is proposed to be built up to the eastern boundary in lieu of the required 1m.
- The carport is 42m² in size in lieu of the required 36m².

The following is considered in response to these criteria with regard to the current plans:

TPS 2 Clause 5.6.2	Assessment Comment
The roof plan area of the carport shall not be greater in area than 36m²;	As this is a mandatory provision in TPS2 the Council does not have any discretion to vary the provision. Amended plans detailing this will be required to be submitted prior to a building licence being issued.
No gate erected in front of the carport shall be more than 1.8m above natural ground level, or shall open in such a manner as to obstruct vision through an area enclosed by a 1.5m x 1.5m truncation to each side of the driveway at the street boundary.	There is an existing 1.5m x 1.5m truncation located on the eastern boundary of the property.
The carport shall be open on all sides unless constructed adjoining a boundary fence or wall of a building, in accordance with Council policy.	As proposed. This will be a condition of approval.

The following provisions of LPP 6.23 Carports and Minor Structures Forward of the Primary Street Setback apply to such proposals.

Policy Requirement	Assessment Comment
Primary Street Setback 3.5 metres	The carport is proposed to be setback 5m from the street boundary and is therefore compliant.

Side Boundary 1.0 metres	<p>Due to access required to the garage at the rear of the property and the current location of the crossover the carport has been designed up to the boundary.</p> <p>The impact of this is reduced as the carport will be located adjacent to the neighbours existing garage, which is setback 1.2m from the dividing fence. The applicant also proposes a compliant front fence that in addition to its front setback, will further reduce the impact of the carport on the streetscape.</p>
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8.0 Consultation

Below is a summary of comments received from the neighbour consultation, which have been taken into account in the Discussion section of the report.

Summary of comments received	Assessment Comment
Objection	
a) Northern wall from our side is over 3.5m tall. This will take away our air space and sunlight from our garden.	Amended plans have been received which show a 2.1m wall height adjacent to the north boundary which if setback 1m would have little visual impact.
b) The proposed outbuilding is using our brick wall, utilising our existing footings.	The plans show that the storeroom is freestanding and shall have a single-leaf parapet wall (refer to Attachment 1, Attachment 2 and Attachment 4). The submitter is advised that such issues are civil matters and a land surveyor will need to be used to ascertain the position of the dividing boundary.
c) The location of the wall leaves a tin roof and gutter exposed to our property.	Whilst the outbuilding shall be visible from the submitter's property due to its height and location no guttering is shown as encroaching over the boundary. If approved, all stormwater shall be required to be contained 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.	

9.0 Conclusion

The proposal at 83 Minora Road involves two variations to the planning requirements.

The proposed storeroom is proposed to have a nil setback from the northern and eastern boundaries in lieu of 1m.

Due to objections received during the advertising period and not satisfying the relevant 'Design Principles' of the R-Codes, it is recommended that the application be approved subject to the outbuilding being setback 1m from the northern boundary.

The increased size of the carport is a variation to a mandatory provision of the Town Planning Scheme. There is no authority in the TPS for the Council to vary such provision.

A nil side setback assessed in accordance with the R-Codes, Local Planning Policy and advertised to the affected landowner is considered to be compliant with the 'Design Principles' as it shall have minimal impact on the neighbouring property and the overall streetscape.

Accordingly, the application is recommended to the Council for approval with conditions.

10.0 Attachments

1. Site Plan
2. Carport and Outbuilding Elevations
3. Verandah / Alfresco Elevations
4. Photographs of Outbuildings Proposed Location
5. Photograph of Carports Proposed Location