

# **Planning and Development Reports**

**Committee Consideration – 11 July 2017**  
**Council Resolution – 25 July 2017**

## **Table of Contents**

<b>Item No.</b>		<b>Page No.</b>
PD28.17	(Lot 2) No. 2B Campsie Street, Nedlands – Short Term Accommodation.....	2
PD29.17	(Lot 721) No. 22 Hillway, Nedlands – Amendments to DA16/335 (Additions to Upper floor of Single House).....	7
PD30.17	Lot 887 (No. 66) Strickland Street, Mount Claremont – Proposed Over-height Boundary Fence.....	13
PD31.17	(Lot 153) No. 110 Stirling Highway, Nedlands – Addition to Existing Office Building.....	18
PD32.17	Mayo Community Garden Inc. - (Lot 131) No. 91 Wood St, Swanbourne – Variation to Lease.....	24

**Council: 25 July 2017**

<b>PD28.17 (Lot 2) No. 2B Campsie Street, Nedlands Short Term Accommodation</b>	
<b>Committee</b>	11 July 2017
<b>Council</b>	25 July 2017
<b>Applicant</b>	S and F Yeoman
<b>Landowner</b>	S and F Yeoman
<b>Director</b>	Peter Mickleson – Director Planning & Development
<b>Reference</b>	DA2017/92
<b>Previous Item</b>	Nil.
<b>Delegation</b>	In accordance with Clause 6.7.1a) of the City's Instrument of Delegation, Council is required to determine the application due to objections being received.
<b>Attachments</b>	1. Photograph of the Property 2. Proposed Management Plan from the Applicant

## 1.0 Executive Summary

Development approval is being sought for the existing dwelling at the property to be used as short-term accommodation.

The application was advertised for comment due to the use 'short term accommodation' not being listed under Table I (Use Class Table) of Town Planning Scheme No. 2 (TPS 2). During the advertising period 13 objections were received.

It is recommended that the application be approved by Council as it is unlikely to have a significant adverse impact on the local amenity.

## 2.0 Recommendation to Committee

**Council approves the development application for the existing dwelling at (Lot 2) No. 2B Campsie Street, Nedlands, to be used as short-term accommodation, received on 2 May 2017, subject to the following conditions and advice:**

- 1. The approved Management Plan being complied with at all times to the City's satisfaction.**

**Advice Notes specific to this approval:**

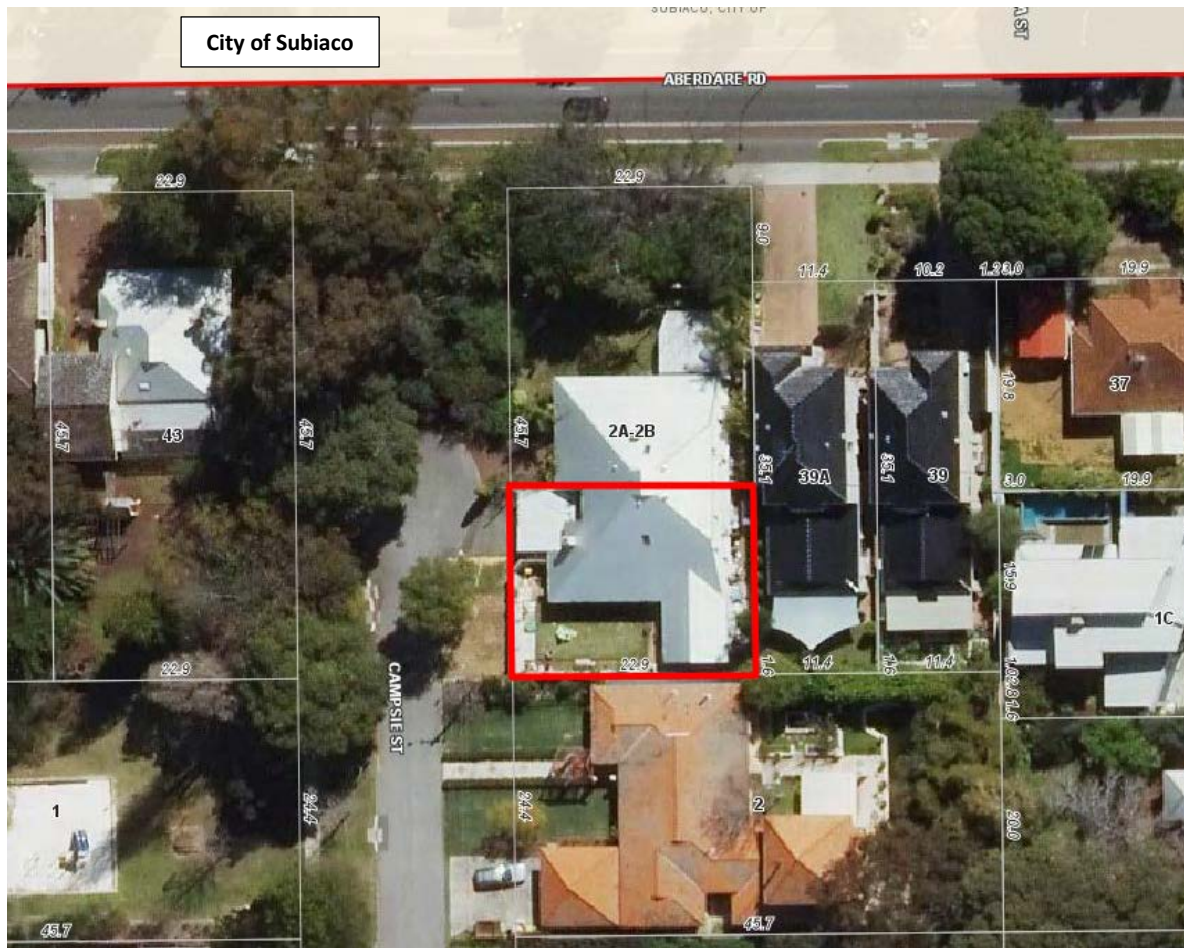
- 1. Noise levels are to comply with the *Environmental Protection (Noise) Regulations 1997*.**
- 2. With regard to Condition 1, the landowners are advised that if more than 6 people are proposed to reside at the short-term accommodation a separate development application is required to be submitted to and approved by the City prior to commencing. Details showing what alterations are proposed to be made to the dwelling to ensure that it complies with the *Health Act 1911* will need to be provided.**

### 3.0 Site Details

<b>Parent lot area</b>	822m <sup>2</sup>
<b>Metropolitan Region Scheme Zoning</b>	Urban
<b>Town Planning Scheme No. 2 Zoning</b>	Residential R10
<b>Detailed Area Plan</b>	Yes
<b>Controlled Development Area</b>	No
<b>State Heritage Listed</b>	No
<b>Listed in Municipal Heritage Inventory</b>	No

The subject property contains a duplex building and is located at the end of a cul-de-sac road as shown on the locality plan below.

Surrounding properties contain single dwellings and associated outbuildings. On the opposite side of Campsie Street to the south is a public park.



### 4.0 Specific Application Details

The applicant seeks approval for the existing dwelling to be used as short stay accommodation.

Up to 6 people are proposed to be accommodated at the property. Originally up to 7 people were proposed to stay at the property however this got reduced in order for the premises to comply with the Health Act.

A Management Plan has been prepared by the applicant (refer to Attachment 2) which outlines the conditions which those residing at the property will be required to comply with if the application is approved by Council.

By way of justification in support of the proposal, the applicant has provided the following justification:

*“The location will provide families who need easy access to the hospital services, additionally public transport services are close by for access to the UWA or the city.”*

*“The intention is not to impact and surrounding properties, with the guests expected to follow very clear rules. The impact would be no more than if the property is used for a normal family residence.”*

*The configuration proposed is:*

- *Master Bedroom with a Queen Suite suitable for 2 people with availability of a Cot*
- *Second and Third rooms to be 2 x King Singles.*
- *Total Occupancy, maximum of 6 People (e.g. a family consisting of 2 Parents and 4 children).*
- *Fire Extinguisher will be located on entry near the kitchen and smoke alarms in each bedroom.*
- *House Rules and Emergency Numbers will be in the house and provided electronically.”*

## **5.0 Consultation**

Thirteen (13) objections were received during the advertising period. The following is a summary of the concerns received:

- The behaviour of the people who will be residing at the property.
- The proposal potentially affecting the value of nearby properties.
- Noise from the occupants potentially being excessive.
- Traffic volumes and car parking potentially becoming an issue along Campsie Street.
- Privacy of surrounding landowners potentially being impacted upon.

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

## **6.0 Assessment of Statutory Provisions**

### **6.1 Planning and Development (Local Planning Schemes) Regulations 2015**

Schedule 2, Part 9, clause 67 (Matters to be considered by local government) of the Regulations stipulates those matters that are required to be given due regard to the extent relevant to the application. Where relevant, these matters are discussed in the following sections.

### **6.2 Town Planning Scheme No. 2**

#### **6.2.1 Amenity**

Under clause 5.5.1 of TPS 2, 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.”*

In accordance with provisions (n) of the *Planning and Development (Local Planning Schemes) Regulations 2015* clause 67, due regard is to be given to the likely effect of the proposal on the local amenity.

Concerns received during the advertising period were in relation to the potential behaviour of those residing at the property, privacy, noise, traffic and car parking. In response to the concerns the following is advised:

- Anti-social behaviour is a matter which is dealt with by the police as in any residential situation.
- As mentioned under section 4.0 of this report, a Management Plan has been prepared by the applicant which outlines the conditions which those residing at the property will be required to comply with if the application is approved by Council. The management plan also includes the process if a complaint needs to be made.
- There is space for up to 2 cars to park on the property. If those residing at the property park their vehicle(s) illegally, enforcement action will be taken in accordance with Council's Parking Local Law.
- The property is located at the end of a cul-de-sac road therefore current traffic volumes are considered to be low. This is not expected to change if the application is approved by Council.
- According to the City's records and the plans provided by the applicant, the dwelling contains 3 bedrooms. No alterations are proposed to be made to the dwelling and/or the site layout which may result in privacy issues for surrounding residents.
- If noise complaints are received by the City they will be investigated and enforcement action taken, if necessary, in accordance with the *Environmental Protection (Noise) Regulations 1997*.

Considering the above, the use of the dwelling as short-term accommodation is unlikely to have a greater impact on the local amenity compared with if the dwelling was resided in on a permanent basis.

## **7.0 Other Matters of Concern**

During the advertising period concerns were also received with regard to the proposal potentially impacting the value of nearby properties.

The potential impact proposed development may have on nearby property values is not a matter due regard is to be given to when determining the application under the Regulations.

## **8.0 Conclusion**

The proposed development is unlikely to have an adverse impact on the local amenity due to its residential nature and small scale.

For these reasons, it is considered that the use of the dwelling as short-term accommodation will not have a greater impact on the local amenity compared with if it was resided in on a more permanent basis.

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







**Application for Short Stay Accommodation, 2b Campsie Street, Nedlands**

**Management Plan**

1. Property exterior will be maintained by gardening services already servicing the house, they will keep the verge, lawns and gardens healthy, maintained and very presentable for the local amenity.
2. Any mail\newspapers\leaflets will be collected on a regular basis. Rubbish bins are maintained within the property and not visible from the street and will be taken out and returned promptly.
3. Guests will be advised during and prior to their stay that the house is in a quiet residential area and any excess noise will not be tolerated during their stay. Additionally, any types of parties or larger gatherings will not be allowed. All complaints should follow the complaints section below.
4. Behaviour that is rude or inappropriate will not be tolerated and guests will be asked to consider surrounding neighbours. All complaints should follow the complaints section below.
5. Guest cars must be limited to the car port and not parked within the street, the street is already a no parking zone and fines apply.
6. Guests must not exceed the maximum occupancy proposed of 6 people.
7. All maintenance activities, gardens and internal housekeeping will occur between 8am and 5pm.
8. The property will be secured with a video intercom that will detect movement at the front access points allow the detection of excess guests or other inappropriate behaviour.
9. House Rules will be displayed in the house and provided electronically prior to arrival.
10. A guest register will be maintained of all bookings, identifying all guests by name and contact details, dates, duration and number of guests.

**Noise and Complaints**

Complaints can be made directly on 0412581199 and will be immediately followed up with a call and if required a visit to the guests.

Guests and Visitors must not create noise which is offensive to occupiers of neighbouring properties especially between 10pm - 8am

Offensive noise is prohibited and may result in termination of permission to occupy the property, eviction, extra charges for security and other expenses which may be deducted from the security deposit

Guests and Visitors must not engage in anti-social behaviour and must minimise their impact upon the residential amenity of neighbours and local community.

Complainant's should provide the details below when making a complaint:

- Name and contact details
- Type of complaint, e.g. Noise, Behaviour, Party etc.
- Time of disturbance
- Length of time or on going issue
- Any other important information

*Continued Next Page ->*



## **Application for Short Stay Accommodation, 2b Campsie Street, Nedlands**

### **Noise and Complaints - Continued**

A log will be maintained for a full history of all complaints and associated resulting actions, the log will include:

- Date and time received
- Name, Contact and Details (e.g. Guest, Neighbour, Council, Police etc)
- Type of complaint and actions taken by whom and when
- Outcome and if further action is required (e.g. community consultation, meet with council, meet with local police, review of management plans)
- Guest details at the time of the complaint

All action necessary will be taken to stop any problems and resolve complaints as quickly as possible. Feedback will be provided to the complainant on action taken. Guests will be contacted immediately by phone and if required followed up with an in-person visit or police attendance.

The Owner reserves the right to terminate permission to occupy and to evict from the property, guests or visitors who refuse to follow these rules or who cause a nuisance.

### **Fire and Emergency Response**

The house layout and exit procedure will be displayed on the back of the front door and each bedroom door.

- A Fire Extinguisher will be clearly located on entry near the kitchen and maintained in proper working order
- Smoke alarms are hard wired in each bedroom
- Outside barbeques will only be gas or electric, and at this time there are none (May 2017)
- House Rules and Emergency Numbers provided in the house and electronically to guests

All incidents will be recorded in a Fire and Emergency Response Log, including:

- Date and time of incident
- Guest details at the time of incident
- The nature of any incident and actions taken by whom and when
- Outcome and if further action is required (e.g. community consultation, meet with council, meet with local police, review of management plans)
- Emergency services attendance, report or log reference numbers
- Impact on surrounding properties

### **Environment, Recycling and Pets**

- Guests must not bring or allow visitors to bring any type of pet to the property
- Smoking is not allowed in or around the property
- Any items for repairs must be notified to the owner promptly by guests
- Guests must dispose of garbage and recycling in accordance with the usual practice at the property and in the allocated bins
- Guests must not leave excess rubbish in public areas or anywhere viewable from the street
- Guests should be co-operative in complying with requirements any special requirements relating to the disposal of garbage or waste minimisation
- Rubbish bins are maintained within the property and not visible from the street, they will be taken out and returned promptly.

### **Parties, Gatherings or Functions**

- The Property is not a "party house" and any such activities are strictly prohibited
- Any gathering, celebration or entertainment permitted at a Property must not conflict with residential amenity and must comply with all the other requirements.

<b>PD29.17 (Lot 721) No. 22 Hillway, Nedlands – Amendments to DA16/335 (Additions to Upper floor of Single House)</b>	
<b>Committee</b>	11 July 2017
<b>Council</b>	25 July 2017
<b>Applicant</b>	Luke Mason – Kre8 Constructions WA
<b>Landowner</b>	Mrs D & Mr T Edmondstone
<b>Director</b>	Peter Mickleson – Director Planning & Development
<b>Reference</b>	DA17/085
<b>Previous Item</b>	DA16/335 – Approved under delegation
<b>Delegation</b>	In accordance with Clause 6.7.1a) of the City's Instrument of Delegation, Council is required to determine the application due to objections being received.
<b>Attachments</b>	1. Applicant Justification 2. Site Photograph (provided by submitter)

## 1.0 Executive Summary

Development approval is being sought for an upper floor extension to an existing single house on the property.

The upper floor wall length is required to be setback 3.3m in lieu of the proposed 2.23m to the south-western side lot boundary as required under the deemed to comply provisions of the Residential Design Codes (R-Codes). During the consultation period one objection was received in relation to the proposed variation.

It is recommended that the application be refused by Council as it is not considered to comply with the design principles of the R-Codes due to the impact of building bulk as viewed from the adjacent neighbouring property's outdoor living areas and habitable rooms.

## 2.0 Recommendation to Committee

**Council refuses the development application dated 21 April 2017 for Amendments to DA16/335 (Additions to Upper floor of Single House) at (Lot 721) No. 22 Hillway, Nedlands 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 setback of the upper floor to the south-western side lot boundary increasing the impact of building bulk as viewed from the adjoining neighbouring property.**
- 2. The addition to the upper floor does not comply with clause 5.5.1 of the City's Town Planning Scheme No. 2 and Clause 67 (m) and (n) of the Schedule 2 Deemed Provisions within the *Planning and Development (Local Planning Schemes) Regulations 2015* as the external appearance of the additions will have an adverse impact on the adjoining property in terms of height, bulk, scale, orientation and appearance.**

### 3.0 Site Details

<b>Lot area</b>	1011.7m <sup>2</sup>
<b>Metropolitan Region Scheme Zoning</b>	Urban
<b>Town Planning Scheme No. 2 Zoning</b>	Residential – R10
<b>Detailed Area Plan/Outline Development Plan</b>	No
<b>Controlled Development Area</b>	Yes
<b>State Heritage Listed</b>	No
<b>Listed in Municipal Heritage Inventory</b>	No

The subject property and those nearby contain single dwellings and associated outbuildings and incidental structures. Its topography slopes down approximately 4m from the primary street to the rear lot boundary.

An aerial image showing the location of the property follows.



### 4.0 Background

The original development application was lodged with the City in November 2016 for additions and alterations to the single house which included the following:

- A new carport within the primary street setback area;
- Extension of the decking around the ground floor of the dwelling
- Covering of some existing decking on the north-eastern side of the dwelling;
- Ground and upper floor balconies provided in front of the dwelling;
- Upper floor extension adjacent to the south-western side lot boundary; and
- A roof top observatory.

The application was advertised to neighbouring landowners for comment with amendments made to remove some of the variations – namely removing the upper floor extension and increasing the setback of the roof top observatory to address the submissions received during the consultation period. This allowed the original application to be approved under delegation.

The applicants have lodged a subsequent development application to amend the approved plans to include the upper floor extensions which were previously removed from the original development application. The upper floor addition is the subject of this development application.

## 5.0 Specific Application Details

The application is to extend the upper floor of the dwelling adjacent to the south-eastern side lot boundary.

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

*“The proposed sitting room is an extension from the existing dwelling and does not overlook any habitable bedrooms or outdoor living areas on the neighbouring property (as demonstrated in the photos provided in the attachment). The materials and colours of the proposed extension will be consistent with the existing dwelling. The proposed roof will not provide additional building bulk or as viewed from the neighbouring property (as shown in the aerial image provided with the attachment).”*

## 6.0 Consultation

The development application was advertised to nearby landowners for comment as the property is within the Controlled Development Area under the City’s TPS2 and the upper floor extension proposes a setback variation to the south-western side lot boundary. Two objections were received during the consultation period.

One objection was in relation to the previously approved roof deck/observatory which complies with the City’s TPS2 and the deemed to comply provisions of the R-Codes. The other objection raised concerns in relation to the upper floor setback variation proposed. The following is a summary of the concerns raised within this submission:

- *“The extension causes significant change to the bulk of the dwelling as viewed directly outside our main living areas which are designed and located specifically for views. The roof of the dwelling is at about the same level as our living rooms as our property is slightly higher than the subject property. Therefore, the raised roofline would impose considerable additional bulk on us, with the expansive views of light, open skies which are a current feature of our living areas, replaced by a black-tiled roof which is both closer to us and higher than the current building.*
- *Our house has an upper floor kitchen/dining/lounge area and balcony, which are the focal points of the house. These are the rooms which we use every day, throughout most of the day. The exterior walls are predominantly glass, providing expansive views of treetops and open skies across to the river. The views are the main attraction of our house, and the reason we spend most of our time in these rooms.*
- *It is feasible for the applicants to build a narrower sitting room which adheres to the required setback of 3.3m and thus reduces the impact of bulk on our adjoining property.*

- *The existing house (including its already-approved development) has 6 bedrooms and 8 reception/study/sitting rooms. We do not feel that the provision of an additional sitting room justifies a variation which would increase bulk next to our property.*
- *The extension includes a window on the south-western elevation and although the window is proposed to be located 1.6m above floor level, we are concerned that there might be privacy issues for our balcony/living room as our main living areas, adjacent to the subject property, are higher. We request that obscure glass be used in that window if there is a no line of sight to our balcony/living room.*
- *This extension was removed from the previous development application for significant amendments to the existing dwelling at the subject property in order to obtain planning approval under delegated authority. Had this extension not been removed, we would have lodged an objection and the whole project (including several variations) would have come before Council.*
- *To compromise with our neighbours, we have indicated to them directly that we would be willing to consider the setback variation if the roofline of the extensions was sufficiently lowered to preferably a flat roof.”*

In relation to the last point, the City communicated this to the applicant who have elected to have the application proceed to Council as is without any modifications.

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

## **7.0 Assessment of Statutory Provisions**

### **7.1 Planning and Development (Local Planning Schemes) Regulations 2015**

Schedule 2, Part 9, clause 67 (Matters to be considered by local government) stipulates those matters that are required to be given due regard to the extent relevant to the application. Clauses (m) and (n) are considered relevant as per the below:

- “(m) the compatibility of the development with its setting including the relationship of the development to the 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.*
- (n) the amenity of the locality including the character of the locality.”*

These matters are discussed in the following sections.



## 7.2 Town Planning Scheme No. 2

### 7.2.1 Amenity

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.”*

The length and height of the upper floor addition being in line with the existing setback of the dwelling to the south-western side lot boundary is considered to have a negative impact on the neighbouring landowner in terms of the appearance of the development as viewed from the neighbouring property. This is discussed further in the following sections of the report.

## 7.3 Residential Design Codes (State Planning Policy 3.1)

### 7.3.1 Lot boundary setbacks

Deemed-to-Comply Requirement	Proposed	Complies?
Upper floor is setback 3.3m to south-western side lot boundary.	Upper floor is setback 2.23m to south-western side lot boundary.	No
<b>Design Principles</b>  Variations to the deemed-to-comply requirements can be considered subject to satisfying the following Design Principle provisions:  <i>“Buildings set back from lot boundaries so as to:</i> <ul style="list-style-type: none"> <li><i>• reduce impacts of building bulk on adjoining properties;</i></li> <li><i>• provide adequate direct sun and ventilation to the building and open spaces on the site and adjoining properties; and</i></li> <li><i>• minimise the extent of overlooking and resultant loss of privacy on adjoining properties.”</i> </li></ul>		
<b>Administration Comments</b>  The upper floor wall length is proposed to be increased to 22.25m and the maximum wall height is proposed to be 8.2m above natural ground level with no major openings, hence requiring a setback of 3.3m in accordance with Table 2A of the R-Codes. The fundamentals of setback controls within the explanatory guidelines within the R-Codes states that the longer and higher the wall, the further it should be setback from the lot boundary and the impact of the wall taken from the viewpoint of the neighbouring landowner.  The upper floor wall length has no articulation to reduce the impact of building bulk and will impact upon the neighbour’s amenity and enjoyment of their main living areas (indoor and outdoor). Additionally, the lot orientation will result in the extension reducing the amount of sunlight into the south-western neighbour’s garden and swimming pool with the length of shadow cast over the neighbour’s property exceeding 10m adjacent to the location of the proposed upper floor extension.		

## **8.0 Conclusion**

The proposed upper floor extension will potentially increase the impact of building bulk and scale as viewed from the neighbouring landowner's property and hence will potentially have a negative impact on the amenity of the neighbouring property.

There is opportunity for re-design to provide a larger setback as required within the R-Codes for the upper floor extension and therefore it is recommended that the application be refused by Council.

### **8.1 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 and plans dated 21 April 2017 for Amendments to DA16/335 (Additions to Upper Floor of Single House) at (Lot 721) No. 22 Hillway, Nedlands, subject to the following conditions and advice:

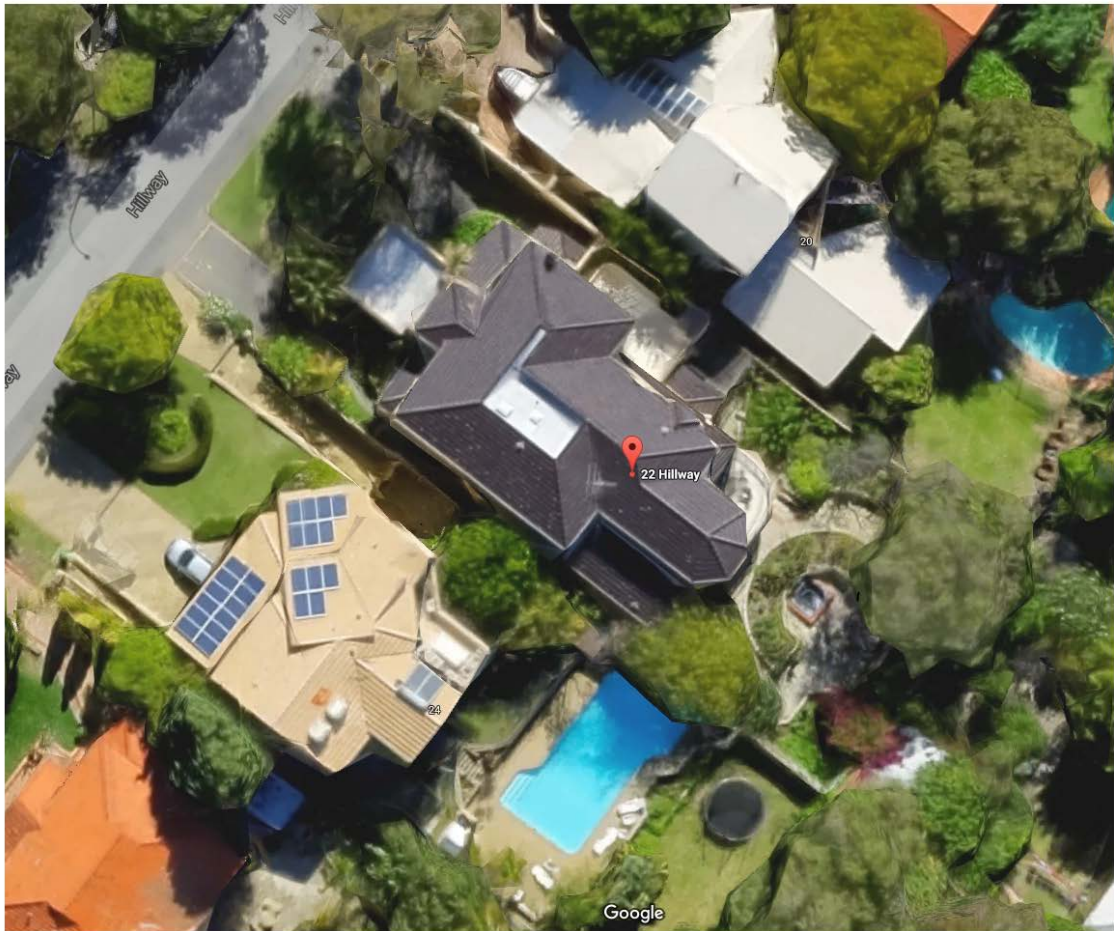
1. The development shall at all times comply with the approved plans dated 21 April 2017.
2. With the exception of condition no. 1, all previous conditions and advice therein, remain in effect (DA16/335, dated 10 March 2017).

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 the original planning approval (10 March 2017). If the subject development is not substantially commenced within the two-year period, the approval shall lapse and be of no further effect.

**City of Nedlands**  
**Received**  
**07/06/2017**

Application for Residential Design Codes Approval



Aerial photograph

Address-22 Hillway, Nedlands

## Details of discretionary decisions required by the City of Nedlands-

### 5.1.3 Lot Boundary Setback-

- (1) The setback in the direct line of sight within the cone of vision from the lot boundary to the proposed extension is greater than the prescribed 3.3m allowable under C3.1 for the Bed 2 sitting room.

Design Principles of the R Codes state:

P3.1 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.

### Justification:

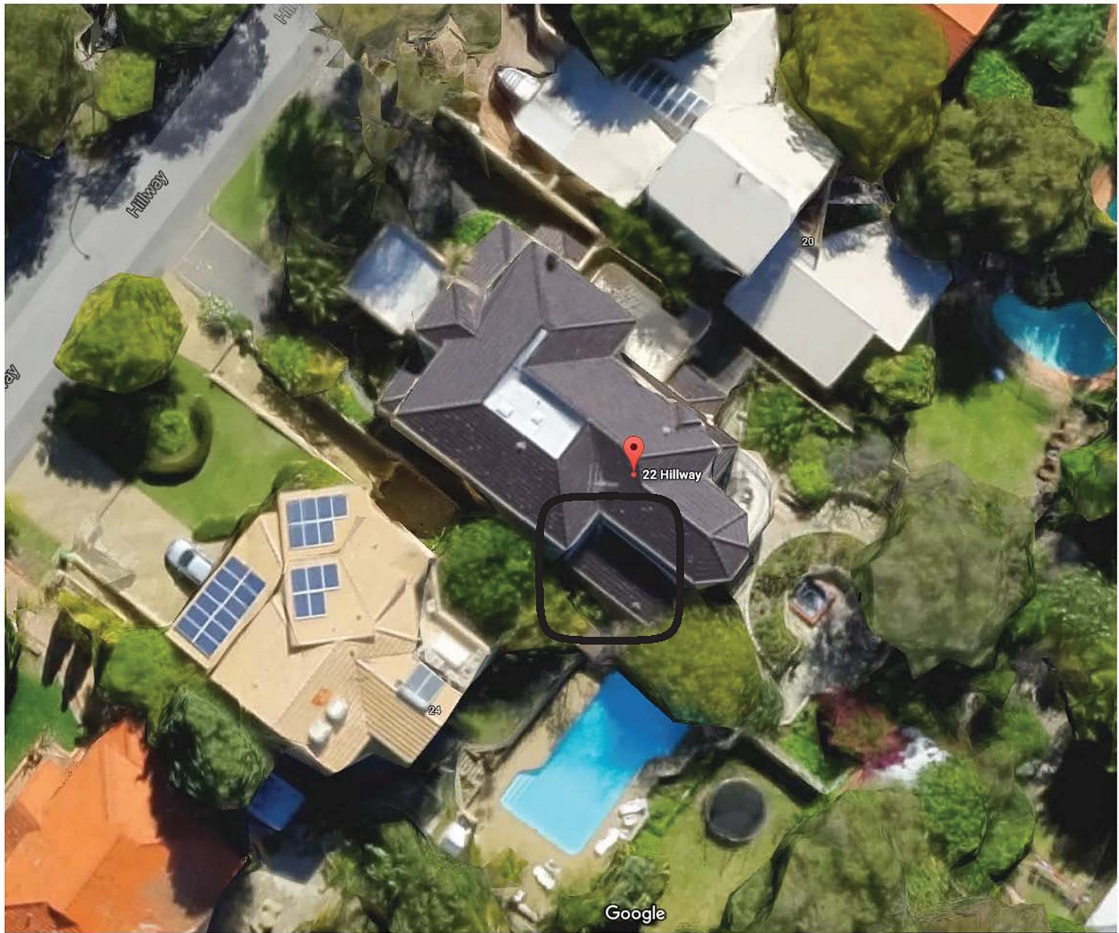
The proposal is for the extension of the proposed sitting room for bed 2.

The variations and justification is as follows-

Bed 2 sitting room: required setback is 3.3 with the setback provided being less than 3.3m this proposed sitting room is an extension from the existing dwelling and does not overlook any habitable bedrooms or outdoor living areas on the neighbouring property (as demonstrated on photos 2 and 3 below). With the proposed extension (wall and roof) the materials and colours will be kept in line with the new roof and design of existing dwelling. Also shown in the aerial photo below I have indicated where the proposed roof will go and will not provide building in bulk or scaleless building for the neighbouring property.

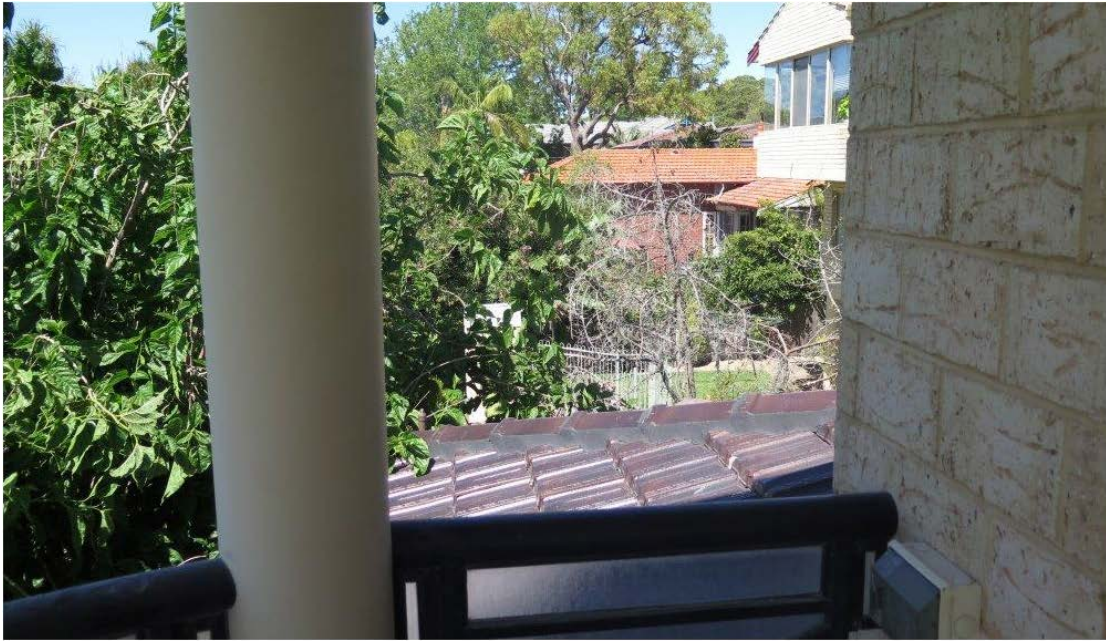


1. Aerial view for the proposed extension of roof.



2. View from existing second floor towards the right rear





3. View from existing second floor towards right front

**Photograph of the location of the proposed extension from south-western  
neighbouring property**



<b>PD30.17</b>	<b>Lot 887 (No. 66) Strickland Street, Mount Claremont – Proposed Over-height Boundary Fence</b>
<b>Committee</b>	11 July 2017
<b>Council</b>	25 July 2017
<b>Applicant</b>	I Da Costa
<b>Owner</b>	H N Sia
<b>Director</b>	Peter Mickleson – Director Planning & Development
<b>Reference</b>	DA2017/77
<b>Previous Item</b>	Nil
<b>Delegation</b>	In accordance with Clause 6.7.1a) of the City's Instrument of Delegation, Council is required to determine the application due to an objection being received.
<b>Attachments</b>	1. Photographs of the existing fence on site 2. Photograph from within the site facing Kennedia Lane

## 1.0 Executive Summary

A development application has been received to increase the height of an existing laneway boundary fence at the property.

The fence height is proposed to be between 1.8m at the front of the property to a height of 2.6m above natural ground level at the rear of the property. The proposal does not comply with Council's Fill and Fencing Local Planning Policy which permits solid fencing up to 1.8m in height to secondary streets, and was therefore advertised.

During the advertising period one objection was received.

It is recommended that the application be approved by Council as the proposed additional height is unlikely to have a significant adverse impact on the local amenity.

## 2.0 Recommendation to Committee

**Council approves the development application dated 12 April 2017 to increase the height of the existing laneway boundary fence at Lot 887 (No. 66) Strickland Street, Mount Claremont, subject to the following conditions and advice:**

- 1. The development shall at all times comply with the approved plans.**
- 2. This planning approval only pertains to the boundary fence located along the Kennedia Lane boundary.**
- 3. All footings and structures to retaining walls shall be constructed wholly inside the site boundaries of the Certificate of Title.**

**Advice Notes specific to this proposal:**

1. The applicant is required to obtain a building approval for the fencing within the front setback from the City of Nedlands.
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 Site Details**

<b>Lot area</b>	298m <sup>2</sup>
<b>Metropolitan Region Scheme Zoning</b>	Urban
<b>Town Planning Scheme No. 2 Zoning</b>	Residential R25
<b>Detailed Area Plan/Outline Development Plan</b>	Yes
<b>Controlled Development Area</b>	No
<b>State Heritage Listed</b>	No
<b>Listed in Municipal Heritage Inventory</b>	No

The property is located on the corner of Strickland Street and Kennedia Lane. A single dwelling is currently under construction on the property. An aerial image showing the location of the property is shown below.



## 4.0 Background

In September 2016, the City approved a planning application for a two-storey dwelling at the property. The proposal included fencing along the laneway boundary which complied with Council's Fill and Fencing Local Planning Policy.

The application also proposed to increase the ground levels on the property to create a consistent level across the majority of the lot. Due to the existing level difference between the property and the adjacent laneway, the resulting ground level difference from the additional fill is approximately 880mm at the highest point towards the rear of the lot.

## 5.0 Specific Application Details

The applicant seeks approval to increase the height of the existing brick fence which runs along the northern boundary adjacent to Kennedia Lane details of which are as follows:

- The landowner proposes to increase the height of the fence to be 1.8m above the finished floor level on the property.
- The fence is proposed to be increased in height by between 200mm to 800mm. At the highest point, the fence is proposed to be 2.6m above natural ground level.
- The fence addition is proposed to be constructed of brick to be consistent with existing materials of the fence.

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

- *"The fence is currently only 900mm above the property ground level at the rear of the lot";*
- *"Additional height is required for security and privacy to the property."*

## 6.0 Consultation

The development application was advertised to affected landowners for comment due to the overall fence height exceeding 1.8m above natural ground level. The following is a summary of the concerns raised:

- The excessive size, bulk and scale of the addition potentially impacting the amenity of the area;
- The wall is considered inconsistent with bulk and scale of the streetscape and character of the existing neighbourhood;
- It is considered the house is already oversized for the area and the wall could accentuate the building bulk;
- The dwelling could potentially be designed to be private without the need for a higher wall;
- High, non-permeable walls do not necessarily discourage crime and instead may offer a safe place for criminals to work out of sight of neighbours.

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



## **7.0 Assessment of Statutory Provisions**

### **7.1 Planning and Development (Local Planning Schemes) Regulations 2015**

Schedule 2, Part 9, clause 67 (Matters to be considered by local government) stipulates those matters that are required to be given due regard to the extent relevant to the application. Where relevant, these matters are discussed in the following sections.

### **7.2 Town Planning Scheme No. 2**

#### **7.2.1 Amenity**

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.”*

In accordance with provisions (n) of the *Planning and Development (Local Planning Schemes) Regulations 2015* clause 67, due regard is to be given to the likely effect of the proposal on the local amenity.

The fence is located on a laneway boundary. Kennedia Lane has a width of 5m which separates the property to the immediate north and the subject site. The landowner opposite the laneway also has a 2m high solid Colorbond fence along the laneway boundary facing the proposed fence. The width of the laneway and the existing boundary fence on the opposite property minimises the visual impact of the proposed fence addition. Due to the location of the fence, the height is not considered to impact the amenity of neighbouring properties.

It is unlikely that the added height to the fence will have a detrimental impact on the amenity of the surrounding area or streetscape of Strickland Street by way of bulk. The sloping height of the fence with the contours of the lot, and the distance from the property to those to the north, reduces the impact of building bulk.

### 7.3 Fill and Fencing Local Planning Policy

The proposal is not compliant with the following provisions of Fill and Fencing Council Policy as follows:

Policy Requirement	Proposed	Complies
Laneway fencing shall not exceed 1.8m in height.	The fencing is proposed to have a maximum height of between 1.8m to 2.6m above natural ground level.	No
<b>Variations</b>  When considering variations to the Policy requirements, due regard is to be given as to its likely impact on the local amenity.		
<b>Administration Comments</b>  The fence height varies across the length of the boundary with the majority of the fence being less than 2.4m in height. The impact of the fence height on the amenity of the neighbouring property is minimised by a 5m separation from Kennedia Lane. The location of the fence on the laneway boundary is unlikely to adversely affect the amenity of the locality. The increased fence height is supported.		

### 8.0 Conclusion

The proposed development is unlikely to have an adverse impact on the local amenity due to its location and varying height. Accordingly, it is recommended that the application be approved by Council.







<b>PD31.17 (Lot 153) No. 110 Stirling Highway, Nedlands – Addition to Existing Office Building</b>	
<b>Committee</b>	11 July 2017
<b>Council</b>	25 July 2017
<b>Applicant</b>	Advanced Share Registry
<b>Owner</b>	Cherry Field Pty Ltd
<b>Director</b>	Peter Mickleson – Director Planning & Development
<b>Reference</b>	DA2017/106
<b>Previous Item</b>	Item PD29.13 – July 2013
<b>Delegation</b>	In accordance with Clause 6.7.1a) of the City's Instrument of Delegation, Council is required to determine the application due to an objection being received.
<b>Attachments</b>	<ol style="list-style-type: none"> <li>1. Photograph of the property from Stirling Highway</li> <li>2. Photograph of the storeroom's proposed location</li> <li>3. Photograph of the existing unauthorised outbuilding</li> </ol>

## 1.0 Executive Summary

Development approval is being sought to construct a storeroom on 2 existing car bays at the rear of the property.

The proposal will result in a further shortfall of car bays for the premises and was therefore advertised to nearby landowners for comment. During the advertising period 1 objection was received.

It is recommended that the application be approved by Council as considering the small scale of the proposal and the availability of nearby on street car parking bays, the proposal is unlikely to result in a significant adverse impact on the local amenity.



## **2.0 Recommendation to Committee**

**Council approves the development application for a storeroom to be constructed for the existing office building at (Lot 153) No. 110 Stirling Highway, Nedlands, received on 12 May 2017, subject to the following conditions and advice notes:**

- 1. The development shall at all times comply with the approved plan.**
- 2. This development approval only pertains to the proposed storeroom at the rear of the existing office building.**
- 3. The car parking bays and manoeuvring areas being maintained by the landowner to the City's satisfaction.**
- 4. All stormwater from the development, which includes permeable and non-permeable areas, shall be contained onsite.**
- 5. The existing outbuilding at the rear of the property being removed within 14 days of this decision, and the area it currently occupies be used as a car parking bay thereafter.**

**Advice Notes specific to this proposal:**

- 1. With regard to Condition 5, the applicant and the landowner are advised that if they do not comply with this requirement the City may take enforcement action.**
- 2. The Prior to the commencement of any demolition works, any Asbestos Containing Material (ACM) in the structure to be demolished, shall be identified, safely removed and conveyed to an appropriate landfill which accepts ACM.**

**Removal and disposal of ACM shall be in accordance with *Health (Asbestos) Regulations 1992*, Regulations 5.43 - 5.53 of the *Occupational Safety and Health Regulations 1996*, *Code of Practice for the Safe Removal of Asbestos 2<sup>nd</sup> Edition*, *Code of Practice for the Management and Control of Asbestos in a Workplace*, and any Department of Commerce Worksafe requirements.**

**Where there is over 10m<sup>2</sup> of ACM or any amount of friable ACM to be removed, it shall be removed by a Worksafe licensed and trained individual or business.**

- 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.**

### 3.0 Site Details

<b>Lot area</b>	1,044m <sup>2</sup>
<b>Metropolitan Region Scheme Zoning</b>	Urban and Primary Regional Road
<b>Town Planning Scheme No. 2 Zoning</b>	Northern portion of the lot – No Zone Southern portion of the lot – Office/Showroom
<b>Detailed Area Plan/Outline Development Plan</b>	No
<b>Controlled Development Area</b>	No
<b>State Heritage Listed</b>	No
<b>Listed in Municipal Heritage Inventory</b>	No

The subject property contains an office building currently occupied by 'Advanced Share Registry'. Nearby properties contain residential and non-residential uses.

Access to the subject property is gained direct from Stirling Highway as shown on the locality plan below.

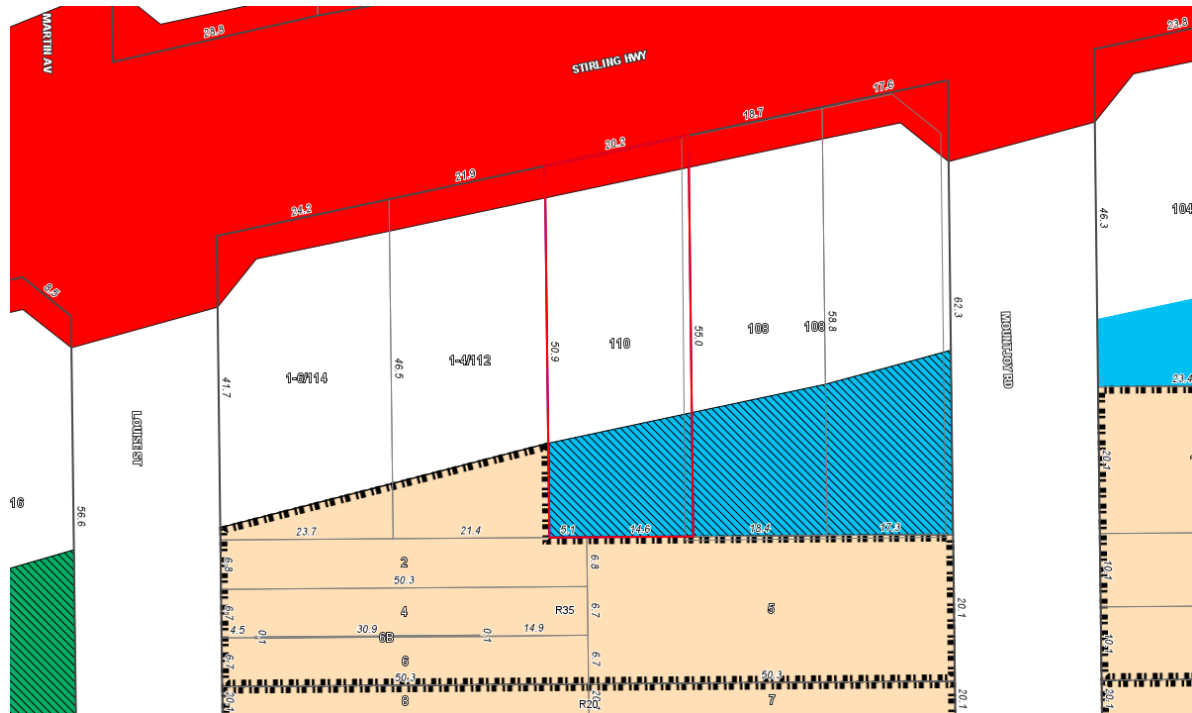
During the assessment process the City became aware of an unauthorised outbuilding existing within a car bay in the south western corner of the property. The applicant has advised that this outbuilding will be removed if the proposed storeroom is approved. This will be required to be removed within 14 days of Council's decision.



## 4.0 Background

In July 2013, Council resolved to approve a development application for various additions to the office building at the subject property (item PD29.13). As a consequence of this decision the office use currently has a shortfall of 5 car bays.

Recently amendments made to the Metropolitan Region Scheme have resulted in the reservation for the proposed future widening of Stirling Highway being reduced in area. As a consequence, a large portion of the subject property currently has no zoning under Town Planning Scheme No. 2 (TPS 2) as shown in the scheme zoning plan below.



## 5.0 Specific Application Details

The applicant seeks approval to construct a 26sqm, 3.2m high storeroom at the rear of the office building.

The construction of the storeroom is proposed where currently 2 car bays exist.

The applicant has advised that up to 14 staff will be on site at any one time, and clients will visit by prior appointment only.

## **6.0 Consultation**

The proposal was advertised to nearby landowners for comment in May and June 2017. During the advertising period 1 objection was received.

Concerns received were with regard to the further shortfall in car bays potentially resulting in car parking difficulties within the local area.

The proposal was also referred to Main Roads WA for comment as the property is affected by a Regional Road Reservation in association with the Metropolitan Region Scheme (MRS) Major Amendment 1210/41. No concerns were raised regarding the proposal.

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

## **7.0 Assessment of Statutory Provisions**

### **7.1 Planning and Development (Local Planning Schemes) Regulations 2015**

Schedule 2, Part 9, clause 67 (Matters to be considered by local government) stipulates those matters that are required to be given due regard to the extent relevant to the application. Where relevant, these matters are discussed in the following sections.

### **7.2 Town Planning Scheme No. 2**

Portion of the property currently has no zoning under TPS 2, despite this, Schedule 2 Part 9 Clause 67(a) of the Regulations requires due regard to be given to the provisions of TPS 2. The applicable provisions are discussed in the following sections.

#### **7.2.1 Car Parking**

The property currently has a shortfall of 5 car bays. If the application is approved by Council a further shortfall of 2 car bays will exist on site.

The following on street car parking restrictions exist within the local area:

- Louise Street (eastern side) – 3 hour parking between Monday and Friday 8.00am to 5.00pm.
- Louise Street (western side) – No parking between Monday and Friday 8.00am to 5.00pm.
- Stirling Highway – No parking at all times.
- Mountjoy Road (western side) – No parking at all times.
- Mountjoy Road (eastern side) – 30 minutes between Monday and Friday 8.00am to 6.00pm.



According to the City's records few complaints have been received over recent years regarding vehicles parking illegally along the above sections of Louise Street or Mountjoy Road. No complaints have been received regarding vehicles associated with the subject property parking illegally.

If the application is approved by Council 15 car bays will exist on the property, excluding 4 car bays at the front of the property which are impacted upon by the proposed future widening of Stirling Highway.

The applicant has advised that at any one time 14 staff will be on site, and clients will visit the property by prior appointment only.

Considering the above, the proposal is unlikely to have a significant adverse impact on the local amenity if the application is approved by Council.

## **8.0 Conclusion**

Considering the small scale of the proposal and the availability of nearby on street car parking bays, the proposal is unlikely to result in a significant adverse impact on the local amenity.

Accordingly, it is recommended that Council approves the application.











<b>PD32.17</b>	<b>Mayo Community Garden Inc. - (Lot 131) No. 91 Wood St, Swanbourne – Variation to Lease</b>
<b>Committee</b>	11 July 2017
<b>Council</b>	25 July 2017
<b>Applicant</b>	Mayo Community Garden Inc.
<b>Owner</b>	City of Nedlands
<b>Director</b>	Peter Mickleson – Director Planning & Development
<b>Attachments</b>	Nil.

## 1.0 Executive Summary

Mayo Community Garden Inc. lease a portion of the City's land at 91 Wood Street, Swanbourne. The lot was the site of the former Mayo House – a heritage cottage within Allen Park's heritage precinct. The cottage was destroyed by fire in 2009 and the only remaining part of the structure is the verandah. The group have requested an extension to their lease premises to include the verandah structure. This report presents that request to Council.

## 2.0 Recommendation to Committee

**Council:**

- 1. Agrees to extend Mayo Community Garden Inc. lease premises at 91 Wood Street, Swanbourne to include the verandah structure onsite; and**
- 2. Requires that the arrangement be recorded in a Deed of Variation of Lease between the City and Mayo Community Garden Inc. with the Mayor and Chief Executive Officer executing the Deed with application of the City's common seal.**

## 3.0 Site Details

<b>Lot area</b>	1011.7m <sup>2</sup>
<b>Metropolitan Region Scheme Zoning</b>	Urban
<b>Town Planning Scheme No. 2 Zoning</b>	Recreation
<b>Detailed Area Plan/Outline Development Plan</b>	No
<b>Controlled Development Area</b>	No
<b>State Heritage Listed</b>	No
<b>Listed in Municipal Heritage Inventory</b>	Yes

## 4.0 Discussion/Overview

Mayo House was formerly located at 91 Wood Street, Swanbourne. The house was built in circa 1912-1913 and for about 50 years it was occupied by the Mayo family.

The City of Nedlands acquired the house in 1971 when it became a residence for Council employees until it was vacated in 1998. In 1999, Nedlands Council commissioned a conservation plan to be developed for the restoration and refurbishment of Mayo House. The house was one of four timber framed cottages that comprised the Allen Park Heritage Precinct.

On the 19<sup>th</sup> of July 2009, a fire at the house caused extensive damage and was rendered unsafe and required demolition. The verandah was retained and has remained onsite without any plan for development.

On 10 December 2013 Council in item 13.5 resolved to give in-principle support to the establishment of a community garden at the former Mayo House site at No. 91 Wood Street, Swanbourne.

On 25 February 2014 Council in item 13.7 resolved to agree to enter a Deed of Lease with Mayo Community Garden Inc. (MCG) for a term of 10 years with a further term of 5 years (Lease). Terms of the Lease are City standard terms for a community group with peppercorn rental applied. The Deed of Lease forms Attachment 1. The Lessee is responsible for all maintenance and repair required for the lease premises. The lease premises are defined as in an aerial image below:



The Lease Premises is the lot of land that is No. 91 Wood Street, Swanbourne excluding the shed onsite (which is used for the City's purposes – noted in blue ink in the aerial image above) and the verandah structure (in yellow). At the time of the Council item in 2014 the City's Administration had given in-principle support to a request by the Fellowship of Australian Writers Western Australia (FAWWA) to lease that area, subject to Council endorsement. FAWWA have the two heritage cottages opposite MCG site being Tom Collins and Mattie Furphy Houses.

FAWWA had requested the lease of the verandah area to install a historical monument associated with the local literary and iconic pioneering family the Furphys. FAWWA had proposed to mount a historic water cart on the verandah and communication with FAWWA on the proposal included requirement to appropriately manage risk and ensure no public access to the cart. This matter did not progress to Council and FAWWA did not further plans to develop the site in this way due to funding constraints.

FAWWA and MCG have been in communication about their wishes for the future of the verandah and have agreed for MCG to pursue the lease of the verandah and development of the site which would accommodate the historic Furphy water cart on the verandah where possible. FAWWA advised in email of 7<sup>th</sup> March 2017 the following: *"The Fellowship Committee and I agree wholeheartedly to the Mayo Community Garden taking responsibility for the Mayo structure and space. We are delighted that they are willing to include the Furphy watercart in their plans. We feel this is what the historic artefact needs to both preserve it and make the best use of it in a safe and yet public display."*

Any development of the verandah must satisfy standards for building, planning and public safety. Compliance with these standards will be the responsibility of the lessee of the premises who will need to make the final determination on works and management of the Lease Premises.

In communication with MCG and FAWWA at the time of drafting this report both groups confirmed that the parties were continuing to work together to reach an appropriate outcome for the verandah.

MCG noted that to access grant funding from Lotterywest for any development of the verandah they require confirmation of a tenancy arrangement. MCG have also advised that they have already received from Lotterywest confirmation of grant funding conditional on a lease arrangement being confirmed.

It is now recommended that the Deed of Lease by MCG dated 14<sup>th</sup> May 2014, be varied to extend the Lease Premises to include the verandah structure and area around (highlighted in yellow ink in snapshot above).

#### **4.1 Key Relevant Previous Council Decisions:**

As noted above in the discussion of this matter Council considered the Lease by Mayo Community Garden Inc. on 25<sup>th</sup> February 2014 in item 13.7 and resolved to endorse the lease arrangement for a term of 10 years with a further term of 5 years.

## **5.0 Consultation**

As noted in discussion section above MCG and FAWWA have been in communication about plans for the verandah of the former Mayo House. The parties agree that MCG is best placed to take on the lease of the premises and the parties will work together to plan the outcome for the premises, while noting that MCG as lessee will be responsible for the Lease Premises and therefore must comply with the terms of the Lease. Responsibilities to note are those associated with compliance and maintenance.

## **6.0 Budget/Financial Implications**

There are no further budget or financial implications to consider with this item. Fees associated with executing the Deed of Variation of Lease will be borne by the lessee.

## **7.0 Conclusion**

Mayo Community Garden Inc. have the capacity to support their request to extend their Lease Premises to include the Mayo verandah. They have advised their willingness to work with their neighbouring lessee, FAWWA to accommodate their wishes for a historical monument at the verandah where practicable to do so. Extending MCG's Lease Premises to include the verandah will ensure the structure's future asset management.

The area is currently subject of no tenancy arrangement and therefore poses a level of risk to the City in terms of deteriorating condition. The requested arrangement by MCG will ensure appropriate risk and asset management of this City structure.