



City of Nedlands

# ***Addendum to Agenda***

## ***Council Meeting***

***25 March 2014***

Dear Council member

The following is an Addendum to the Agenda – Item 13.5 Metropolitan West Joint Development Assessment Panel & Item 13.6 No. 1 (Lot 416) Heritage Lane, Mt Claremont – Proposed Security Fencing for the next ordinary meeting of the City of Nedlands will be held on Tuesday 25 March 2014 in the Council chambers at 71 Stirling Highway Nedlands commencing at 7 pm.

Greg Trevaskis  
Chief Executive Officer  
24 March 2014

### 13. Reports by the Chief Executive Officer

#### 13.5 Metropolitan West Joint Development Assessment Panel



Government of **Western Australia**  
Development Assessment Panels

### Form 1 - Responsible Authority Report (Regulation 12)

<b>Property Location:</b>	No.1 (Lot 416) Heritage Lane, Mt Claremont
<b>Application Details:</b>	Aged Care Facility & Function Centre
<b>DAP Name:</b>	Metro West JDAP
<b>Applicant:</b>	Peter Webb & Associates
<b>Owner:</b>	Aegis Aged Care Pty Ltd Group (Aegis)
<b>LG Reference:</b>	DA2014/45 : HE1/1
<b>Responsible Authority:</b>	City of Nedlands
<b>Authorising Officer:</b>	Peter Mickleson – Director Planning and Development Services
<b>Department of Planning File No:</b>	DP/14/00189
<b>Report Date:</b>	26 March 2014
<b>Application Receipt Date:</b>	4 February 2014
<b>Application Process Days:</b>	90 Days
<b>Attachment(s):</b>	1: Development Plans and Elevations 2: Approved Local Area Plan

#### Recommendation:

That the Metropolitan West Joint Development Assessment Panel resolves to:

**Approve** DAP Application reference DP/14/00189 and accompanying plans comprising of attachments 1-2 dated 4 February 2014, in accordance with the provisions of the City of Nedlands Town Planning Scheme No.2, subject to the following conditions:

#### Conditions

1. The capacity of Montgomery Hall shall be limited to 150 persons at all times;
2. The proposed hours of operation for Montgomery Hall shall be limited to 9.00am to 11.00pm Monday to Thursday, and 9.00am to 12 midnight Friday and Saturday;
3. The number of times that Montgomery Hall can be used on a Friday or Saturday evening for weddings/social events where alcohol is served after 10pm is to be limited to 65 per annum;
4. Buffer landscaping shall be provided along the common boundaries between the subject site and No 2 (Lot 520) The Marlows, No 10 (Lot 167) Heritage Lane and

No 18 (Strata Lots 1-27) St Johns Boulevard in accordance with the approved landscape plan;

5. The entry roundabout (including the portion on Heritage Lane) shall be constructed in accordance with the Austroads and MRWA standards to the satisfaction of the City;
6. The works proposed in Heritage Lane, to cater for the roundabout, will require a Nature Strip / Verge Licence application to be lodged with, and approved by the City of Nedlands Technical Services Department, prior to construction. The developer shall construct and bear 100% of the costs for the works;
7. The landowner shall install, at their own cost, vehicle retention mechanisms (i.e. bollards) to the eastern car bays adjacent to John XXIII College and to the northern end of the existing pathway leading to the Marlows for safety purposes;
8. The landowner shall design and construct, at their own cost, pram ramps for a designated pedestrian crossing connecting the proposed footpath to the existing footpath on the western side of Heritage Lane. These works shall be required to be approved as a part of the nature strip/verge license to the City;
9. Prior to occupation of the premise, pedestrian and cycling access is to be provided across the northern and eastern paths on site by way of a public access easement to the satisfaction of the Western Australian Planning Commission and the City of Nedlands;
10. No electrified fencing on site is approved as a part of this development application (refer to Advice Note 1);
11. Footpaths outside of the lot boundaries are not approved under this application (refer to Advice Note 2);
12. All stormwater from the development, which includes permeable and non-permeable areas, shall be contained onsite by draining to soak-wells of adequate capacity to contain runoff from a 20 year recurrent storm event. Soak-wells shall be a minimum capacity of 1.0m<sup>3</sup> for every 80m<sup>2</sup> of calculated surface area of the development;
13. Prior to lodging commencement of construction, an acoustic report compiled by a suitably qualified acoustic engineer shall be submitted to an Environmental Health Officer at the City of Nedlands and subsequently approved. The acoustic report is to demonstrate to the City's satisfaction, noise as a result of the development will comply with the *Environmental Protection (Noise) Regulations 1997*. The acoustic report compiled by a suitably qualified acoustic engineer and is to address but not be limited to the following:
  - a) comparison with noise criteria - *Environmental Protection (Noise) Regulations 1997*;
  - b) noise impact prediction for the proposed development;
  - c) acoustic solutions for building design (AS/NZS 2107:2000 Acoustics – Recommended Design Sound Levels and Reverberation Times for Building Interiors);
  - d) engineering and/or operational noise management solutions, worst case scenario noise modelling for impact on a number of noise receivers, taking into account meteorological and topographical effects;
  - e) site specific issues including mechanical exhaust and ventilation paths and equipment, air-conditioning/refrigeration/compressor equipment, plant room, service vehicle access routes and any loading bay locations (waste collection and deliveries), equipment servicing water features/ponds/pool, mechanical sources, operational times, proposed cafe use and associated noise sources (e.g. piped music, alfresco, patrons), closest noise sensitive receivers;

- f) construction noise management plan; and
  - g) engineer's noise control and noise management recommendations.
14. Two separate bin enclosures are required for Residential bin service and for the Commercial bin service:
- a) Enclosures for the storage and cleaning of waste receptacles shall be provided on the premises, per the following requirements:
    - i) Constructed of brick, concrete, corrugated compressed fibre cement sheet or other material of suitable thickness approved by the City;
    - ii) Walls not less than 1.8m in height and access of not less than 1.0 metre in width fitted with a self closing gate;
    - iii) Smooth and impervious floor not less than 75mm thick and evenly graded to a approved liquid refuse disposal system;
    - iv) Easily accessible to allow for the removal of the receptacles;
    - v) Provided with a ramp into the enclosure having a gradient of no steeper than 1:8 unless otherwise approved by the City; and
    - vi) Provided with a tap connected to an adequate supply of water.
    - vii) Design that does not encourage the emission of odour beyond the enclosure
  - b) Enclosures must be of adequate size for the volume of waste to facilitate storage, collection and cleaning of receptacles, ensuring health issues such as odour, noise and vermin are mitigated.
  - c) As there is not sufficient room on the City verge for the number of bins to be presented and collected, the development is required to utilise an inside bin service for its residential bin allocation; this service being supplied by the City at a cost stipulated in the City's schedule of fees and charges. The commercial bin allocation must also be serviced from inside the premises, but is not required to be done by the City.
  - d) Where an inside bin service is required and bins are removed from an enclosure to be emptied and replaced, vehicular waste truck access for this service must be suitable (applicant to consult with the City's Waste Services and/or Engineering Services where necessary).
15. Laundry services for the development shall include:
- a) A reception room where all articles brought to the premises for treatment shall be received;
  - b) The internal surface of all walls shall be rendered with a cement plaster with a steel float finish or other approved material to a height of 2 meters and to be devoid of holes, cracks and crevices;
  - c) The floor shall be constructed of concrete and finished with a smooth impervious surface;
  - d) In front of each washing machine shall be a non-corrosive grating, at least 910 millimeters in width and so constructed as to prevent any person from standing in water on the floor;
  - e) Liquid waste discharged by means of a drain to a receptacle for drainage shall be disposed of by discharging into the sewerage system in a manner approved by the Water Corporation;
  - f) Sole or multiple occupancy units, each being a separate dwelling, shall have separate communal laundry facilities in accordance with the Building Code

- g) No less than 4 laundry units are to be provided in the communal laundry facilities.
16. This decision constitutes planning approval only and is valid for a period of 2 years from the date of approval. If the subject development is not substantially commenced within the 2 year period, the approval shall lapse and be of no further effect.

Advice Notes:

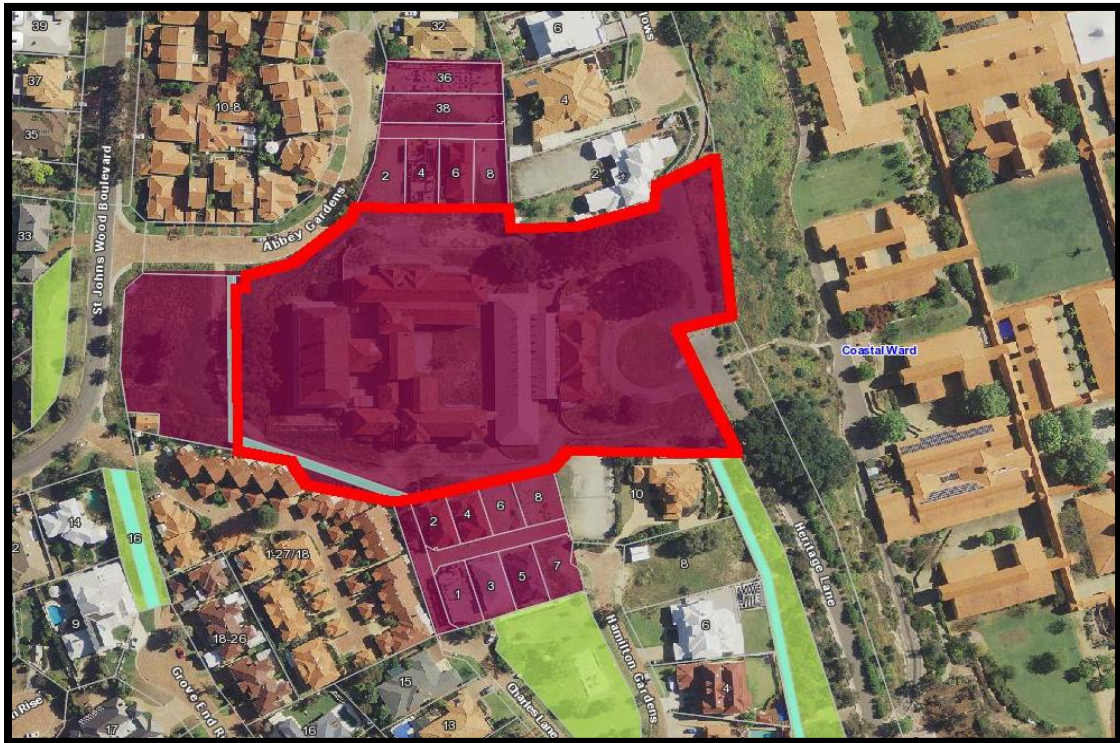
1. The City's Fencing Local Law (2007) does not permit the use an electrified fence on sites adjacent to residential uses. The subject site is bordered by residential dwellings.
2. If the landowner seeks pedestrian access to the vacant reserve land to the west of the site, they must liaise with the respective landowner;
3. All nature strips / verge abutting the site will not be maintained by the City of Nedlands in accordance with Council's Nature-Strip / Verge Development Policy;
4. The applicant is advised to consult the City's *Visual and Acoustic Privacy Advisory Information* in relation to selecting and locating any air-conditioner or swimming pool or spa mechanical equipment such that noise, vibration and visual impact on neighbours is mitigated. The City does not recommend installing any equipment where it is likely noise in these locations will intrude on neighbours;
5. Noise from service and/or delivery vehicles should be mitigated such that vehicles do not service the premises before 7.00 am or after 7.00 pm Monday to Saturday, or before 9.00 am or after 7.00 pm on Sundays and Public Holidays;
6. All downpipes from guttering shall be connected so as to discharge into drains which shall empty into a soak-well or multiple soak-wells 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, unless a qualified structural engineer certifies otherwise.
7. A laundry shall have a minimum floor area of 3 square metres and a minimum width of the room not less than 1.5 metres; not be a room in which food is stored, prepared, served or consumed and where situated adjacent to a kitchen, be separated from the kitchen by a wall extending from the floor to the roof / ceiling, or an opening which is not more than 1220mm wide and has a door which when closed completely fills the opening.

**Background:**

Insert Property Address:	No.1 (Lot 416) Heritage Lane, Mt Claremont
Insert Zoning	MRS: Urban
	TPS: Development
Insert Strategy Policy:	N/A
Insert Development Scheme:	Town Planning Scheme No.2 (TPS2)
Insert Lot Size:	1.6789ha
Insert Existing Land Use:	Vacant
Value of Development:	\$10 million

An Outline Development Plan (ODP) for the subject site was adopted in March 2012 which required a detailed Local Area Plan (LAP) to be approved prior to any application for redeveloping the historic buildings of Old Swanbourne Hospital.

Aegis Aged Care Pty Ltd Group (Aegis) produced a LAP in February 2013 for an Aged Care facility and associated function centre. The WAPC granted consent to advertise the LAP in April 2013. Following public consultation, the WAPC resolved to endorse the LAP subject to conditions on 27 February 2014 (**Attachment 1**).



**Figure 1: zoning map**

### **Details: outline of development application**

The application proposes the following:

- The conservation and reuse of all the heritage buildings and retention of mature vegetation.
- Montgomery Hall to be used for “private community use” and the remainder of the heritage buildings is proposed to be utilised as a residential aged care design to accommodate 80 persons.
- The “private community use” for Montgomery Hall is to cater for social events such as weddings, theatre productions, dance performances, exhibitions, conferences and meetings.
- The hall is proposed to be available for these uses for the following times: 9.00am to 11.00pm Monday to Thursday, and 9.00am to 12 midnight Friday and Saturday.
- Construction of a new building in the courtyard to the west of the old store building, to the same height of the existing building and a small addition to the old kitchen building.

- Vehicle access from Heritage Lane only.
- Construction of a new access way creating a ring road to allow traffic including vehicles to access to the entire site.
- Areas of unrestricted public access and restricted public access.
- Landscaping areas as detailed in the Landscape Concept Plan.
- Car parking areas showing a total of 95 car parking bays on site.

The development application has been designed in accordance with the approved detailed Local Area Plan (LAP). The proposed development plans can be viewed at **Attachment 2**.

### **Legislation & policy:**

#### Legislation

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

#### State Government Policies

N/A

#### Local Policies

- Council Policy: Neighbour Consultation – Development Applications

### **Consultation:**

#### Public Consultation

Due to the extensive public consultation undergone for the endorsed detailed Local Area Plan, the application was not re-advertised to the public. The development application does not propose any changes that were not approved in the Local Area Plan.

#### Consultation with Other Agencies or Consultants

- *City of Nedlands Environmental Health Section*

The application was referred to the City's Environmental Health section to assess environmental health matters. In summary, it was advised that:

1. The development requires two separate bin enclosures for the residential and commercial uses on site. The landowner is required to liaise with the City's Environmental Health Section prior to construction to ensure compliance with the relevant environmental health standards.
2. The bin enclosures shall be constructed as per the City's requirements.
3. An acoustic report to the satisfaction of the City is required prior to construction. It is expected that this will not meaningfully affect the design of the building and as such will not require major changes. A suitable fit-out of the building will resolve any noise issues.

4. Adequate laundry services are required in accordance with the relevant environmental health standards.
- *City of Nedlands Engineering Section*  
The application was referred to the City's Engineering section on engineering matters. In response, the section advised in summary:
    1. The works proposed in Heritage Lane, to cater for the roundabout, will require a Nature Strip / Verge Licence application to be lodged with, and approved by the City of Nedlands Technical Services, prior to construction.
    2. The landowner shall install bollards to the eastern car bays adjacent to John XXIII College and to the northern end of the existing pathway leading to the Marlows.
    3. The landowner shall design and construct pram ramps for a designated pedestrian crossing connecting the proposed footpath to the existing footpath on the western side of Heritage Lane.
  - *Heritage Council Comments (To be advised following Heritage Council meeting on 25 March 2014)*

**As a result of the above, suitable conditions and advice notes are recommended to JDAP if the application is to be approved.**

**Planning assessment:**

The proposed application aligns with adopted ODP and the LAP recently endorsed by the WAPC. The scale of the additional development within the footprint of the existing heritage buildings and the provision for onsite parking are considered appropriate within its context.

Montgomery Hall Use & Hours of Operation

Under the approved Outlined Development Plan (2012), Montgomery Hall is permitted to be used for private community uses such as meeting rooms, cafes, a museum and gymnastics classes. Any other proposed uses for the hall must be considered in the context of other uses proposed for the site (Aged Care Facility) and with regard to parking, hours of operation and noise levels.

The proposed use and hours of operation for Montgomery Hall were advertised to surrounding residents under the Local Area Plan. Following public consultation it is considered that the proposed day time and weekday evening uses of the hall are acceptable subject to an acoustic report being approved by the City prior to lodging an application for a building permit.

Car Parking

Based on current car parking requirements under TPS2 it is considered that the proposed parking provisions of 95 car parking bays across the site for staff and visitor use will adequately meet the needs of the proposed uses on the following basis:



- The maximum number of residents at the aged care facility is 80 persons, with the maximum number of staff in attendance being 28, reducing to 8 during the evening. Under the City's TPS2, the minimum parking requirement for the facility is 20 bays.
- Montgomery Hall capacity is limited to 150 persons. Under the City's TPS2, the minimum parking requirement for this use is 75 bays resulting in a total bay requirement of 95.
- Furthermore, the hall is expected to cater for a larger amount of people during the evening when visiting hours for Montgomery house are closed and staff numbers are decreased.

#### Public Access

The ODP for the Old Swanbourne site requires that pedestrian and cyclist access will be provided across the precinct generally along the routes shown on the ODP, and that the pathways will be created via an easement for public access or the creation of a Public Access Way (PAW). The ODP also requires that the detailed design and placement of the shared access paths be addressed as part of a detailed landscaping plan required as part of the LAP for the Heritage Buildings Area.

The approved LAP for this site incorporated a 2m pedestrian/cycling access path across the north and east of the site linking Heritage Lane with Abbey Gardens. On 27 February 2014, the Western Australian Planning Commission endorsed the LAP with the following condition:

*"Pedestrian and cycling access to be provided across the northern and eastern paths of the site, by way of an easement for public access or the creation of a PAW, consistent with the requirements of the ODP, to the satisfaction of the WAPC. The WAPC is willing to enter in to a deed to impose conditions on the easement, in keeping with the intent of the ODP."*

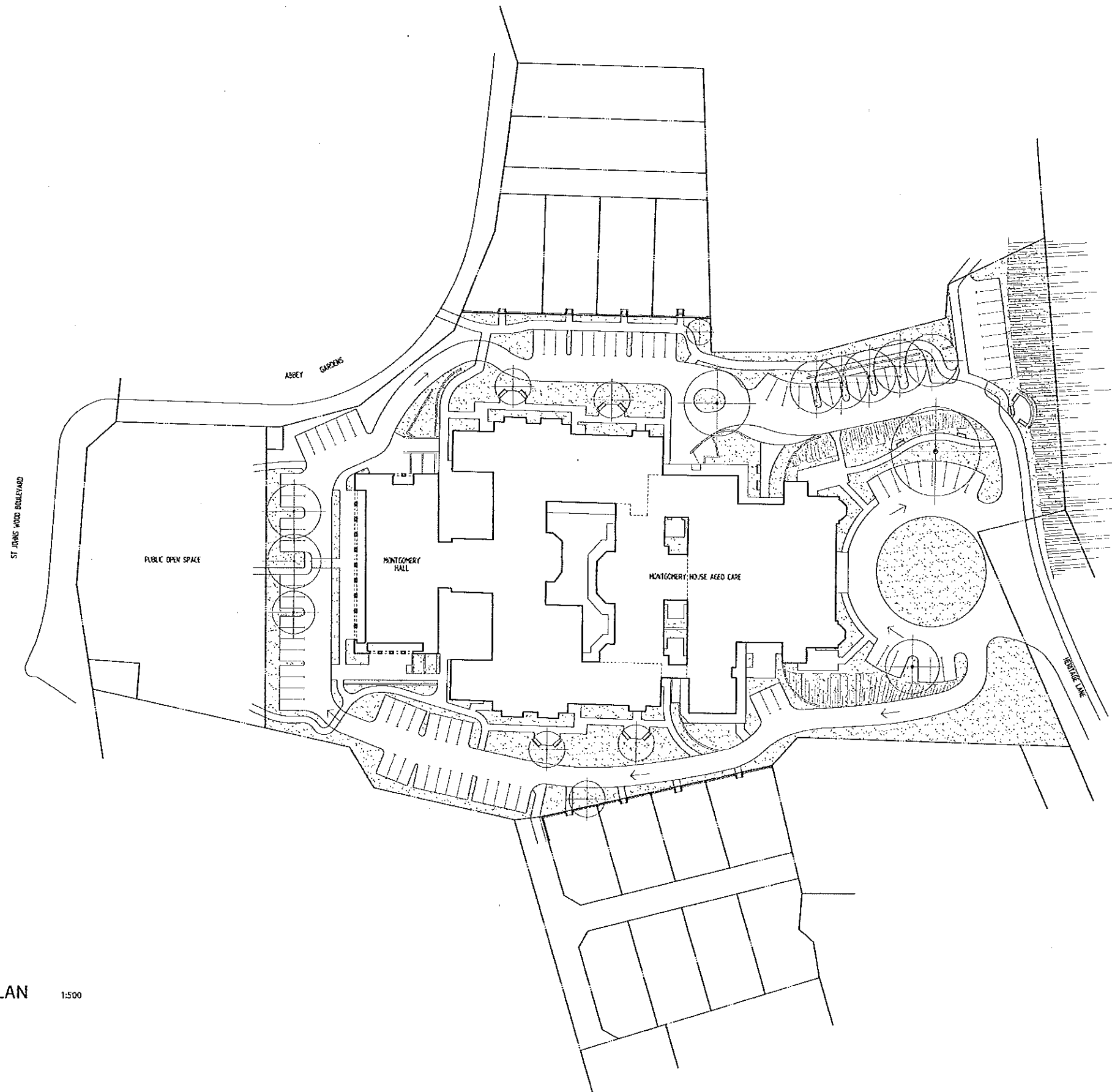
The WAPC will consult the City of Nedlands on the conditions agreed to be placed on the easement to ensure satisfaction between all parties. It is conditioned that the easement agreement be entered in to prior to occupation of the building.

#### **Conclusion:**

Overall it is considered that the proposal for the Old Swanbourne Hospital is a balanced response to the constraints and opportunities provided by the site and the amenity of the surrounding locality. The development application is in accordance with the approved Local Area Plan endorsed by the WAPC. It is considered to be an acceptable proposal and recommend that it be approved subject to conditions.

#### **Attachments:**

- 1: Development Plans and Elevations
- 2: Approved Local Area Plan



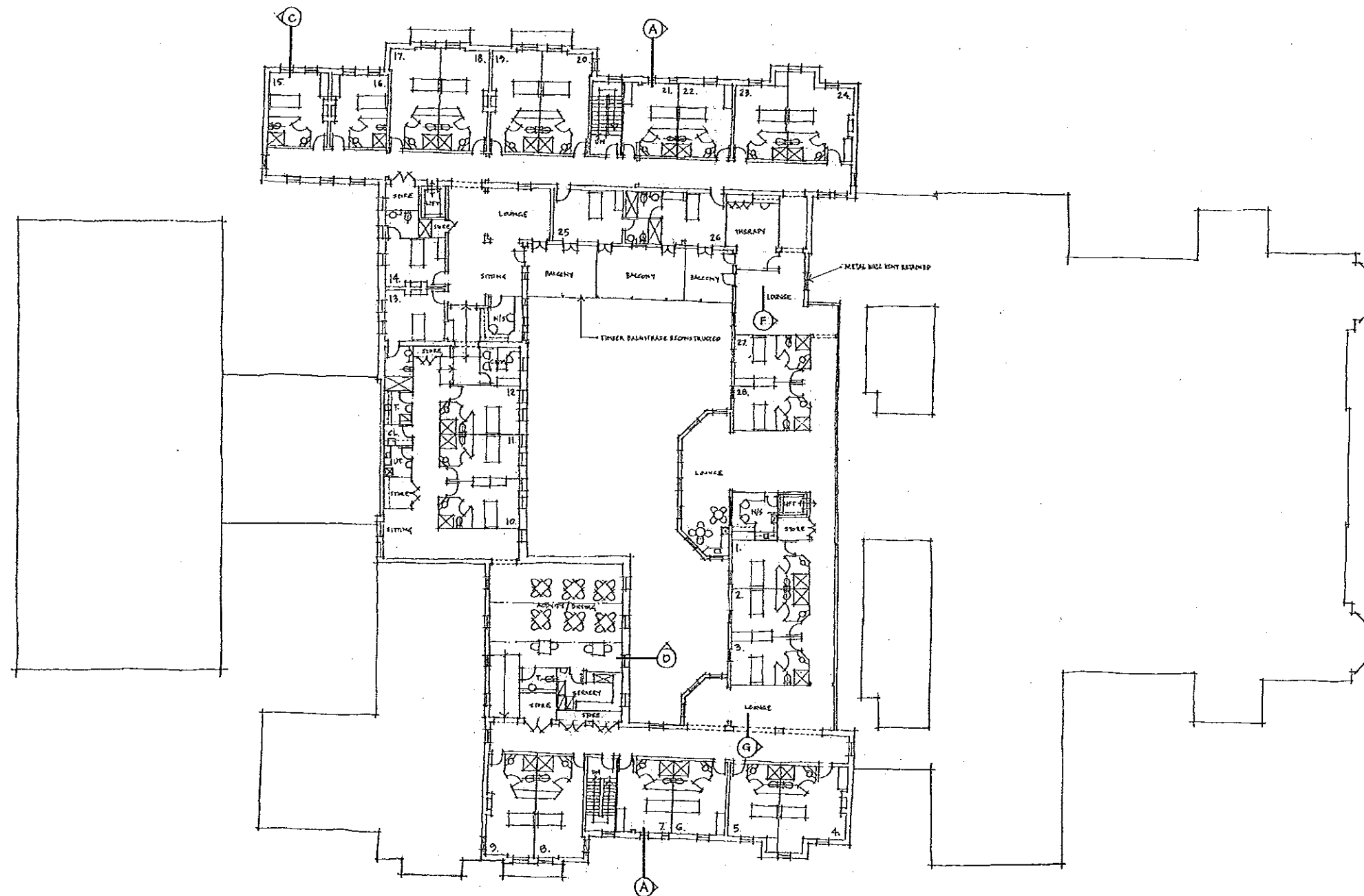
SITE PLAN 1:500

# MONTGOMERY HOUSE AGED CARE

MONTAGUE GRANT ARCHITECTS



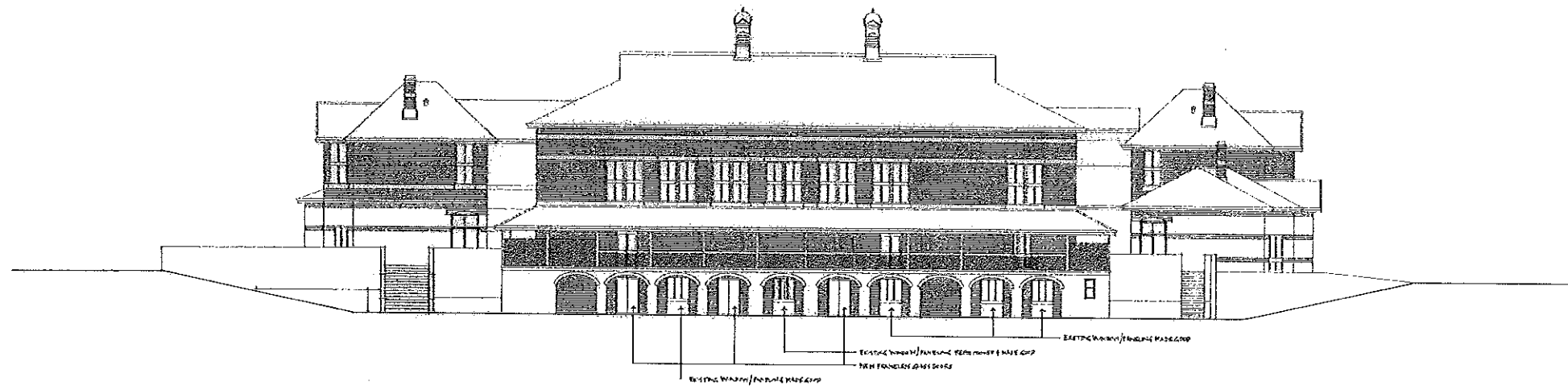




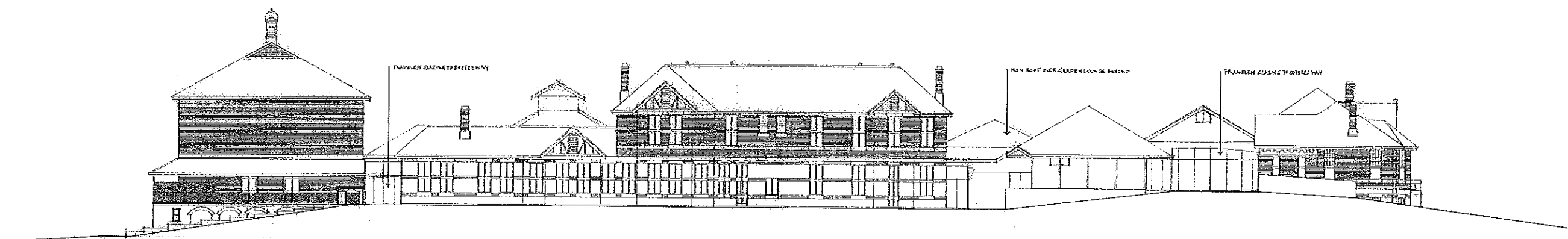
UPPER FLOOR 1:200

# MONTGOMERY HOUSE AGED CARE

MONTAGUE GRANT ARCHITECTS



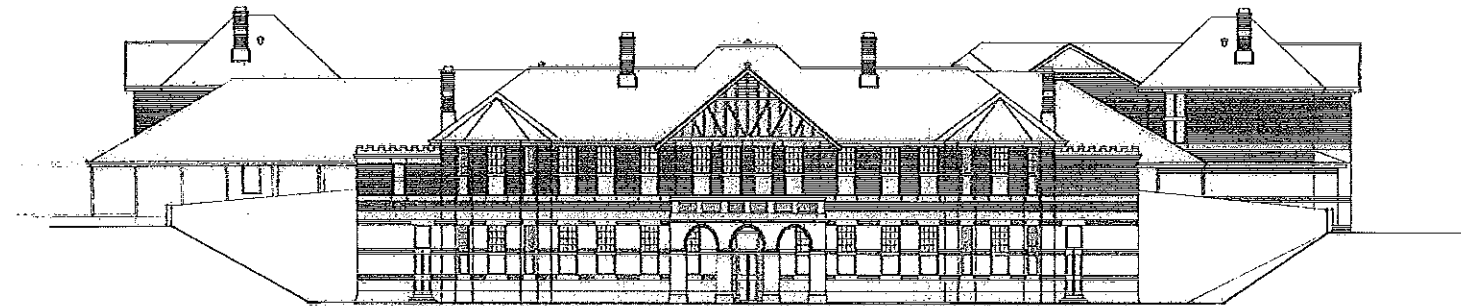
WEST ELEVATION 1:200



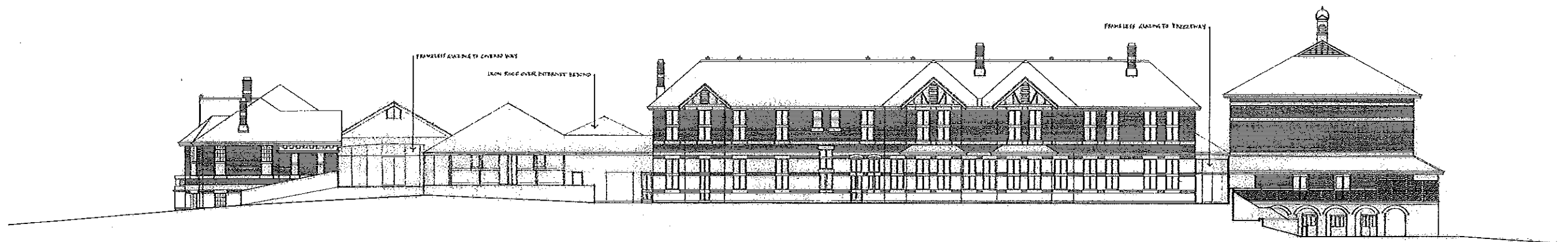
SOUTH ELEVATION 1:200

# MONTGOMERY HOUSE AGED CARE

MONTAGUE GRANT ARCHITECTS



EAST ELEVATION 1:200

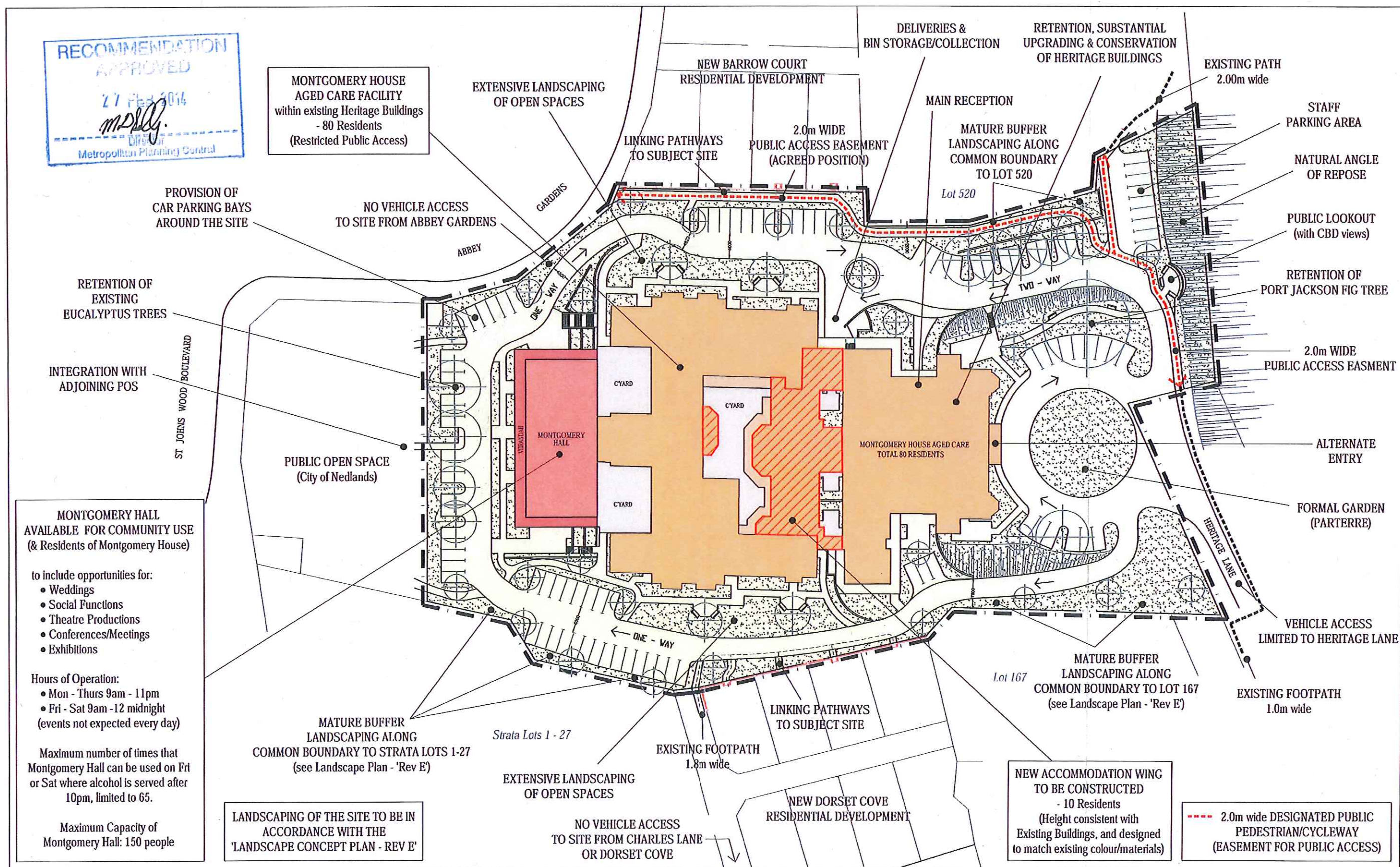


NORTH ELEVATION 1:200

# MONTGOMERY HOUSE AGED CARE

MONTAGUE GRANT ARCHITECTS





**REVISED DETAILED AREA PLAN**  
MONTGOMERY HOUSE AGED CARE FACILITY  
LOT 416 (SN 1) HERITAGE LANE, MOUNT CLAREMONT  
PREPARED FOR THE AEGIS AGED CARE GROUP PTY LTD

C1905 P1905-04

FIGURE 1



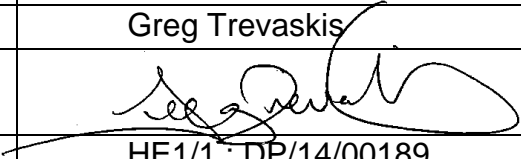
NTS  
19-02-2014

PETER D WEBB AND ASSOCIATES

CONSULTANTS IN TOWN PLANNING & URBAN DESIGN  
PO BOX 920 SUBIACO WA 6904 TEL: 9388 7111  
UNIT 2/19 YORK STREET SUBIACO FAX: 9388 7240



**13.6 No. 1 (Lot 416) Heritage Lane, Mount Claremont – Proposed Security**

<b>Council</b>	25 March 2014
<b>Applicant</b>	Peter Webb & Associates
<b>Owner</b>	Aegis Aged Care Pty Ltd Group (Aegis)
<b>Officer</b>	Elle O'Connor
<b>CEO</b>	Greg Trevaskis
<b>CEO Signature</b>	
<b>File Reference</b>	HE1/1 : DP/14/00189
<b>Previous Item</b>	PD13.5 (Responsible Authority Report for Development Assessment Panel)

**1.0 Executive Summary**

This application is related to the development application received for the new aged care facility and function centre at No. 1 Heritage Lane, Mt Claremont - Item PD13.5.

This is a separate development application for proposed security fencing to be erected onsite during the construction phase of the aged care development until the buildings are operational (approximately a 2 year period).

The application for the aged care facility is required to be determined by the Joint Development Assessment Panel (JDAP). This application for the security fencing is required to be determined by Council.

The proposed fencing consists of a bordering security fence with a 2.4m high electrified fence to be located 3m – 5m inside the security fence. The fencing will border the entire boundary of the site adjacent to residential lots on Dorset Cove and Barrow Court (Attachment 1).

The proposal does not comply with the City's Fencing Local Law 2007, as Part 5 does not permit the use of electrified fencing on a site that abuts residential zones. However, the Local Law provides the Council the general discretion to approve the erection of any fence if it considers the fence would have no an adverse effect on the safety or convenience of any person.

As the proposed security fencing was not a feature included in the Local Area Plan (LAP) approved by Council, it has not yet been advertised to surrounding residents.

For this reason, it is recommended that the development application should be advertised before the Council determines it.

## **1.1 Recommendation to Committee**

**Council refers back the development application to the City's administration for the application to be advertised to adjoining neighbours for comments in accordance with Council Policy 6.4 – Neighbourhood Consultation.**

**Or alternatively:**

**Council approves an application for security and electrified fencing located at No.1 (Lot 416) Heritage Lane, Mt Claremont in accordance with the application and plans dated 24 March 2014 subject to the following conditions:**

- 1. The development shall at all times comply with the approved plans.**
- 2. The barbed wire security fence shall:**
  - a) be setback 3m from any residential lot;**
  - b) not exceed 2m in height.**
- 3. The electrified fence shall:**
  - a) be setback 3m - 5m from the security fence;**
  - b) not exceed 2.4m in height;**
  - c) not exceed 20,000 volts;**
  - d) be inoperable during business hours.**
- 4. All security fencing is to be removed prior to occupation of the buildings.**
- 5. Any additional development, which is not in accordance with the original application or conditions of approval as outlined above, will require further approval by Council.**

## **1.2 Strategic Community Plan**

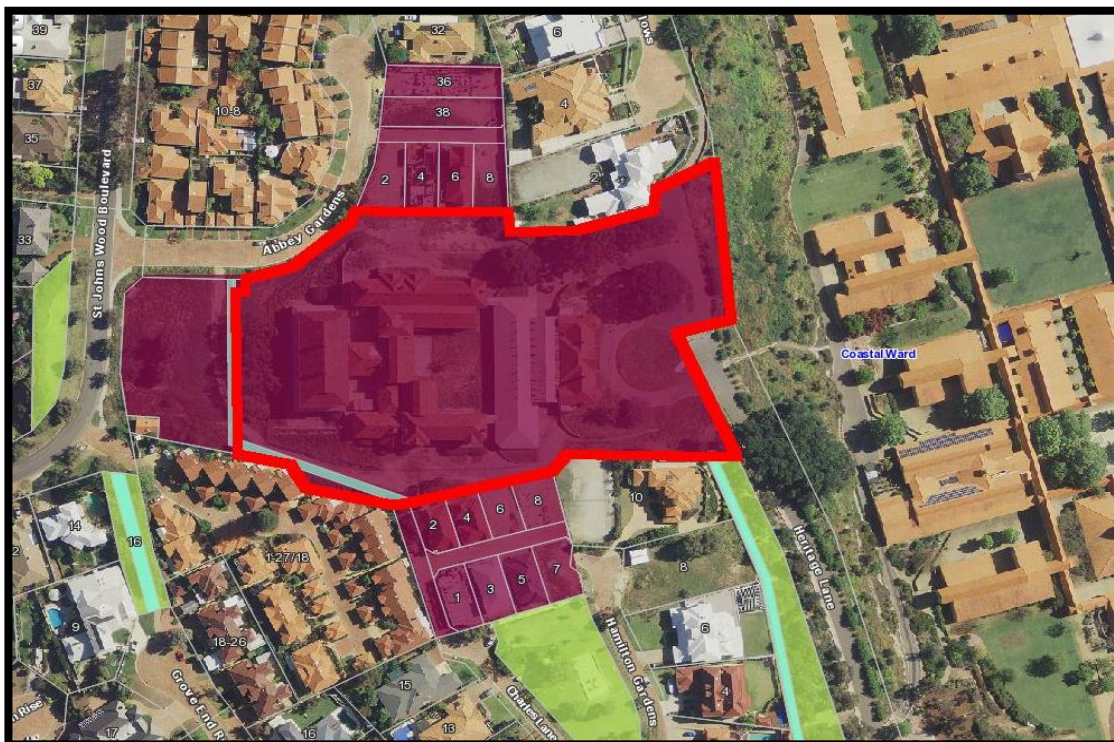
**KFA: Natural and Built Environment**

**This report addresses the Key Focus Area of Natural and Built Environment through adherence to the design principles of the Residential Design Codes of Western Australia, contributing to well planned and managed development in the City of Nedlands.**

## 2.0 Background & Proposal Details

<b>Property address</b>	No.1 (Lot 416) Heritage Lane, Mt Claremont
<b>Lot area</b>	1.6789ha
<b>Zoning:</b>	
<b>Metropolitan Region Scheme</b>	Urban
<b>Town Planning Scheme No. 2</b>	Development

In 2004, the Western Australian Planning Commission approved a residential subdivision for the north and south wings of the subject site (refer to Figure 1). The residential lots within these wings are subject to design guidelines approved by the Heritage Council of Western Australia. The design guidelines require entry gatehouses to be constructed on the lots facing the Old Swanbourne Hospital. All of the residential lots have recently obtained planning approval for 2 storey dwellings that will be constructed within the next 2 years.



**Figure 1**

The JDAP application, currently being considered by Council, proposes to develop the existing historic buildings of Old Swanbourne Hospital into an 80 unit aged care facility and function centre. The proposed construction period for this development is expected to be approximately 2 years. This application proposes to install a security fencing system for the duration of this period which will consist of the following:

- A 2m high barbed wire security fence with warning signs;
- A 2.4m high electrified fence charged with 20,000 volts of electricity with low amps.

The proposed electric fence will also have sacrificial fuses and will be inoperable when workers are onsite.

## **2.1 Legislation / Policy**

- Planning & Development Act 2005
- City of Nedlands Town Planning Scheme No. 2 (TPS2)
- Fencing Local Law 2007
- Council Policy 6.4 – Neighbour Consultation (Neighbour Consultation policy)

## **3.0 Consultation Process**

### **3.1 What consultation process was undertaken?**

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"/>

As the proposed security fencing was not a feature included in the Local Area Plan (LAP) approved by Council, it has not yet been advertised to surrounding residents.

## **4.0 Budget / Financial Implications**

N/A

## **5.0 Risk management**

It is likely that approval of this application would lead to other similar applications for electric fencing of residential sites during construction.

## **6.0 Discussion**

### **6.1 Introduction**

Clause 6.1 of TPS2 (Development Standards) states that no person shall commence or carry out any development on land zoned or reserved under the Scheme without first applying for and obtaining planning approval. Temporary security fencing is considered 'development' under the Planning and

Development Act 2005 and is therefore required to obtain planning approval under the City of Nedlands Town Planning Scheme No.2 (TPS2).

In addition, the application requires approval under the City's Fencing Local Law 2007.

## **6.2 Applicant Justification Summary**

The applicant states that they need to have the electrified fence in the specific circumstances of this site because:

1. *"The site and its buildings are in dire need of protection. Security is required to ensure that the heritage elements of the site are maintained and to protect people (who break-in) from hurting themselves inside the complex and thereby, limiting liability risks for Aegis. Abutting residential lots are 10m to 22m away from the existing buildings, which ensures that the risk of injury by the electrified fence to residents in the locality is non-existent.*
2. *The electrified fence is proposed to be installed 3.00 - 5.00m inside the existing perimeter security fence, which will mean that no one will be exposed to the electrified fence unless they have breached the perimeter security fence. The security fence will have (multiple) warning signs alerting people trespassing that an electrified fence is operational inside the confines of the security fence. All signs (and buildings) will be floodlit at night to ensure that any person trespassing can read and understand the warning signs at night. Together with regular patrols, security guards and dogs, the fencing proposal is likely to substantially reduce intrusion and deter persons accessing the site for various reasons at any time of the day/night. By discouraging individuals who regularly trespass onto the property will mean that the affected, local community is safer (and the risk to persons trespassing is reduced).*
3. *The electrified fence will comply with normal standards and will not provide fatal levels of electric current. Sacrificial fuses will also be used. The electrified fence will be inoperable during business hours and when people are on-site undertaking construction/redevelopment. The anticipated charge of the electrified fence will be 20,000 volts, with low amps.*
4. *The use of the electrified fence will be time limited; used during regulatory approval processes and during the construction phase until the buildings are operational (approximately 2 years). The electrified fence will require the further Approval of the City thereafter.*

5. *Given the history of the attacks and break-ins on the site, and the surrounding residents' ongoing concern with regular trespassing, the WA Police have suggested further fortification/security to reduce the level of access to the buildings on the site. The need for the proposed electrified fencing is extremely urgent in order to minimise or completely eradicate the ongoing attacks on this site which is becoming a community safety and amenity concern as well as a risk to the heritage buildings themselves. Extreme antisocial behaviour by some of these groups, which compromise the neighbouring property owners' quiet enjoyment of their properties is becoming of extreme concern. Some neighbouring property owners are becoming fearful of their safety and this is a completely unacceptable situation.*
6. *The inside of the existing buildings is very dangerous, with some areas having parts of floors missing (on upper levels), which is an obvious problem for people if they manage to break in to the buildings. The liability issues for Aegis in these circumstances are clearly untenable.*
7. *Without the electrified fencing component, the buildings will be continually targeted and attacked. Aegis has tried every reasonable avenue to discourage extreme antisocial behaviour on its site. The trespassers need to be deterred so that they do not return. Furthermore, the local community needs to feel safe. The installation of an electrified fence is the only way to secure the site properly, to enable the property to be protected from further damage and to enable the project to move forward. Otherwise the risk is that the heritage buildings will be completely destroyed or someone can be seriously hurt.*
8. *Clause 15 of the Local Law provides the City with the discretion to approve the erection of any fence which might not comply with any part of the Local Law. In this instance, the City is able to consider the merits of this Application in the extreme circumstances of the site (and the history of antisocial behaviour which has occurred).*

*The City is therefore urged to approve an electrified fence in the extreme circumstances of this site”.*

### **6.3 Administration Comment**

The City's Fencing Local Law 2007 states:

*“A licence to have and use an electrified fence shall not be issued for a lot which is or which abuts a residential lot.”*

The approved Local Area Plan for the site includes a 'Residential Building' use (aged care facility) and commercial uses for Montgomery Hall. Due to the

approved residential use, the site is not considered to be commercial. Furthermore, the subject site directly abuts 16 residential properties.

The Fencing Local Law provides Council with the general discretion to approve an application for any fence and may consider *“in addition to any other matter it is authorised to consider, whether the erection or retention of the fence would have an adverse effect on the safety or convenience of any person”*

In addition, Town Planning Scheme No.2 (TPS2) clause 5.5.1 Preservation of Amenity states:

*“...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,...or any other factor inconsistent with the use for which the lot is zoned.”*

Due to eight of the subdivided lots, within the north and south wings, having direct gatehouse entries to the subject site, it recommended that the application be advertised to adjoining landowners for comment before making these assessments under the Town Planning Scheme and Fencing Local Law, and determining this application.

## **6.4 Conclusion**

As the application is not in accordance with the City's Fencing Local Law 2007 and also needs to be considered under Clause 5.5.1 (Preservation of Amenity), it is recommended that as the application has not yet been advertised to adjoining owners for comment, it be referred back to the City's administration to be advertised to adjoining residents in accordance with Council Policy 6.4 – Neighbour Consultation.

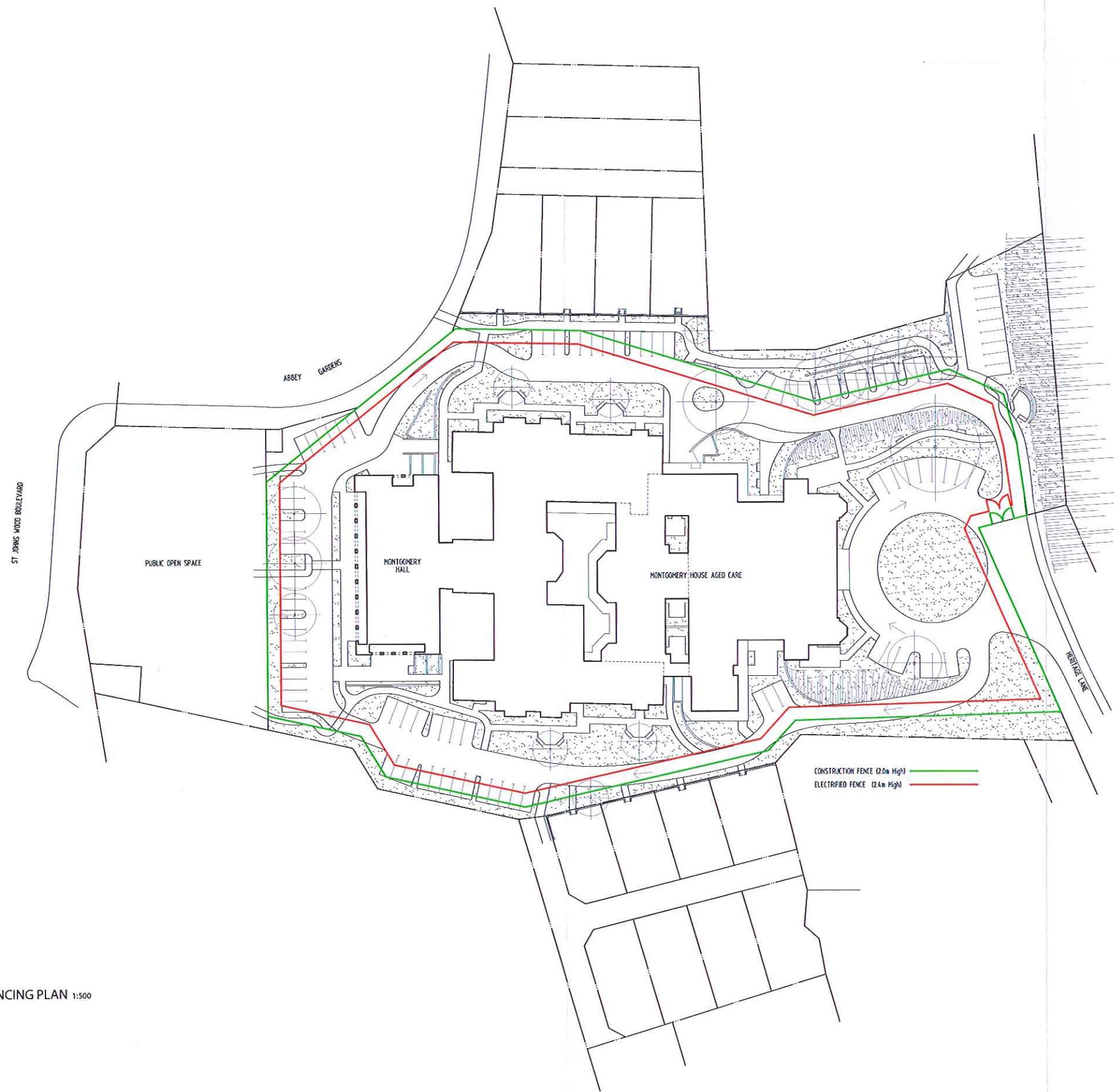
Alternatively, if Council considers that the fence will not adversely affect the neighbouring residential area and will not adversely affect the safety or convenience of any person, conditions of approval have been recommended.

## **7.0 Attachments**

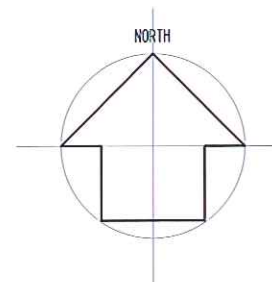
1. Fencing Plan & Details



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SITE FENCING PLAN 1:500



MONTGOMERY HOUSE AGED CARE

MONTAGUE GRANT ARCHITECTS

28/1/14