

Planning and Development Reports

Committee Consideration – 12 September 2017

Council Resolution – 26 September 2017

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Council: 26 September 2017

PD39.17	(Lot 279) No. 26 Strickland Street, Mount Claremont – Addition (Patio) to Single House
Committee	12 September 2017
Council	26 September 2017
Applicant	A Paulinovich
Landowner	C Collins
Director	Peter Mickleson – Director Planning & Development
Reference	DA2017/191
Previous Item	Nil
Delegation	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.
Attachments	1. Site photographs

1.0 Executive Summary

Development approval is being sought to construct an open sided patio addition at the subject site. The development proposes variations to the deemed-to-comply provisions of the Residential Design Codes (R-Codes) and hence the application was advertised to affected landowners with three objections received.

A variation to the open space and rear setback requirements are proposed. The addition contributes an additional 1.94% to site coverage above the maximum 40% permitted. The addition is proposed to be setback 1.5m from the rear boundary (Clematis Lane) in lieu of 4m.

It is recommended that the application be approved by Council as it is not considered that the development contributes to excessive bulk and scale as viewed from neighbouring properties, and therefore satisfies the Design Principles of the R-Codes.

2.0 Recommendation to Committee

Council approves the development application dated 18 July 2017 with amended plans dated 25 July 2017 for an Addition (Patio) to Single House at (Lot 279) No. 26 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 development approval only pertains to the proposed patio.**
- 3. All stormwater from the development, which includes permeable and non-permeable areas shall be contained onsite.**

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. 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.
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

Lot area	1012m ²
Metropolitan Region Scheme Zoning	Urban
Town Planning Scheme No. 2 Zoning	Residential – R10/20
Detailed Area Plan/Outline Development Plan	No
Controlled Development Area	No
State Heritage Listed	No
Listed in Municipal Heritage Inventory	No

The subject property is located on Strickland Street, to the north of Asquith Street. Clematis Lane is to the rear of the site. An aerial image showing the location of the property follows.



4.0 Background

A demolition permit was issued for the dwelling which existed on the property in December 2016.

A development approval was issued in March 2017 for an outbuilding and street boundary fencing.

A building permit was subsequently issued for a single dwelling on the property in May 2017. It is noted the single dwelling did not require a development approval as it was compliant with all planning legislation. The new dwelling and outbuilding are currently under construction.

5.0 Specific Application Details

The applicant seeks approval to construct an open sided patio addition at the subject site. A variation to the open space and rear setback requirements are proposed. The addition contributes an additional 1.94% to site coverage above the maximum 40% permitted. The addition is proposed to be setback 1.5m from the rear boundary (Clematis Lane) in lieu of 4m.

By way of justification in support of the development application the applicant has provided the following justification for the rear lot boundary setback and open space variations:

- The extension is proposed for storage including a boat. Access will be gained from the rear laneway.
- The size of the extension is required as the width is needed to provide a sufficient turning circle to back the boat in. The length is required to keep the boat undercover.

6.0 Consultation

The development application was advertised to affected landowners for comment due to the proposed variations. The following is a summary of the concerns raised:

- The amount of site coverage proposed being excessive.
- The extension has potential overshadowing impacts.

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 Residential Design Codes (State Planning Policy 3.1)

Deemed-to-Comply Requirement	Proposed	Complies?
For properties coded R10, the rear lot boundary setback required by Table 1 is 6m. The setback may be reduced by half the width of an adjoining right-of-way, to a maximum reduction of 2m.	The addition is setback 1.5m from the rear boundary in lieu of 4m.	No
Design Principles Variations to the deemed-to-comply requirements can be considered subject to satisfying the following Design Principle provisions: <i>“P3.1 – Buildings set back from lot boundaries so as to:</i> <ul style="list-style-type: none"> <i>• reduce impacts of building bulk on adjoining properties;</i> <i>• provide adequate direct sun and ventilation to the building and open spaces on the site and adjoining properties; and</i> <i>• minimise the extent of overlooking and resultant loss of privacy on adjoining properties.”</i> 		
Administration Comments The patio intrudes 2.5m into the 4m rear setback area for a width of 6m. There were no objections raised to the rear setback variation during the advertising period. The addition complies with side setback requirements, being setback 1.58m from the southern side boundary in lieu of 1m which is permitted. The addition is open sided and single storey with a wall height of 2.6m and ridge height of 3.92m. The proposal complies with overshadowing requirements of the R-codes. In addition, the neighbouring property to the south has mature trees adjacent to the proposed addition which will provide screening to the structure. The patio is not proposed to be raised above natural ground level and will not impact on the privacy of neighbouring properties. Considering the above, the appearance of the patio from the lot to the south is unlikely to have a significant adverse impact on their amenity. It is noted the outbuilding is fully compliant with the requirements of the R-codes and is not subject to the rear setback requirements. The property at the rear which will directly face the proposed patio only contains a drainage basin.		

Deemed-to-Comply Requirement	Proposed	Complies?
As per Table 1 R10 lots require a minimum total of 60% open space.	The patio contributes an additional 1.94% to site coverage above the maximum 40% permitted.	No
Design Principles Variations to the deemed-to-comply requirements can be considered subject to satisfying the following Design Principle provisions: <i>“P4 Development incorporates suitable open space for its context to:</i> <ul style="list-style-type: none"> <i>reflect the existing and/or desired streetscape character or as outlined under the local planning framework;</i> <i>provide access to natural sunlight for the dwelling;</i> <i>reduce building bulk on the site, consistent with the expectation of the applicable density code and/or as outlined in the local planning framework;</i> <i>provide an attractive setting for the buildings, landscape, vegetation and streetscape;</i> <i>provide opportunities for residents to use space external to the dwelling for outdoor pursuits and access within/around the site; and</i> <i>provide space for external fixtures and essential facilities.”</i> 		
Administration Comments The proposed patio will be located to the rear of the property and will not be visible from the primary street. The addition complies with the overshadowing requirements of the R-codes and is proposed to be setback a compliant distance from the southern boundary. The patio is proposed to contribute to an additional 1.94% of the site coverage, which equates to approximately 19m ² . The patio is open sided and is not considered to contribute to excessive building bulk on the site. Considering the above, the proposed variation will unlikely have a significant impact on the local amenity.		

8.0 Conclusion

The patio addition is considered to meet the relevant design principles of the R-Codes in terms of building bulk and scale and impact on the neighbouring properties given the proposed location, scale and open nature of the structure.

The proposed development is unlikely to have a significant adverse impact on the local amenity. Accordingly, it is recommended that Council approves the application.

Photo from the laneway facing west to 26 Strickland Street, Mt Claremont



Photo from the laneway (next to 21 Asquith Street) facing north to 26 Strickland Street



PD40.17 (Lot 290) No. 2 Robinson Street, Nedlands – Additions to Single House	
Committee	12 September 2017
Council	26 September 2017
Applicant	Vertical Build
Landowner	D J & N M Oddy
Director	Peter Mickleson – Director Planning & Development
Reference	DA17/145
Delegation	In accordance with Clause 6.7.1d) of the City's Instrument of Delegation, Council is required to determine the application when refusal is recommended and discretion exists for Council to approve the variations under the City's Town Planning Scheme No. 2, Council Policies and/or the Residential Design Codes.
Attachments	<ol style="list-style-type: none"> 1. Applicant's justification 2. Site photographs

1.0 Executive Summary

Development approval is being sought for additions to an existing single house, double garage, alfresco area and new secondary street fencing and rear dividing fencing.

The development proposes variations to the City's Town Planning Scheme No. 2 (TPS2), Fill and Fencing Local Planning Policy and the deemed provisions of the Residential Design Codes (R-Codes) and hence the application was advertised to affected landowners with two objections received.

It is recommended that the application be refused by Council as it is considered to not satisfy the design principles of the R-Codes for lot boundary setbacks due to excessive bulk and scale as viewed from neighbouring properties and the reduced access to sunlight for the southern neighbouring property.

2.0 Recommendation to Committee

Council refuses the development application dated 21 June 2017 with amended plans dated 29 June 2017 for additions to the single house at (Lot 290) No. 2 Robinson Street, Nedlands for the following reasons:

1. The development will adversely affect the amenity of the surrounding area as the development will have a significantly reduced rear setback, contradicting the density coding of the property and surrounding area.
2. The proposal does not satisfy the design principles stipulated under clause 5.1.3 (Lot Boundary Setback) of the Residential Design Codes as the reduced setbacks to the rear and southern side lot boundaries will adversely impact upon neighbouring properties in terms of building bulk within the rear setback area and reduced access to northern sun for the southern neighbouring property.
3. The proposal does not satisfy provisions (m), (n) and (s) of Clause 67 within the *Planning and Development (Local Planning Schemes) Regulations 2015*, as the appearance of the development with reduced setbacks to the side and rear lot boundaries is incompatible with the low-density coding of the locality and will negatively impact the character and the amenity of the locality and neighbouring properties.
4. A 1.5m rear setback for a dwelling on an R15 property does not represent orderly and proper planning of the City and conflicts with cl. 6.5.1 of Town Planning Scheme No. 2.

Advice Note specific to this refusal:

1. The aspects of the proposed additions which comply with the City's Town Planning Scheme No. 2 and the deemed to comply provisions of the Residential Design Codes (such as the alfresco and garage) do not require development approval and therefore the applicant may elect to proceed to lodge a building permit for this aspect of the application only.

3.0 Site Details

Lot area	696m ²
Metropolitan Region Scheme Zoning	Urban
Town Planning Scheme No. 2 Zoning	Residential – R15
Detailed Area Plan/Outline Development Plan	No
Controlled Development Area	No
State Heritage Listed	No
Listed in Municipal Heritage Inventory	No

The subject property is located on the corner of Robinson Street and Carrington Street, with the topography being relatively flat. There are on-street car parking bays within the Carrington Street verge adjacent to the subject property and commercial properties zoned light industry are on the opposite side of Carrington Street.

An aerial image showing the location of the property follows.



4.0 Specific Application Details

The applicant seeks approval for additions to the existing single house, details of which are as follows:

- Single storey additions to the rear of the existing dwelling for a games room, study, bedroom and bathroom with no internal access from the main dwelling;
- A double garage at the rear of the property with new access to Carrington Street;
- An alfresco area between the existing and proposed portions of the dwelling; and
- New secondary street boundary and over-height rear boundary fencing.

By way of justification in support of the development application the applicant has provided a design principle justification for the proposed variations which has been provided as an attachment to this report (Refer to Attachment 1).

5.0 Consultation

The development application was advertised to affected landowners for comment for the following variations:

- The additions are proposed to be setback 1.5m in lieu of 6m to the eastern rear lot boundary.
- The additions are proposed to be setback 1.5m in lieu of 5m to the southern side lot boundary.
- Street Fencing – the secondary street fence is proposed to be 2.1m in height in lieu of a maximum of 1.8m above natural ground level.
- Dividing fencing – the eastern rear dividing fencing is proposed to be 2.1m in lieu of 1.8m in height above natural ground level.

Two objections were received following neighbour consultation. The following is a summary of the concerns raised:

- Southern setback variation:
 - *“The proposed extension creates a significant impact on the solar access to our property, particularly winter sun access into our main living area.”*
 - *“Due to the existing fencing height being lower than shown on the elevations, the height of the FFL will allow overlooking from the games room and bedroom into our outdoor living area and pool. We request the windows are fixed obscured or raised 1.6m above the FFL.”*
- Rear setback variation:
 - *“We think building 1.5m from the rear boundary is too close and will deleteriously affect the amenity of our block and its value.”*
 - *“We would agree to a setback of 4 metres from the rear boundary.”*
 - *“The extension disproportionally impacts our amenity with the length and bulk proposed and hence the reduced rear setback is not supported.”*
- Secondary street fencing:
 - *“The fencing to the secondary street should be wood pickets to match the existing front fence.”*

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) 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 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 design of the rear building addition with no internal access from the main dwelling and space to provide kitchen facilities in the future, raises concern that the additions are intended to be used for ancillary accommodation, short term accommodation or as a separate dwelling.

Although the applicant has provided a statutory declaration that the additions are not proposed to be used as ancillary accommodation, they have stated that they intend to use the additions for their teenage children in the future with external access only to provide a level of independence from the main dwelling which is consistent intention of ancillary accommodation. The City therefore recommends that if the proposal is approved by Council that there are conditions to ensure the rear additions are not used for ancillary accommodation or short stay accommodation or as a separate dwelling without further planning approval.

The rear setback is required to be 6m with only incidental structures such as outbuildings and below ground swimming pools permitted within this rear setback area. The majority of properties within the locality have provided this 6m rear setback and hence permitting a variation to the rear setback of 1.5m in lieu of 6m will create an undesirable precedent allowing development within the 6m rear setback area, conflicting with the existing and intended low density development context of the locality.

6.3 Residential Design Codes (State Planning Policy 3.1)

6.3.1 Lot boundary setbacks

Deemed-to-Comply Requirement	Proposed	Complies?
For properties coded R15, the rear lot boundary setback required is 6m in Table 1	1.5m in lieu of 6m to the rear lot boundary	No
Buildings are to be setback from the lot boundaries in accordance with figure series 2a and 2b	1.5m in lieu of 5m to the southern side lot boundary	No
Design Principles Variations to the deemed-to-comply requirements can be considered subject to satisfying the following Design Principle provisions: <i>“P3.1 – Buildings set back from lot boundaries so as to:</i> <ul style="list-style-type: none"> <i>• reduce impacts of building bulk on adjoining properties;</i> <i>• provide adequate direct sun and ventilation to the building and open spaces on the site and adjoining properties; and</i> <i>• minimise the extent of overlooking and resultant loss of privacy on adjoining properties.”</i> 		
Administration Comments The reduced southern side setback is for the whole portion of the southern lot boundary bar the existing front setback and rear 1.5m setback proposed. This will contribute to building bulk and given the presence of major openings and raised FFL above natural ground level, will not minimise the resultant loss of privacy to the neighbour’s outdoor living area adjacent. Additionally, the neighbouring landowner impacted is to the south and although the amount of overshadowing proposed is compliant with the overshadowing requirements of the R-Codes, there still will be a larger percentage of the rear yard overshadowed than if the southern setback provided was compliant. The rear setback variation does not contribute to the prevailing development context of the locality which is to have the dwellings setback 6m from the rear lot boundary with only minor outbuilding type structures within the rear setback. The reduced rear setback contributes to the impact of building bulk as viewed from the southern neighbour and the rear neighbour with a larger setback being provided allowing greater access to northern sun for the southern neighbour and greater perceived privacy of the rear yard areas for neighbouring residents.		

6.4 Local Planning Policy – Fill and Fencing

Policy Requirement	Proposed	Complies?
Secondary street fencing is permitted to be solid up to 1.8m and piers can be 2.1m in height.	The secondary street fencing has a maximum height of 2.1m in lieu of 1.8m above natural ground level.	No
Policy Objectives The following objectives are stipulated under the Policy: <i>“The City values the protection of the quality of the streetscape and the amenity of owners and occupants by minimising visual impact of fill and/or fencing whilst allowing for adequate surveillance of public spaces.”</i>		

Administration Comments

The landowners have requested additional height to the secondary street fencing due to noise from deliveries to the commercial properties on the other side of Carrington Street. The material of construction being Colorbond is not ideal for ameliorating the impact of noise and it is not known if the additional height will reduce the impact of noise, however the height is consistent with a portion of the existing fencing along Carrington Street and will provide additional privacy to the property considering the higher volumes of pedestrian and vehicle traffic along Carrington Street.

Policy Requirement	Proposed	Complies?
Dividing fencing to be 1.8m above the natural ground level, approved level or deemed to comply level.	Dividing fencing to eastern rear lot boundary is proposed to be 2.1m above natural ground level.	No

Policy Objectives

The following objectives are stipulated under the Policy:

“The City values the protection of the quality of the streetscape and the amenity of owners and occupants by minimising visual impact of fill and/or fencing whilst allowing for adequate surveillance of public spaces.”

Administration Comments

The applicant has provided an over-height dividing fence agreement signed by the eastern rear neighbouring landowner. The additional height will provide privacy between the properties and will not be visible from the streetscape.

7.0 Other Issues Raised

7.1 Potential use

Concerns were also raised that the proposed addition could be used as ancillary accommodation.

The City concurs with this and therefore should Council elect to approve this application, the alternate officer recommendation includes a condition not to use the additions for ancillary accommodation or short stay accommodation without further planning approval being obtained.

7.2 Potential impact on easement

During the consultation period concerns were also raised that the additions will impact the rear sewer line.

The applicant has advised that they have provided the minimum setback permitted to ensure there will be no building or footings within the building exclusion zone to the water corporation sewer infrastructure. The foundations would need to be certified by a structural engineer from the Water Corporations pre-qualified engineering consultant list as part of the building permit application if planning approval was granted.

8.0 Conclusion

The reduced eastern rear and southern side lot boundary setbacks will have a negative impact on the amenity of adjoining properties due to the bulk and scale.

An ample amount of space is available for the setbacks to be increased and still ensure plenty of habitable space for the living areas of the dwelling and increase the amount of outdoor living area available on the property. Accordingly, 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 received 20 June 2017 with amended plans dated 29 June 2017 for Additions to Single House at (Lot 290) No. 2 Robinson Street, Nedlands, subject to the following conditions and advice:

1. The development shall at all times comply with the application and the approved plans, subject to any modifications required as a consequence of any condition(s) of this approval.
2. This development approval only pertains to the dwelling additions, secondary street fencing and over height dividing fencing to the rear lot boundary.
3. The additions to the rear of the existing dwelling shall not be used for ancillary accommodation or short stay accommodation without further planning approval being obtained.
4. All footings and structures to fences shall be constructed wholly inside the site boundaries of the Certificate of Title.
5. The south facing windows to the proposed games, study and bedroom shall be either fixed obscure or located 1.6m above the finished floor level of the additions.
6. All fencing, visual privacy screens and obscure glass panels to Major Openings and/or Active Habitable Spaces, as shown on the approved plans, shall prevent overlooking in accordance with the visual privacy requirements of the *Residential Design Codes 2015*. The fencing, visual privacy screens and obscure glass panels shall be installed and remain in place permanently, unless otherwise approved by the City.
7. All stormwater from the development, which includes permeable and non-permeable areas, shall be contained onsite.

Advice Notes specific to this approval:

1. Any construction in the verge will require a Nature-Strip Development Application (NSDA) to be lodged with, and approved by, the City's Engineering section, prior to construction.

2. The crossover to the street shall be constructed to the Council's Crossover Specifications and the applicant / landowner to obtain levels for crossovers from the Council's Infrastructure Services under supervision onsite, prior to commencement of works.
3. The redundant crossover(s) shall be removed and the nature-strip (verge) reinstated to the City's satisfaction
4. The concrete footpath shall be retained across the proposed crossover.
5. All street tree assets in the nature-strip (verge) shall not be removed.
6. All internal water closets and ensuites without fixed or permanent window access to outside air or which open onto a hall, passage, hobby or staircase, shall be serviced by a mechanical ventilation exhaust system which is ducted to outside air, with a minimum rate of air change equal to or greater than 25 litres / second.
7. 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. 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.
8. The landowner is advised that all mechanical equipment (e.g. air-conditioner, swimming pool or spa) is required to comply with the *Environmental Protection (Noise) Regulations 1997*, in relation to noise.
9. 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 2nd 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 10m² of ACM or any amount of friable ACM to be removed, it shall be removed by a Work-safe licensed and trained individual or business.

10. 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.

8th August 2017

The City of Nedlands 71 Stirling Highway

Nedlands, W.A. 6009

ATTENTION: KATE BAINBRIDGE

Dear Kate,

RE: OUTCOME OF PUBLIC CONSULTATION

Thank you for your email with the details of the outcome of the neighbour consultation. In response to the R-Code variation items see the responses provided on the 19th June and 29th June 2017.

- Southern side setback of 1.5m in lieu of 5m – The original home on the site which is being retained has a wall height as measured in accordance with the Residential Design Codes Figure Series 3 of approximately 3.8m at its highest point relative to the existing ground levels. The owner's intent is for a single level home that respects the age and character of this original portion by having the addition as a single storey and matching the existing detail of the roof height, pitch and overhang. This results in a wall height that exceeds that allowed for the proposed 1.5m setback to the south side of the home as some of the new rooms have major openings to habitable rooms.

The habitable rooms are a Bedroom and Study which should not be considered as a potential source of significant noise, which is one of the Codes reasons for requiring a greater setback. Another reason is the possibility of overlooking that could result in a loss of privacy to the adjoining site. Again, these rooms will be used less frequently than a living space and predominantly at night time for sleeping and study purposes whereby the occupant is either laying down or seated, reducing the likelihood and frequency of overlooking. If anything, being used mostly at night could result in the issue of privacy being reversed with clear visibility into the home when the lights are on and if the window treatments aren't drawn.

Also, the habitable rooms of the proposed extension are located toward the rear of the site and are not adjacent to any portion of the adjoining home, lessening the impact they might have especially given their intended use. The adjoining home is a relatively new build and therefore less likely to be altered and change

the relationship between the two sites.

It is also worth noting that with the orientation of the block, having a compliant setback of 5m would significantly reduce the outdoor space on the preferred northern side and reduce the ability to take advantage of its solar access. Having a significant open portion of the site on the south could also result in this space being used for more active pursuits than that being proposed and which would more likely affect the amenity of the adjacent home.

- **Rear Boundary Setback** - The proposal has the rear boundary setback at 1.5m in lieu of 6m. The design is for a single storey addition which is more in keeping with the original dwellings in the area and reinforces the existing streetscape rather than imposing a second floor which changes the character of the existing home. In providing the amenity that is required by way of the number and type of rooms as well as an associated outdoor living area (that is expected these days), and with a block size of 696m², this has resulted in the need to encroach into the rear setback area. The setback being proposed is equal to the required side boundary setback of 1.5m on the south side based on this wall's length and height. The closest part of the extension to the rear boundary is a Bedroom and there are no openings in the wall that would cause issues of overlooking or loss of aural privacy to the adjoining property. Similarly, the rooms with openings facing south are either Bedrooms (which face onto the garden of the adjoining property and not the house itself) or a Kitchen where the head of the window is at 1.5m above the finished floor level and below the top of the 1.8m high dividing fence. Also, due to the orientation of the block with its long side facing north, and this being a single level extension, there will also be no overshadowing of the adjacent homes to the south or east. Therefore, there is no loss of visual or acoustic amenity to either property.
- **North and East Boundary Fence Height** – The design proposes having the north and east boundary fences installed at 2.1m high instead of 1.8m. As the site is a corner block there are no adjacent properties on the north boundary, only commercial properties on the other side of Carrington St. There is also a public footpath that runs parallel to and adjacent to the fence line. As the outdoor living space is on the north side of the home to maximise the benefits of solar orientation, in order to provide sufficient privacy and safety from passing pedestrians to this area, an increased fence height is proposed. The additional height will also assist in reflecting the noise of passing traffic as well as that generated by the nature of the businesses over the road. Also, the existing

boundary fence of the house to the east is currently installed at 2.1m high.

For the rear boundary, as the topography of the land rises to the east to the adjacent house, which is set at the front of its block, resulting in it being elevated thus allowing the rooms at the rear of the home to overlook this property. Also, there is already a substantial garden adjacent to the fence on the adjacent property which provides screening above the proposed 2.1m height. The fence will also reduce the apparent height of the wall of the addition and be more in proportion to it as well as tying in to the higher fences along Carrington Street.

With regard to the other items that were raised.

- Secondary street fencing being Colorbond – the R-Codes Explanatory Guidelines 2.3.1 Principles of Consultation note that 'applications for neighbour comment should clearly indicate the particular aspects of the proposal requiring comment, and restrict comment to those matters only'. As the non-compliant item is for the height of the fence only, any comment on the material selection should therefore not be taken into account. In addition, the TPS and R-Codes do not stipulate the construction materials of fences. However, Explanatory Notes 5.2.2 does refer to fencing being 'designed to complement the design of other fencing in the street'. The home's existing fencing materials are a combination of Colorbond and timber lap panels. The northern boundary fence to the adjacent property at 1 Weld St is all Colorbond and is the same height as the proposed 2.1m fence. Further to the west along Carrington St the fence materials vary including Colorbond, painted concrete block, rendered masonry, limestone and brick piers with open infill spiers. There are no fences on the opposite side of Carrington St as these are all commercial premises. Due to the variance in materials along the street, and given that the immediately adjacent property has a Colorbond fence, it would be reasonable for the proposed fence to also be constructed of Colorbond.
- The owners have signed Statutory Declarations to the effect that the proposed additions will not be used as Ancillary or Short Stay Accommodation so this item has been addressed.
- There is no connection between the existing home and the proposed addition so as to provide separation in the accommodation for the owner's children as they transition to being teenagers thus providing them with a degree of independence and privacy. I would also note that at our meeting on the 2nd May 2017 you verbally advised that a connection was not required. In addition, since the covered

Alfresco is being included in the site coverage calculation as habitable space there should therefore be no reason for it not to be considered as the link between the two sections of the home.

- Reduced eastern side boundary setback impacting the existing sewer line – the Water Corporation allows construction close to their assets providing that the foundations to the building aren't within the nominated building restriction zone, the foundations extend below the zone of influence and that 2.4m vertical clearance is provided over the asset for the width of the building restriction zone. The foundations also need to be designed by a suitably qualified Structural Engineer from the Water Corporations pre-qualified Engineering Consultant's list. These items will be adhered to and addressed in the Building License application.

I trust that the information provided will allow you to consider and balance the comments with your technical opinion such that the proposal can be approved under delegated authority.

Please let me know if you require anything further.

A handwritten signature in dark ink, appearing to read 'Brett Chandler', with a stylized flourish at the end.

Brett Chandler

E: brett.chandler@iinet.net.au

M: 0481 349 069

Photograph of Existing Dwelling from Robinson Street



Photograph of Existing Secondary Street fencing to be replaced



Photographs of area where additions are proposed



PD41.17	(Lot 2) No. 14B Knutsford Street, Swanbourne – Proposed Over Height Fencing (Retrospective)
Committee	12 September 2017
Council	26 September 2017
Applicant	Mr A J & Mrs K A Green
Owner	Mr A J & Mrs K A Green
Director	Peter Mickleson – Director Planning & Development
Reference	DA2017/233
Delegation	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.
Attachments	1. Site photographs

1.0 Executive Summary

Retrospective development approval is being sought for over height fencing to remain adjacent to the subject property's western (side) lot boundary. The existence of which the City became aware of as a consequence of concerns being received.

The fencing is up to 1.98m in height above natural ground level in lieu of 1.8m and was therefore advertised for comment. An objection was received during the advertising period.

It is recommended that the application be approved by Council as it is up deemed to satisfy the objectives of Council's Fill and Fencing Local Planning Policy (Fencing LPP) as it is not having a significant adverse impact on the local amenity.

2.0 Recommendation to Committee

Council approves the retrospective development application for the over height fencing which exists at (Lot 2) No. 14B Knutsford Street, Swanbourne, subject to the following conditions and advice:

- 1. The development shall at all times comply with the approved plans.**
- 2. This development approval only pertains to the over height fencing which exists adjacent to the property's western (side) lot boundary.**

Advice Notes specific to this approval:

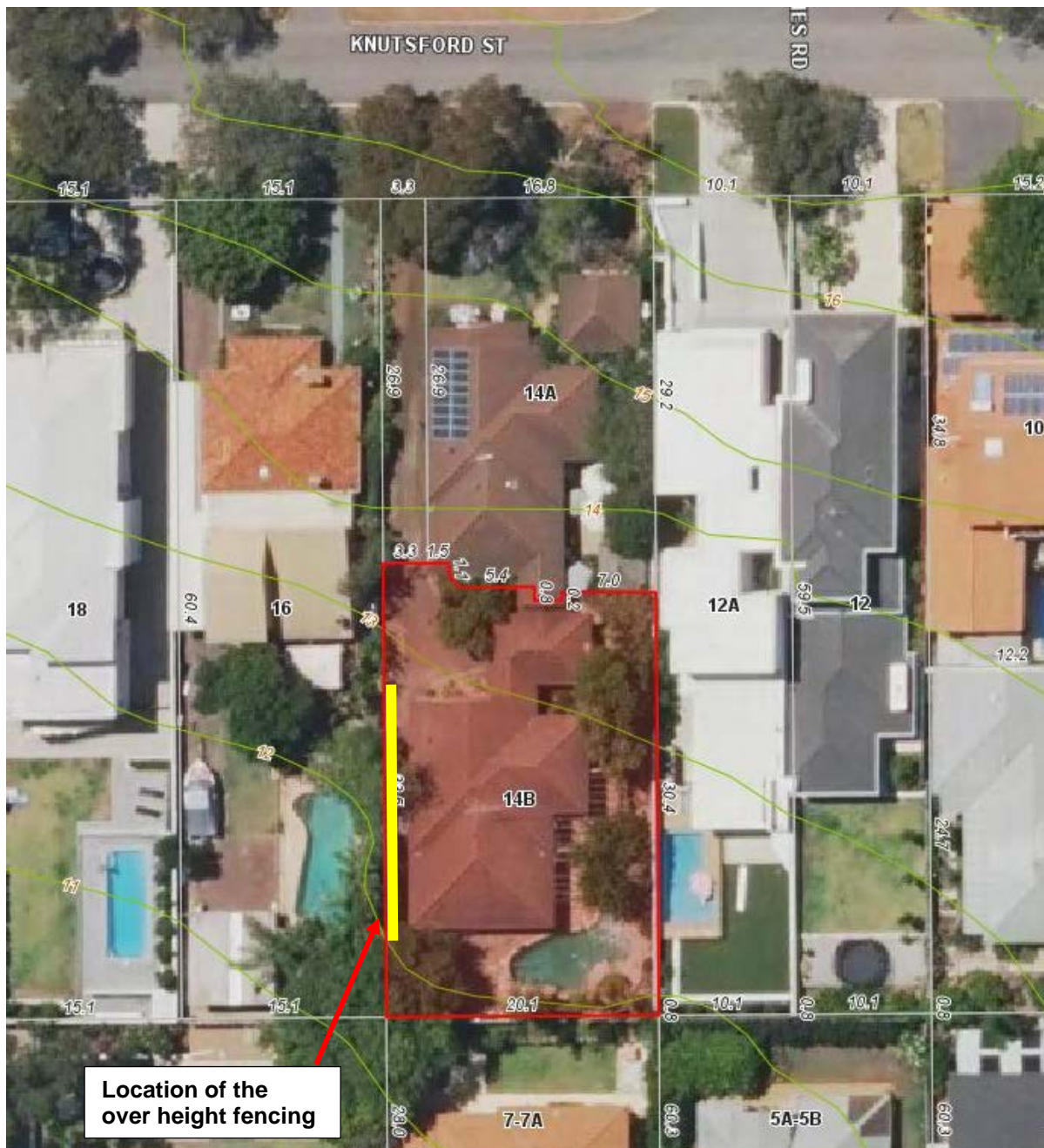
- 1. A separate development application is required to be submitted to and approved by the City prior to erecting any further fencing behind the street setback area which is more than 1.8m in height above natural ground level.**

3.0 Site Details

Lot area	641m ²
Metropolitan Region Scheme Zoning	Urban
Town Planning Scheme No. 2 Zoning	Residential R25
Detailed Area Plan/Outline Development Plan	No
Controlled Development Area	No
State Heritage Listed	No
Listed in Municipal Heritage Inventory	No

The subject property and those nearby contain single dwellings and associated outbuildings.

The subject property's topography slopes from the north east to the south west as shown on the locality plan on the following page.



4.0 Specific Application Details

The applicant seeks retrospective development approval for existing over height solid fencing to remain adjacent to their property's western (side) lot boundary.

The fencing is approximately setback 0.6m from the lot boundary with 16 Knutsford Street.

The fencing is between 1.7m and 1.98m in height above natural ground level due to the topography of the land.

5.0 Consultation

An objection was received during the advertising period. The following is a summary of the concerns raised:

- The fencing being erected without their agreement.
- Fill which was placed on 14B Knutsford Street whilst the existing dwelling was being constructed allegedly causing the submitter's fencing to become unstable.
- The height of the fencing being imposing.

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

"In January of 2017 while doing minor renovations to the inside of our new home it became clear to us that the existing boundary fence between our property and 16 Knutsford Street was unsafe and needed to be repaired/rebuilt."

"Existing asbestos boundary fencing on the boundary is breaking away and cracked in certain areas causing both a health risk and again easy access into our neighbour's property for both our toddler and dog."

Note: A full copy of all relevant consultation feedback and the applicant's justification 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 addition to this, under clause 5.6.4 of TPS 2 Council may refuse to approve a fence higher than 1.8m above natural ground level if:

“in the opinion of the Council such additional height would adversely affect the amenity of the occupants of the adjoining lot.”

Solid fencing of up to 1.98m in height above natural ground level exists adjacent to the western (side) boundary of 14B Knutsford Street, meaning that some sections of it are 18cm higher than what is permitted under the Fencing LPP.

The height is as a consequence of the land’s topography which slopes towards where the fencing exists.

The height of the fencing appears higher due to the finished ground level of the adjoining property (16 Knutsford Street) being up to 0.5m lower than 14B Knutsford Street.

Taking the above into consideration, the fencing which exists is not deemed to be having a significant adverse impact on the local amenity.

6.3 Fill and Fencing Local Planning Policy

Policy Clause	Assessment Comment	Complies
<p>4.0 Fencing Height Requirements</p> <p><i>Dividing fences behind the street setback area shall have a maximum height of 1.8m above any approved or deemed-to-comply fill or retaining under the R-Codes.</i></p>	Colorbond fencing exists behind the street setback area which is up to 1.98m in height above the natural ground level.	No
<p>7.0 Material Requirements</p> <p><i>Each of the following is acceptable material for a fence on a Residential lot:</i></p> <ul style="list-style-type: none"> a) <i>A timber fence (consisting of pickets or overlapping panels); or</i> b) <i>A fence constructed of corrugated reinforced cement sheeting; or</i> c) <i>A fence constructed of masonry, stone or concrete;</i> d) <i>A metal panel fence; or</i> e) <i>A wrought iron fence.</i> 	Metal (Colorbond) fencing has been erected.	Yes
<p>Policy Objective</p> <p>To outline the City’s requirements with regard to the minimum standard of fencing to ensure that the amenity of neighbouring properties and the streetscape is maintained.</p>		

Administration Comments

As mentioned in section 6.2.1 of this report, the fencing which exists is 18cm higher than what is permitted. The topography and the finished ground levels of the land makes the fencing appear higher than this.

The fencing is deemed to not be having a significant adverse impact on the local amenity due to its location and appearance.

7.0 Other Matters of Concern

During the advertising period concerns were received regarding fill allegedly causing fencing on 16 Knutsford Street to become unstable.

During inspections carried out by the City no unstable fencing was observed. Refer to Attachment 2 which shows photographs of the fencing on 14B and 16 Knutsford Street.

8.0 Budget / Financial Implications

Should Council refuse the application, there may be costs incurred through an appeal of Council's decision.

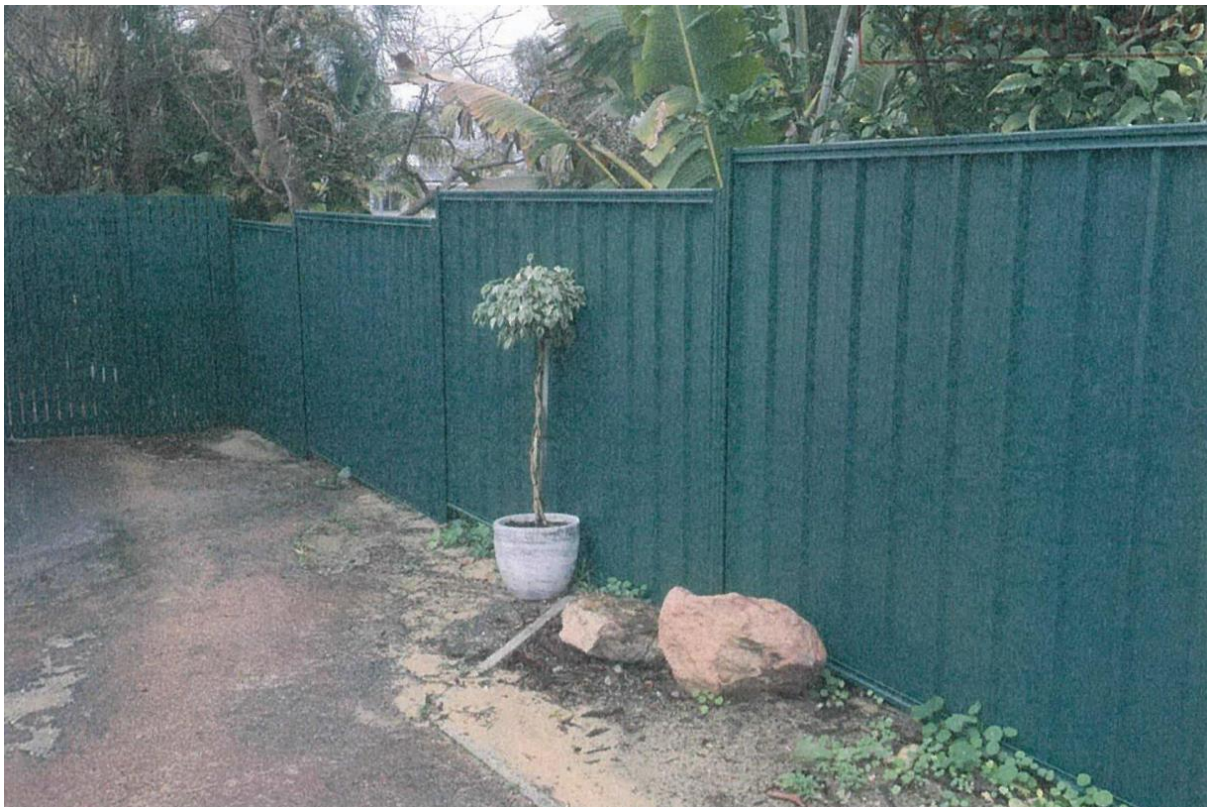
9.0 Conclusion

The appearance and location of the fencing means that it does not have a significant adverse impact on the amenity of nearby residents.

If it was not for the topography of the land behind the street setback area the fencing concerned would most likely be a compliant height.

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

Photographs of the over height fencing taken on 14B Knutsford Street



Fencing adjacent to 14B and 16 Knutsford Street



16 Knutsford Street

14B Knutsford Street

20/06/2017

PD42.17	Scheme Amendment No. 208 – Bedbrook Place, Shenton Park
Committee	12 September 2017
Council	26 September 2017
Applicant	TPG Town Planning, Urban Design and Heritage
Owner	Various
Director	Peter Mickleson – Director Planning & Development
Previous Item	PD24.16 – May 2016 PD49.16 – October 2016
Attachments	1. Proposed Schedule V 2. Scheme Amendment Report

1.0 Executive Summary

The purpose of this report is for Council to consider adopting an amendment to Town Planning Scheme No. 2 (TPS2). The amendment proposes to rezone properties in the vicinity of Bedbrook Place, Shenton Park in response to the recent approval of *Metropolitan Region Scheme Amendment 1311/57 – Bedbrook Place, Shenton Park* (MRS Amendment 1311/57).

The finalisation of MRS Amendment 1311/57 has resulted in the sites subject to this proposed amendment to have no zone or reservation under TPS2. As a result, the development controls of TPS2 cannot be applied and landowners have no certainty as to how their (or adjoining) land may be developed.

Progressing an amendment to TPS2 to apply a ‘Special Use’ zone and appropriate provisions to the subject lots is acknowledged as reactive planning. The area would ideally be subject to a more comprehensive planning process in the near future, as identified in the Local Planning Strategy. However, rectifying the no zone anomaly in this manner is not considered to prejudice the progression of Local Planning Scheme No. 3 (LPS3) or the comprehensive planning of the wider Shenton Park area in the future.

2.0 Recommendation to Committee

Council:

1. Pursuant to section 75 of the *Planning and Development Act 2005* adopts Scheme Amendment No. 208 to amend Town Planning Scheme No. 2 as detailed in Attachment 1 – Proposed Schedule V and in accordance with section 37(1) proceed to advertise with the following modifications:
 - a) Modify clause i) for Lots 12830, 12829, 11329, 10024 and 9722 Bedbrook Place and Lot 11605 Lemnos Street, to the following:
“i) All development standards, with the exception of Clause 5.11 (Maximum Building Height), shall be in accordance with the requirements of the ‘Office/Showroom’ zone.”
 - b) Modify clause ii) for Lots 12830, 12829 and 11329 Bedbrook Place and Lot 11605 Lemnos Street, to the following:
“ii) Uses applicable to the Special Use zone shall be in accordance with Table I – Use Class Table, Column 4, with the exception of a Caretakers Dwelling which is ‘X’.”
 - c) Delete clause iii) for Lots 10024 and 9722 Bedbrook Place.
2. In accordance with *Planning and Development (Local Planning Schemes) Regulations 2015* section 35(2) is of the opinion that the amendment is a Complex Amendment for the following reason:
 - a) The amendment is not consistent with a local planning strategy for the scheme that has been endorsed by the Commission.

3.0 Strategic Community Plan

KFA: Natural and Built Environment

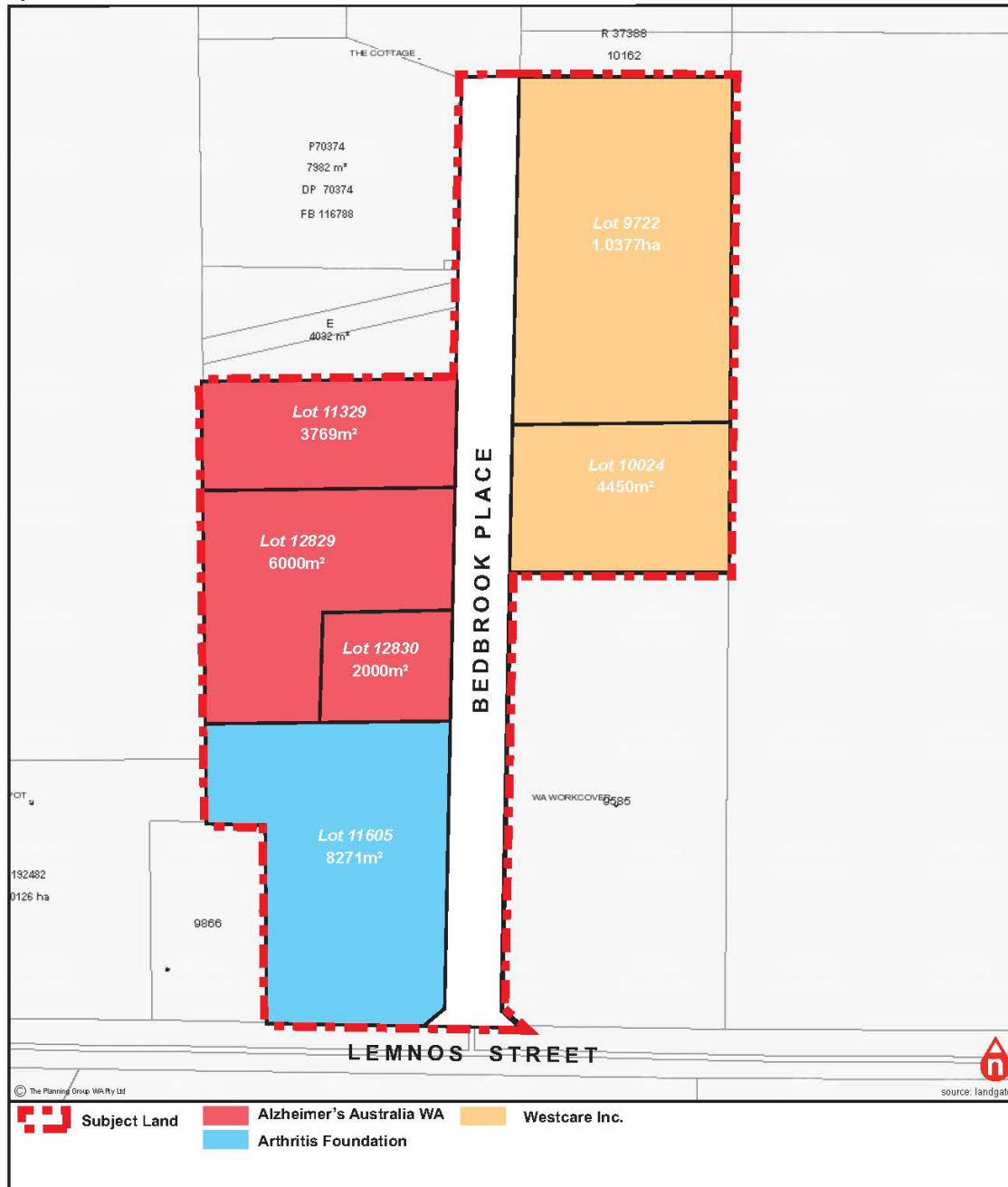
The proposed scheme amendment concerns the Natural and Built Environment in regard to amending the controls set out in TPS2. This will affect land use planning, development approvals, streetscape and compliance.

4.0 Site Details

According to the State-wide Bushfire Mapping produced by the DFES the lots fall within a Bushfire Prone Area.

Lots 11329, 11605, 12829 and 12830 on the western side of Bedbrook Place fall within the Subiaco Wastewater Treatment Plant odour buffer.

Lot	Lot area	Address	Proprietor	MRS Zoning
11329	3769 m ²	9 Bedbrook Place	Alzheimer's Australia WA Ltd	Urban
12829	6000 m ²	7 Bedbrook Place	Alzheimer's Australia WA Ltd	Urban
12830	2000 m ²	5 Bedbrook Place	Alzheimer's Australia WA Ltd	Urban
11605	8271 m ²	17 Lemnos Street	Arthritis Foundation of WA Inc.	Urban
10024	4479 m ²	4 Bedbrook Place	Westcare Inc.	Urban
9722	10277 m ²	6 Bedbrook Place	Westcare Inc.	Urban



5.0 Background

Until recently, the subject lots were reserved 'Public Purpose' under the MRS. The reservation designations did not reflect the actual use of the sites.

In June 2015, a proposed MRS amendment to rezone the subject sites 'Urban' under the MRS was lodged with the Department of Planning.

In February 2016, a proposed scheme amendment to TPS 2 to zone the subject sites 'Special Use' was lodged with the City of Nedlands.

The applicant intended the TPS2 amendment to run parallel with the proposed MRS amendment.

In May 2016, Council considered the proposed scheme amendment to TPS2 and resolved not to proceed with the amendment.

At that point in time, the final draft Local Planning Strategy (after community consultation) had not been considered by Council and the draft LPS3 was actively being prepared by Administration. Also, the associated MRS amendment had not yet been referred to the City for comment.

In October 2016, Council provided comment on the proposed MRS amendment to rezone the subject lots 'Urban'. Council resolved the following;

"Council advises the Western Australian Planning Commission that it:

- a) supports the proposal to rezone Lots 9722, 10024, 11329, 11605, 12829 and 12830 Bedbrook Place and Lot 11605 Lemnos Street from Public Purpose (Hospital/Water Authority) to Urban; and*
- b) requests a concurrent amendment to Town Planning Scheme No. 2, to zone Lots 9722, 10024, 11329, 11605, 12829 and 12830 Bedbrook Place and Lot 11605 Lemnos Street to 'Development', to reflect the need for more detailed planning of the area to occur."*

In May 2017, the MRS amendment was approved and took effect. The Western Australian Planning Commission did not support the request to concurrently rezone the subject lots 'Development' under TPS2. As a result, the subject lots are now zoned 'Urban' under the MRS and have no zone or reservation under TPS2.

6.0 Amendment Details

Following the approval of the MRS amendment, the applicant requested the City reconsider the proposed scheme amendment to TPS2 in light of the resultant 'no zone' subject lots. The TPS2 amendment considered in this report is the same as the TPS2 amendment considered in May 2016. Note that parts of the TPS2 amendment refer also to the MRS amendment that has now been finalised.

The TPS2 amendment proposes to:

- a) Rezone Lots 12830, 12829, 11329, 10024 and 9722 Bedbrook Place, and Lot 11605 Lemnos Street, Shenton Park, to Special Use; and
- b) Amend Schedule V – Special Use zone to include various permitted uses and provisions that would apply to the subject lots.

Refer to Proposed Schedule V (Attachment 1) for the text to be inserted into TPS 2, Schedule V – Special Use zone (as proposed by the applicant).

The provisions proposed under Schedule V would allow for:

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

The proposed text also includes direct reference to the wastewater treatment plant odour buffer and incompatible (sensitive) land uses.

In support of the proposed amendment, the applicant has provided a Scheme Amendment Report (Attachment 2). The applicant has summarised the justification for the proposed amendment as follows;

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

- *The 'Public Purpose - Hospital' reservation does not accurately reflect the existing landownership (being a mix of non-government agencies) and current development on the subject land (being a mix of residential, office, commercial and health related services);*
- *The proposed rezoning will reconcile the difference between the planning intent for 'Public Purpose' reserves under the MRS and TPS2 and the nature of the specific landownership and existing land uses at the subject site, with the subject land currently accommodating a mix of residential, office, commercial and health related land uses that are more closely aligned with the intent of the 'Urban' zone under the MRS and 'Special Use' zone under TPS2;*
- *The proposed amendment is considered straightforward, and its principal affect will be to more accurately reflect the landownership and current use of the subject land, as the proposal seeks to rectify the situation whereby the land is reserved for a purpose which is not likely to occur on the sites;*

- *The subject land is predominantly developed, and therefore any future development on the sites under the 'Special Use' zone will be small in scale and is not likely to have a significant impact on the environment, the functioning of service infrastructure in the area, or the general amenity of the locality; and*
- *The proposed scheme amendment will meet the requirements of the Water Corporation whilst also meeting the expectations of Alzheimer's Australia WA and the Arthritis Foundation of WA."*

7.0 Discussion

7.1 Metropolitan Region Scheme

In the documentation provided to the City as part of the MRS amendment finalisation, the WAPC note that an amendment to TPS2 is required. While it is agreed that it is not preferable to have areas with no zone or reserve under TPS2, this situation is not 'in conflict' with the 'Urban' MRS zone.

One of the main themes in the applicant's justification for the proposed scheme amendment to TPS2 is that the previous MRS Reserve designation was not reflective of the current and future use of the subject sites. This has now been resolved by the finalisation of the MRS amendment.

It is now the resultant lack of certainty, brought about by having no zone under TPS2, that emerges as the main issue requiring resolution.

The City did request a concurrent TPS2 amendment be progressed with the MRS amendment, to zone the subject sites 'Development'. This was not supported by the Western Australian Planning Commission due to advice from the Water Corporation that a 'Development' zone did not prevent sensitive uses being established in the Wastewater Treatment Plant odour buffer.

7.2 Impact of No Zone or Reservation

Land without a zoning still requires a Development Application as per the *Planning and Development (Local Planning Schemes) Regulations 2015 Deemed Provisions Part 7 (Requirement for Development Approval)*, however the complication arises in that there are no TPS2 controls that apply.

Firstly, the Use Class Table, which controls the permissible land uses in each zone, cannot be applied to land without a TPS2 zoning. The City would have no TPS2 controls to refuse an application based on land use.

Part 5 of TPS2 contains the General Provisions, which only applies to zoned land. Land which has no zone falls outside of this control and the City cannot implement any development standards. Importantly Part 5 contains the following clauses which cannot be implemented:

- cl. 5.4 Standards for development in other than Residential zones
- Table II Commercial and Industrial zones – other than Residential zones
- Table III Land Permitted for Additional Uses
- cl. 5.5 Preservation of Amenity
- cl. 5.11 Maximum Building Height
- Schedule III Carparking Requirements

If an application was submitted which would seek greater development than would be permitted under TPS2, the City would have no reasonable statutory planning grounds to refuse the application. The draft Local Planning Strategy is the only local planning document which provides any form of guidance to assist the City in decision making on any application lodged on this land.

Clause 67 of the Deemed Provisions provides a list of matters to be considered by local government when considering an application for development approval. When assessing any development application, the City is to have 'due regard' to these as relevant. The issue with relying on this provision of the Deemed Provisions is the subjectivity of what constitutes 'due regard' and the relevance of each matter to the development proposed.

Importantly, applications which meet the JDAP criteria may be lodged and progress through the JDAP process. In these instances, Council would not be the determining authority. Given that there would be no TPS2 controls to assess an application and make a subsequent recommendation to JDAP, it is not recommended that the land remains without a zoning. The City would be relying on the draft Local Planning Strategy to assess the appropriateness of an application lodged.

7.3 Local Planning Strategy

Shenton Park is identified under the following provisions of the draft Local Planning Strategy as an area where comprehensive planning is necessary, particularly within proximity to the Subiaco Wastewater Treatment Plant (WWTP) odour buffer and the Shenton Park Hospital Redevelopment Area.

"5.9.5 Shenton Park Strategies:

- *Prevent the encroachment of sensitive land uses and residential development within the Subiaco WWTP odour buffer area.*
- *As a priority, comprehensively plan for the precinct to resolve land use within and surrounding the Subiaco WWTP odour buffer.*
 - *With urgency, plan for land within proximity to the redevelopment/development sites of the Shenton Park Hospital Redevelopment and Lot 4 Underwood Avenue."*

Comprehensive planning would involve identifying suitable zones, land uses and potential density codes. Assessments would also be undertaken in terms of vegetation and infrastructure (including traffic). This proposed amendment is not deemed to be comprehensive as it does not include all the lots along Bedbrook Place and Lot 4 Underwood Avenue (the area immediately north of Bedbrook Place).

Further consideration could also be given to those lots that are outside of the WWTP odour buffer and adjoin the former Shenton Park Hospital site (the lots on the eastern side of Bedbrook Place). Due to the development expected to occur on the former hospital site, there may be some unique opportunities and challenges for these lots.

7.4 Bushfire Mapping

According to the State-wide Bushfire Mapping produced by the DFES the subject area falls within a Bushfire Prone Area. As a consequence, a bushfire hazard assessment report was provided by the applicant (completed in April 2016) in accordance with State Planning Policy 3.7 – Planning in Bushfire Prone Areas. This assessment identifies the bushfire risk rating for the subject lots and the area within a 100m radius.

The assessment shows the majority of the subject area as currently having a moderate bushfire risk rating, with portions of Lots 10162, 11329 and 12829 having an extreme bushfire risk rating. If, however, the majority of vegetation present was to be cleared to accommodate future development a low bushfire risk rating would exist across the entire subject area and therefore no bushfire requirements would apply. Potentially significant vegetation exists within the subject area, and if further local planning was undertaken there is the opportunity for future development on the properties to be designed so that any significant vegetation identified could be kept.

8.0 Assessment of Statutory Provisions

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

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

Other development standards are to be in accordance with the 'Office/Showroom' zone. These standards are generally contained in Table II of TPS2 and relate to minimum setbacks (4.5m front & 2.5m side) and a maximum plot ratio (0.75). These standards can be varied at the discretion of Council and are acceptable for the purposes of this proposed scheme amendment.

The land use permissibility for the subject lots is based on the existing 'Office/Showroom' zone (with some slight modifications). This is an acceptable method of designating land uses in a 'Special Use' zone. Non-residential uses such as offices, warehouses, showrooms and lunch bars would be expected. For lots on the eastern side of Bedbrook Place, the uses Boarding House, Educational Establishment, Hostel and Caretaker's Dwelling are proposed to be permitted. The land use permissibility as proposed is considered acceptable.

The proposed amendment includes a provision that would allow 'other uses' if an approved Local Development Plan or Structure Plan is in place. It is not clear if this is to facilitate uses not already listed in the Use Class Table or to override the symbols in the Use Class Table. It is noted that some existing uses (and potential future uses) may not sit comfortably within the land use definitions in TPS2.

Council does have the ability to consider ‘Use Not Listed’ development applications if required. It is not considered appropriate to override the symbols in the Use Class Table via a Local Development Plan or Structure Plan.

An additional provision is included to apply to lots within the WWTP odour buffer area. The intent is to prevent sensitive uses from the effects of the WWTP and to prevent inappropriate encroachment into the area. This provision is acceptable to the City and comment will be sought from the Water Corporation should the amendment progress to consultation.

8.1 Proposed Modifications

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

Proposed Modifications	Reason
<p>Modify clauses i) for Lots 12830, 12829, 11329, 10024 and 9722 Bedbrook Place and Lot 11605 Lemnos Street, to the following:</p> <p><i>“All development standards, with the exception of Clause 5.11 (Maximum Building Height), shall generally be in accordance with the requirements of the ‘Office/Showroom Zone’ and may be varied at the discretion of Council.”</i></p>	<p>The word ‘generally’ implies that it will not be mandatory for development to comply with all the standards and therefore should be removed.</p> <p>The reference to the ability to vary the development standards of the zone is not necessary as this is set out in TPS2 already.</p>
<p>Modify clauses ii) for Lots 12830, 12829 and 11329 Bedbrook Place and Lot 11605 Lemnos Street, to the following:</p> <p><i>“Uses applicable to the Special Use Zone shall be in accordance with Table I – Use Class Table, Column 4 with the exception of a Caretakers Dwelling which is ‘X’.”</i></p>	<p>The additional text clarifies the permissibility of the specified use. A Caretakers Dwelling ought to be ‘X’ as it is considered a sensitive use, unsuitable for the odour buffer area.</p>
<p>Delete clause iii) for Lots 10024 and 9722 Bedbrook Place:</p> <p><i>“Other uses may be considered by Council following approval of a Local Development Plan or a Structure Plan.”</i></p>	<p>This clause is not considered good planning and introduces confusion as to the statutory weight of the Use Class Table against a Local Development Plan. The most appropriate mechanism for statutory control of use permissibility is through the Use Class Table, not through a Local Development Plan or Structure Plan.</p> <p>Uses not mentioned in the Use Class Table may be approved by Council without the inclusion of this clause.</p>

9.0 Legislation / Policy

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

10.0 Consultation

Before the proposed scheme amendment is initiated, there is no requirement for public consultation.

If Council resolves to proceed to advertise this amendment there is a statutory process to follow that requires environmental review, referrals to agencies likely to be affected by the proposed scheme amendment and advertisement of the proposed scheme amendment for public inspection as per the *Planning and Development (Local Planning Scheme) Regulations 2015*.

9.0 Risk management

If Council resolves not to prepare this proposed scheme amendment, the Minister for Planning may instruct that the amendment be prepared. Section 76 of the *P&D Act* states that where the Minister is satisfied on any representation that the local government has failed to prepare or adopt a proposal which “ought to be adopted”, the Minister may order the local government to do so.

If Council resolves to proceed with this scheme amendment, there is a risk that LPS3 will ‘overtake’ any current amendments to TPS2. If this occurs, it is expected that any current amendments to TPS2 will be incorporated into LPS3 at an appropriate stage. This may result in some procedural inefficiencies but is not considered to have significant consequences.

10.0 Conclusion

Scheme Amendment No. 208 to TPS2 proposes to rezone properties in the vicinity of Bedbrook Place, Shenton Park to ‘Special Use’.

This is in response to the finalisation of MRS Amendment 1311/57 that resulted in the subject lots having no zone or reservation under TPS2. Given the lack of certainty over land which is not zoned, Administration recommend undertaking the necessary steps to apply a ‘Special Use’ zone and appropriate provisions to the subject lots.

It is acknowledged that this is reactive planning and the area would ideally be subject to a more comprehensive planning process in the near future. However, rectifying the no zone anomaly in this manner is not considered to prejudice the progression of LPS3 or the comprehensive planning of the wider Shenton Park area in the future.

SCHEDULE V - SPECIAL USE ZONE

(A) DESCRIPTION OF SITE	(B) PERMITTED USES AND PROVISIONS APPLYING TO SPECIAL USE SITES
No. 5 (Lot 12830), No. 7 (Lot 12829) and No. 9 (Lot 11329) Bedbrook Place, Shenton Park	<ul style="list-style-type: none"> i) All development standards, with the exception of Clause 5.11 (Maximum Building Height), shall generally be in accordance with the requirements of the 'Office/Showroom Zone' and may be varied at the discretion of Council. ii) Uses applicable to the Special Use Zone shall be in accordance with Table I – Use Class Table, Column 4 with the exception of a Caretakers Dwelling. iii) The maximum building height (this is the distance between the point where the base of the wall meets the natural ground level and measured to the highest point of a wall or roof of a building vertically above that point excluding minor projections) of any building shall be 18 metres. iv) Until such time as the Water Corporation odour buffer zone is amended or varied such that it has an altered affect or no longer applies to the land, the Council is not to approve permanent residential or any other land use that may be sensitive to occasional odour, as defined by the EPA Guidance Statement No. 3, which cannot be satisfactorily overcome by practical design solutions.
No. 17 (Lot 11605) Lemnos Street, Shenton Park	<ul style="list-style-type: none"> i) All development standards, with the exception of Clause 5.11 (Maximum Building Height), shall generally be in accordance with the requirements of the 'Office/Showroom Zone' and may be varied at the discretion of Council. ii) Uses applicable to the Special Use Zone shall be in accordance with Table I – Use Class Table, Column 4 with the exception of a Caretakers Dwelling. iii) The maximum building height (this is the distance between the point where the base of the wall meets the natural ground level and measured to the highest point of a wall or roof of a building vertically above that point excluding minor projections) of any building shall be 18 metres. iv) Until such time as the Water Corporation odour buffer zone is amended or varied such that it has an altered affect or no longer applies to the land, the Council is not to approve permanent residential or any other land use that may be sensitive to occasional odour, as defined by the EPA Guidance Statement No. 3, which cannot be satisfactorily overcome by practical design solutions.
No. 4 (Lot 10024) and No. 6 (Lot 9722) Bedbrook Place, Shenton Park	<ul style="list-style-type: none"> i) All development standards, with the exception of Clause 5.11 (Maximum Building Height), shall generally be in accordance with the requirements of the 'Office/Showroom Zone', and may be varied at the discretion of Council. ii) Uses applicable to the Special Use Zone shall be in accordance with Table I – Use Class Table, Column 4 in addition to the following

	<p>uses, which are 'P': Boarding House Educational Establishment Hostel Caretakers Dwelling</p> <p>iii) Other uses may be considered by Council following approval of a Local Development Plan or a Structure Plan.</p> <p>iv) The maximum building height (this is the distance between the point where the base of the wall meets the natural ground level and measured to the highest point of a wall or roof of a building vertically above that point excluding minor projections) of any building shall be 18 metres.</p>
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CITY OF NEDLANDS

TOWN PLANNING SCHEME NO. 2 REQUEST TO INITIATE SCHEME AMENDMENT BEDBROOK PLACE, SHENTON PARK

February 2016

714-377

Document Control

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1	16.02.16	Final	Michelle Huggins		David Caddy	
2	07.06.16	Updated Appendix B	Michelle Huggins		David Caddy	
3	13.07.17	Updated - Removal of Lot 10162				

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Executive Summary

This report has been prepared by TPG Town Planning, Urban Design and Heritage, on behalf of Alzheimer's Australia WA (AAWA) together with the Arthritis Foundation of WA and Westcare Inc. being the owners of several properties along Bedbrook Place, Shenton Park (subject land), to request the City of Nedlands (the City) initiate an amendment to the City of Nedlands Town Planning Scheme No. 2 (TPS2) to rezone their properties from 'Public Purpose – Hospital' Reserve to 'Special Use' Zone.

The amendment is proposed in order to resolve the current discrepancy between the 'Public Purpose' reservation, the private landownership and the existing land uses, and to provide for greater efficiency and clarity in assessing future redevelopment proposals.

On 15 December 2015, David Caddy (Senior Director – TPG) briefed Council at its Ordinary Meeting of our amendment request to the Metropolitan Region Scheme (MRS) which proposes to have the subject land placed in the Urban Zone of the MRS and removed from the Public Purposes (Hospital) Reservation under the MRS. The MRS amendment will bring the subject land into line with the adjoining land to the north, which is zoned 'Urban' under the MRS, as well as the proposed rezoning of the former Shenton Park Rehabilitation Hospital to the east of the site (MRS Amendment No. 1293-57).

As the MRS amendment needs to be accompanied by a parallel amendment to the City's TPS2 and as TPG was advised by the City of Nedlands staff that Council has resolved not to initiate further amendments to TPS2, David Caddy asked for this decision to be reconsidered upon the receipt by Council of our amendment request for the subject land.

With support from the Department of Planning Officers, the proposed 'Special Use' zone under TPS2 is considered appropriate as Schedule V 'Special Use Zone' via column B will meet the requirements of the Water Corporation (to exclude residential uses on the land west of Bedbrook Place as this land is contained within the odour buffer of the Subiaco Wastewater Treatment Plant and as such any future land uses need to be compatible with this buffer),

whilst also meeting the expectations of Alzheimer's Australia WA and the Arthritis Foundation of WA.

The proposed amendment is considered to be 'standard' in nature, and when approved will more accurately reflect the landownership and current uses of the subject land.

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

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

On the basis of the above, it is respectfully requested that the City of Nedlands initiate the proposed amendment.

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Introduction

This report has been prepared by TPG Town Planning, Urban Design and Heritage, on behalf of Alzheimer's Australia WA (AAWA) together with the Arthritis Foundation of WA and Westcare Inc. being the owners of several properties along Bedbrook Place, Shenton Park (subject land), in support of an application to the City of Nedlands to initiate an amendment to the City of Nedlands Town Planning Scheme No. 2 (TPS2) to rezone their properties from 'Public Purpose – Hospital' Reserve to 'Special Use' Zone.

This amendment is proposed to run parallel with our amendment to the MRS, which was lodged with the Department of Planning on 28 January 2016 and proposes to rezone the subject land from 'Public Purpose – Hospital' Reserve to 'Urban' Zone.

The proposed amendment is considered straightforward, and its principal affect will be to more accurately reflect the landownership and current uses of the subject land. The intent of the amendment is to rectify the existing situation whereby the land is reserved for a purpose that does not currently, nor is likely to, occur on the subject land.

This report provides details of the subject land, including its context, history, environment and ownership detail and justifies the extent to which the proposed amendment satisfies the statutory requirements associated with a 'standard' amendment to the TPS.

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Background

Following meetings with the Department of Planning and the Water Corporation, TPG lodged a Metropolitan Region Scheme Amendment Request with the Department of Planning on 4 June 2015. This request was submitted on behalf of Alzheimer's Australia WA together with the Arthritis Foundation of WA and Westcare Inc. in support of an application to the Western Australian Planning Commission (WAPC) to initiate an amendment to the MRS to rezone their properties in Bedbrook Place, Shenton Park from the existing 'Public Purpose – Hospital Reservation' to the 'Urban Zone'.

A concurrent amendment was also requested under the City of Nedlands Town Planning Scheme No. 2 (TPS2) to rezone the subject land from 'Public Purpose - Hospital' to a 'Development' Zone, in accordance with Section 126 of the *Planning and Development Act 2005*.

Following lodgement, the Department of Planning referred the MRS Amendment Request to the Water Corporation and the Office of the Environmental Protection Authority for preliminary comments.

The Office of the Environmental Protection Authority advised that it has no objection to the WAPC initiating the proposed amendment.

The Water Corporation noted that the land west of Bedbrook Place is contained within the odour buffer of the Subiaco Wastewater Treatment Plant and as such any future land uses need to be compatible with this buffer.

Following further meetings with the Water Corporation, it was brought to our attention that the Water Corporation had concerns regarding the proposed 'Development Zone' under the City's TPS2. The Water Corporation's Officers were of the opinion that the proposed 'Development Zone' may not prevent the development of the land for sensitive uses, such as residential.

Therefore, it was agreed that an appropriate zone under the City of Nedlands Town Planning Scheme No. 2 was necessary to meet the requirements of the Water

Corporation to exclude residential uses and to meet the expectations of Alzheimer's Australia WA and the Arthritis Foundation of WA Inc.

With support from the Department of Planning Officers, the 'Special Use Zone' under the City of Nedlands Town Planning Scheme No. 2 was considered appropriate as Schedule V 'Special Use Zone' via column B can restrict uses that are not compatible with the Subiaco Wastewater Treatment Plant buffer.

Subsequently, TPG met with the Department of Planning and City of Nedlands Officers on 3 December 2015 to discuss the proposed amendment. It was agreed that David Caddy (Senior Director – TPG) would brief Council at its next meeting.

On 15 December 2015, David Caddy advised Council at its Ordinary Meeting that TPG are progressing an amendment to the MRS to have the subject land placed in the 'Urban Zone' and removed from the 'Public Purposes - Hospital Reservation' under the MRS. As the MRS amendment needs to be accompanied by a parallel amendment to Council's TPS2 and as Council has resolved not to initiate further amendments to TPS2, David Caddy asked that this decision be reconsidered upon the receipt by Council of the amendment request.

The amendment request is submitted on behalf of three non-for-profit organisations, AAWA, together with the Arthritis Foundation of WA and Westcare Inc, being the owners of several properties along Bedbrook Place, Shenton Park (the subject land). The proposed scheme amendment will allow value in the land to be unlocked to the benefit of these Not For Profits and has the support of Department of Planning Officers.

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Subject Land

Property Description and Tenure

The amendment request is submitted on behalf of AAWA, together with the Arthritis Foundation of WA and Westcare Inc, being the owners of several properties along Bedbrook Place, Shenton Park (subject land) which are currently reserved for 'Public Purpose – Hospital' under the TPS, with a total land area of approximately 3.5 hectares.

Refer to Figure 1 – Location Plan

Details of the subject land proposed to be rezoned 'Special Use Zone' under the City of Nedlands Town Planning Scheme No. 2 are listed in the table below:-

Lot	Survey	Vol/Folio	Area	Street Address	Registered Proprietor
11329	P189769	1933/114	3,769m ²	9 Bedbrook Place	Alzheimer's Australia WA Ltd
12829	P193422	2676/105	6,000m ²	7 Bedbrook Place	
12830	P193422	2676/106	2,000m ²	5 Bedbrook Place	
11605	P190242	2536/522	8,271m ²	17 Lemnos Street	Arthritis Foundation of WA Inc.
10024	P183704	1578/539	4,479m ²	4 Bedbrook Place	Westcare Inc.
9722	P182250	1512/641	1.0277ha	6 Bedbrook Place	

Copies of the Certificates of Title are included as Appendix A.

Refer to Figure 2 –Site Plan

Figure 1 – Location Plan

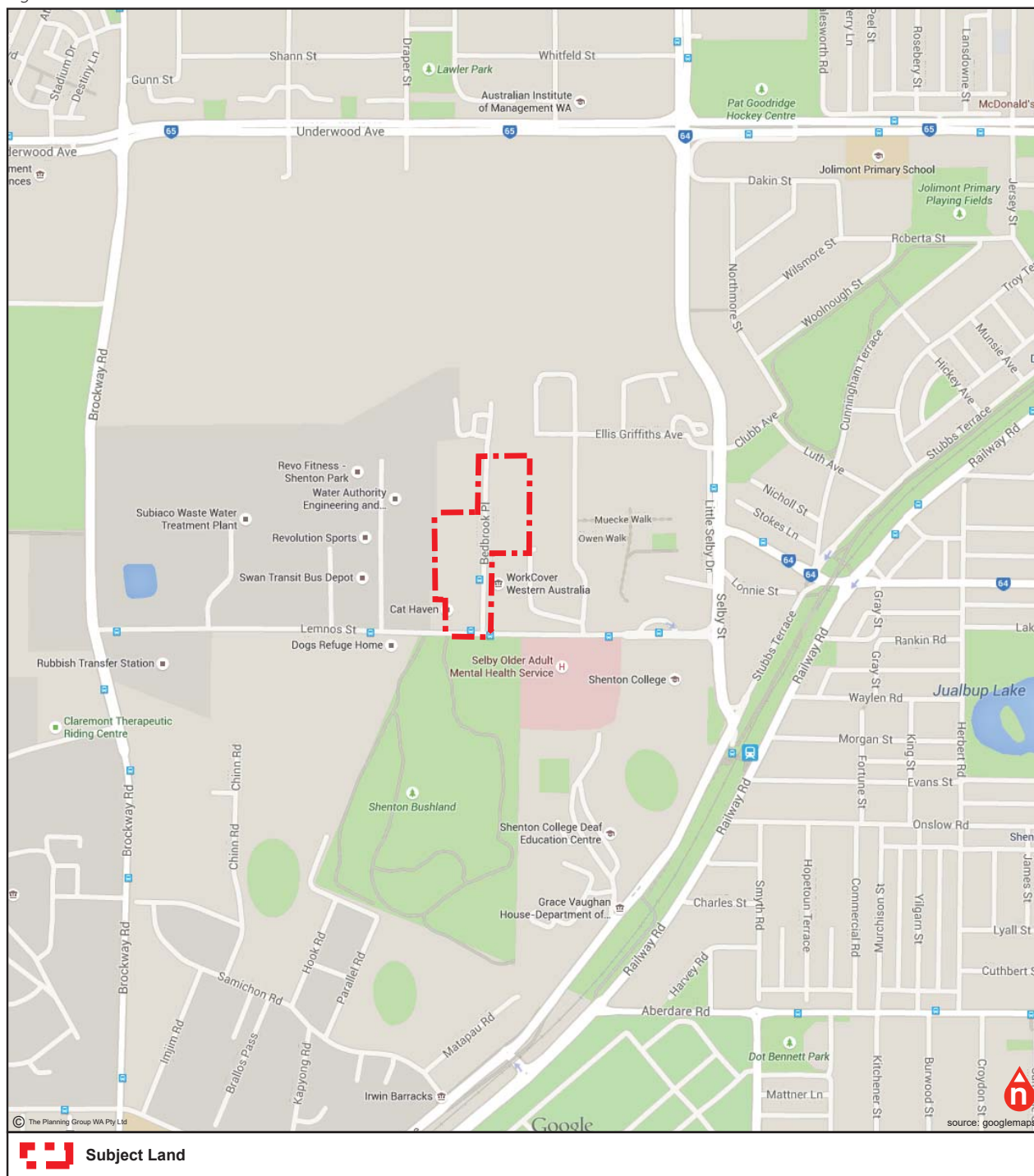
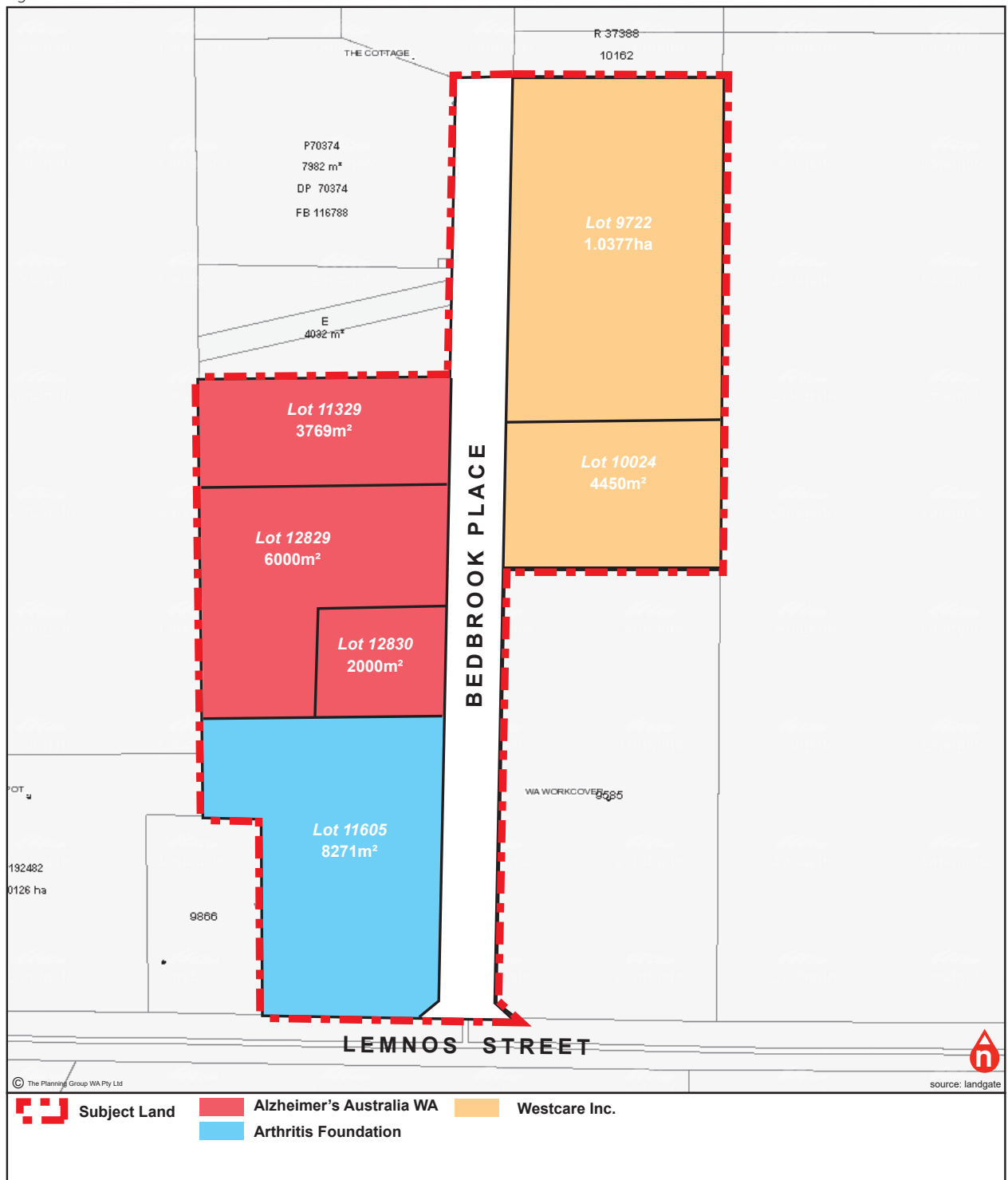


Figure 2 –Site Plan



Location and Context

The subject land is located approximately 5 kilometres west of the Perth City Centre in the suburb of Shenton Park. The site is situated to the north of Lemnos Street, fronting Bedbrook Place, and immediately to the west of the Shenton Park Rehabilitation Hospital site. The Water Corporation's Subiaco Wastewater Treatment Plant is situated approximately 500 metres west of the subject land, at the northeast corner of the intersection of Lemnos Street and Brockway Road.

The subject land is surrounded by a mix of medical and commercial related services including the Cancer Council of Western Australia's Milroy Lodge, the former Shenton Park Rehabilitation Hospital, the Shenton Park Cat Haven, the Cambridge Council Depot and the Water Authority Workshop Depot Training Centre.

The site is serviced by an efficient local and district road network, based primarily around Lemnos Street, Brockway Road, Underwood Avenue and Selby Street, which collectively provide connections to the broader metropolitan region.

The subject land has excellent access to existing public transport services, being in close proximity to existing bus stops along Lemnos Street and Bedbrook Place, as well as within an 800 metre walkable catchment of Shenton Park Train Station to the southeast. Transperth's Shenton Park bus depot is located approximately 250 metres west of the subject site.

It is noted that a large parcel of land to the north of the subject land, and bound by Selby Street to the east, Underwood Avenue to the north, Stephenson Avenue to the west and extending south towards John XXIII College, is zoned 'Development' under the City of Nedlands Town Planning Scheme No. 2 (TPS2). This land is primarily owned by the University of Western Australia and has been identified for a substantial residential development, providing a range of single housing and grouped dwelling sites. The former Shenton Park Rehabilitation Hospital site is also to be redeveloped for residential purposes in a project led by LandCorp, with MRS Amendment No. 1293-57 currently being progressed to rezone the land from the current 'Public Purpose – Hospital' reservation to 'Urban'.

Existing Site Development

The subject land currently comprises a range of medical, commercial and other related services, relating to the operations of Alzheimer's Australia WA Ltd, the Arthritis

Foundation of WA and Westcare Inc. The existing development on the subject land is predominantly single storey, and of a varied built form and age profile.

Refer to Figure 3 – Aerial Plan

Alzheimer's Australia WA Ltd (AAWA)

Lot 11329 currently accommodates the consumer centre for AAWA including the Mary Chester Centre. AAWA is a not-for-profit organisation supporting the 32,000 people in Western Australia who have a diagnosis of dementia. The Mary Chester Centre includes a Respite Centre for people with Alzheimer's and other forms of dementia. Lots 12829 and 12830 are currently vacant. AAWA's administration is located in leased premises in Osborne Park.

Arthritis Foundation of WA

Lot 11605 currently accommodates the headquarters for the Arthritis Foundation of WA, which is a non-government, not-for-profit organisation aiming to reduce the incidence and disabling effect of arthritis, osteoporosis and related conditions in the people of WA. In addition to staff offices, the site also accommodates the Wyllie Arthritis Centre, which includes a hydrotherapy pool, gymnasium, seminar and boardrooms, café, book shop and leased office space to other tenants.

Westcare Inc.

Westcare Incorporated is an Australian Disability Enterprise that is a not-for-profit organisation providing employment, training and accommodation for people with disabilities. Westcare Incorporated consists of Westcare Industries and Westcare Accommodation Services. Westcare is committed to supporting and training working age people with a disability to enable them to live in a setting of their choice, either independently in the community or at a village. Lots 10024 and 9722 currently accommodate Westcare Accommodation Services, which provides village style accommodation to working age adults with a disability who are looking to transition into more independent living in the general community. The village is an essential component of the Westcare Transitional Living Program, and provides full independent living facilities to its residents. Lots 10024 and 9722 are not within the odour buffer area of the Subiaco Waste Water Treatment Plant.

Figure 3 – Aerial Plan



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Statutory Planning Framework

Metropolitan Region Scheme

The Metropolitan Region Scheme (MRS) is the statutory planning scheme for the Perth Metropolitan Region. The subject land is currently reserved for 'Public Purpose – Hospital' under the MRS.

The proposed amendment request lodged with the Department of Planning on 28 January 2016, seeks to rezone the subject land from the current 'Public Purpose' reservation to the 'Urban' zone under the MRS. The application is considered to represent a 'minor' amendment to the MRS, as assessed against the criteria in Development Control Policy 1.9 – Amendments to Region Schemes.

The MRS land classification for the surrounding area is summarised as follows:

- The land to the north of the site is predominantly zoned 'Urban';
- The land to the west of the site is reserved for 'Public Purpose – Water Authority of WA';
- The land to the south of Lemnos Street is reserved 'Parks and Recreation', 'Public Purpose – High School', and 'Public Purpose – Commonwealth Government'; and
- The land to the east of the site, being the former Shenton Park Rehabilitation Hospital site, is currently zoned 'Public Purpose – Hospital'. However, this site is the subject of a current MRS amendment request to remove the 'Public Purpose' reservation and rezone the land to 'Urban' (MRS Amendment No. 1293-57), in order to facilitate LandCorp's redevelopment of the site for residential purposes.

Refer to Figure 4 – Existing Zoning under MRS and TPS2

City of Nedlands Town Planning Scheme No. 2

In accordance with recent discussions with the Department of Planning and the City of Nedlands, the owners of several properties along Bedbrook Place, Shenton Park (subject land), request the City initiate a parallel amendment to the City of Nedlands Town Planning Scheme No. 2 (TPS2) to rezone their properties from 'Public Purpose – Hospital' Reserve to 'Special Use' Zone.

The Planning and Development (Local Planning Schemes) Regulations 2015, states that the objectives of the 'Special Use' zone are:-

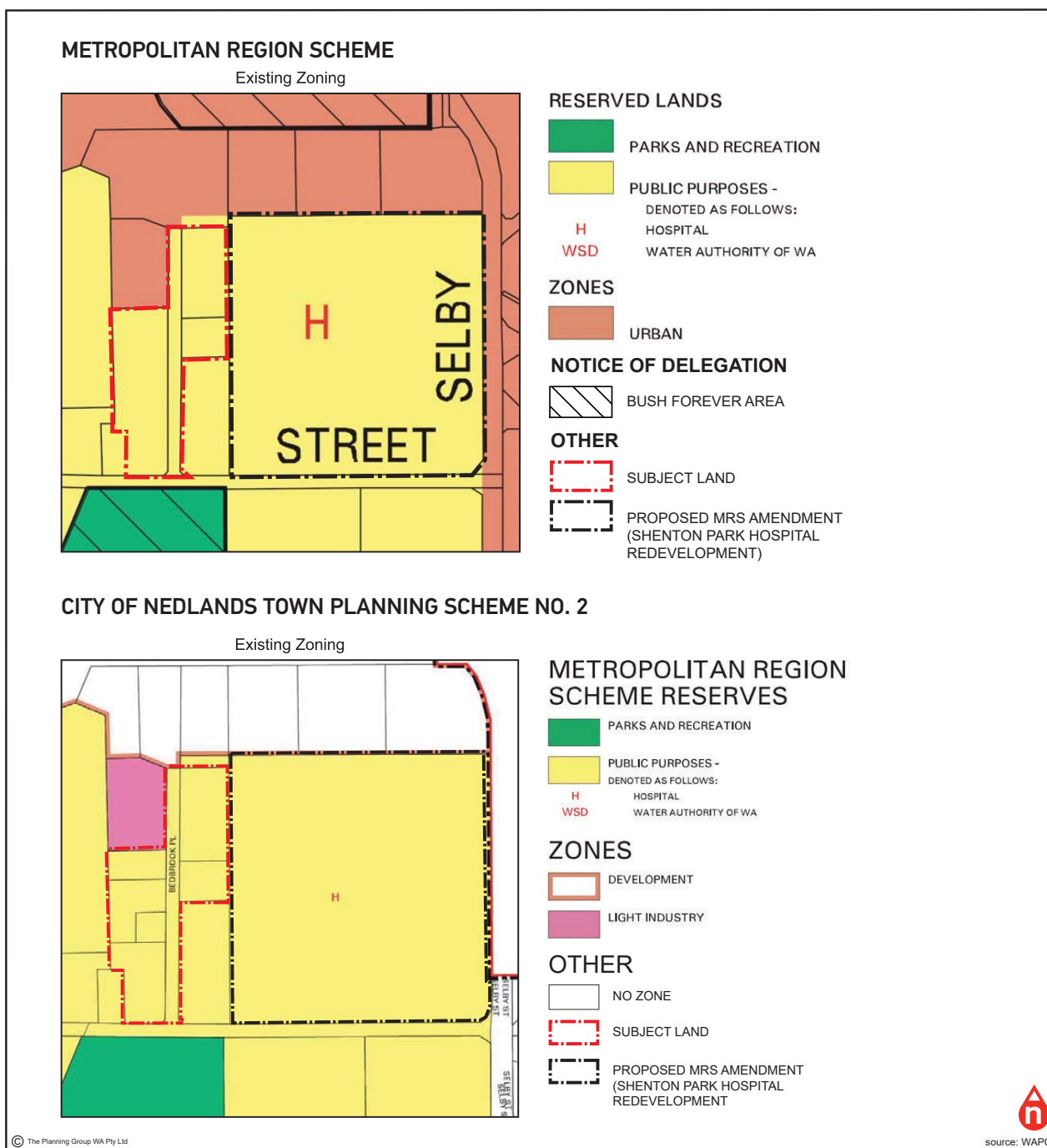
- *To facilitate special categories of land uses which do not sit comfortably within any other zone.*
- *To enable the Council to impose specific conditions associated with the special use.*

The proposed 'Special Use' zone under TPS2 is considered to be an appropriate zoning for the subject land, whereby its principal affect will be to more accurately reflect the landownership and current use of the subject land, as the proposal seeks to rectify the situation whereby the land is reserved for a purpose which is not likely to occur on the site.

To meet the requirements of the Water Corporation (to exclude residential uses on the land west of Bedbrook Place as it is contained within the odour buffer of the Subiaco Wastewater Treatment Plant and as such any future land uses need to be compatible with this buffer), and the expectations of Alzheimer's Australia WA and the Arthritis Foundation of WA, the permitted uses and provisions applying to the proposed 'Special Use' sites is attached as Schedule V at Appendix B.

Refer to Appendix B – Special Use Zone Provisions

Figure 4 – Existing Zoning under MRS and TPS2



Proposed Amendment

The amendment request is submitted on behalf of AAWA, together with the Arthritis Foundation of WA and Westcare Inc, being the owners of several properties along Bedbrook Place, Shenton Park (subject land) which are currently reserved for 'Public Purpose – Hospital' under TPS2.

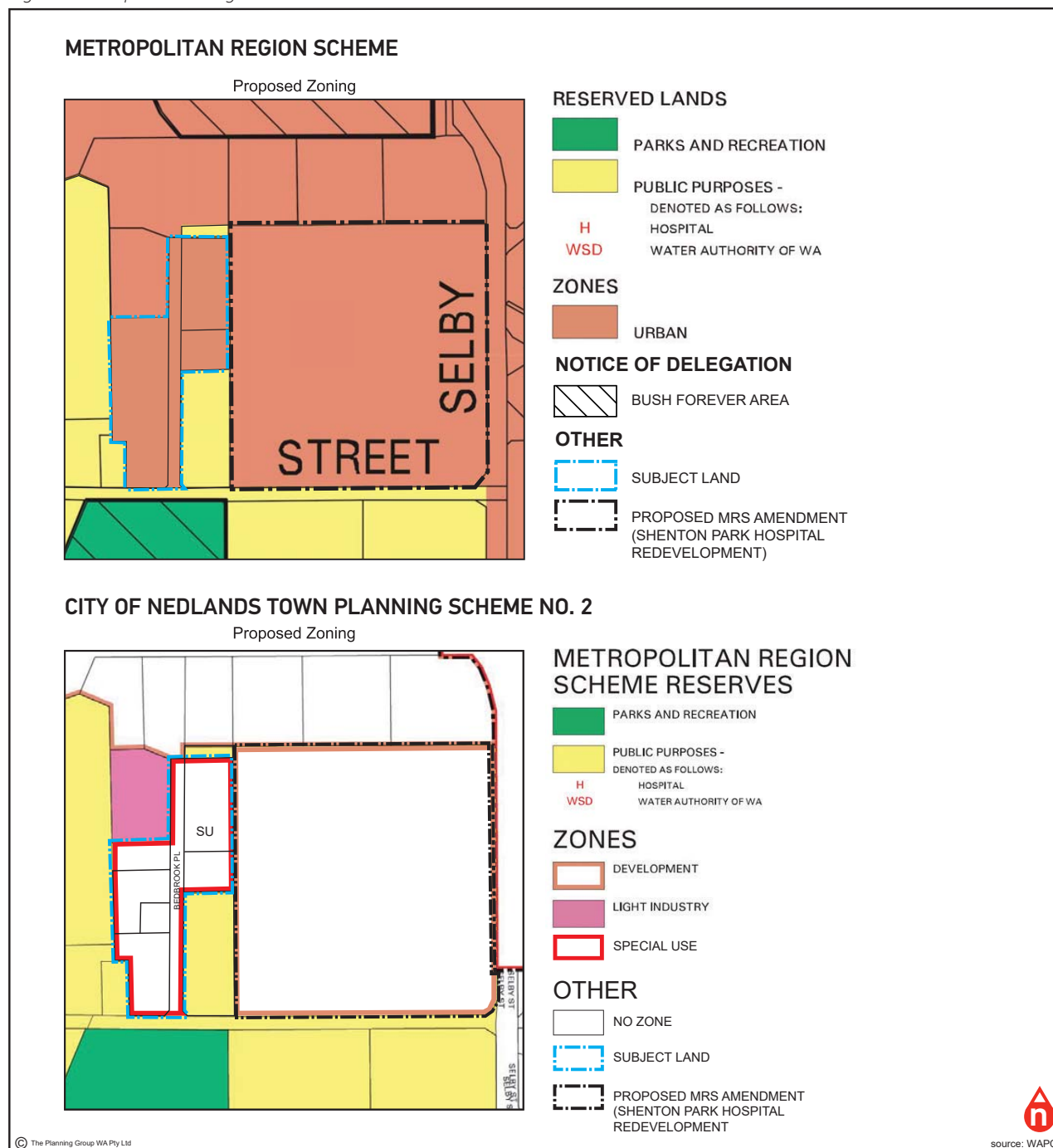
This application seeks to amend the zoning of the subject land from 'Public Purpose – Hospital' to 'Special Use' under TPS2. A 'Special Use' zone will reflect the existing private freehold landownership, as well as the current and anticipated future land uses.

This amendment is proposed to run parallel with our amendment to the MRS, which was lodged with the Department of Planning on 28 January 2016 and proposes to rezone the subject land from 'Public Purpose – Hospital' Reserve to 'Urban' Zone.

Although the subject land is predominantly developed, it is considered that the proposed 'Special Use' zone together with proposed Schedule V Column B, permitted uses and provisions applying to the special use sites (*Appendix B*) will resolve the current discrepancy between the 'Public Purpose – Hospital' reservation and any future land uses, and importantly will allow value in the land to be unlocked to the benefit of these non-for-profit organisations.

Refer to Figure 5 – Proposed Zoning under MRS and TPS2

Figure 5 – Proposed Zoning under MRS and TPS2



Planning Considerations

Present land use and character of the land and its relationship to its immediate setting, to the surrounding district, to the sub-region and to the region as a whole

Currently, the subject land is surrounded by a mix of commercial and medical related services. The site is located approximately 500 metres east of the Subiaco Wastewater Treatment Plant.

Although the subject land is predominantly developed, it is considered that the proposed 'Special Use' zone will resolve the current discrepancy between the 'Public Purpose-Hospital' reservation, the current landownership being a mix of non-government agencies and the existing land uses being a mix of residential, office, commercial and health related services.

The proposed 'Special Use' zone (which facilitates special categories of land uses which do not sit comfortably within any other zone) together with proposed Schedule V at *Appendix B* (the permitted uses and provisions applying to the proposed 'Special Use' sites), is considered to be an appropriate zone for the subject land, as it will allow any future development to meet the requirements of the Water Corporation and the expectations of Alzheimer's Australia WA, Arthritis Foundation of WA and Westcare Inc.

The history of the land in its setting, the factors which determined the present zoning or reservation of the land and its environs, and the reasons justifying the proposed change to be made

The 'Public Purpose – Hospital' reservation is considered largely historical in nature, and does not reflect the current development and use of the subject land. The subject land is highly unlikely to be utilised in a manner consistent with 'Public Purpose – Hospital' reservation in the future due to the nature of the existing development on the subject site, the current landownership arrangements, and the scale and nature of existing and proposed development in the immediate locality.

Furthermore, it is considered that the 'Hospital' reservation will no longer be relevant as a result of the closure of the Shenton Park Rehabilitation Hospital, which is located immediately adjacent to the east of the subject land, and the subsequent redevelopment of this site for residential purposes. As noted previously, the Shenton Park Rehabilitation Hospital site is currently the subject of a separate MRS amendment request that is seeking to rezone the land from the current 'Public Purpose – Hospital' reservation to 'Urban' in order to reflect the contemporary land use requirements for the site.

The landowners in Bedbrook Place seek to join the shift from the historic hospital land use to accommodate their contemporary land use needs, which are more suited to a 'Special Use' zone under TPS2.

The area of land involved in the rezoning and the scale and purpose of the proposal and its impact on the scheme

The subject site has a total land area of approximately 3.5 hectares. The proposed 'Urban' zoning under the MRS and 'Special Use' zoning under TPS2 will resolve the existing discrepancy between the 'Public Purpose – Hospital' reservation, the current landownership arrangements and the existing land uses.

As the subject land is currently predominantly developed, any future development on the site as a result of the 'Special Use' zoning is likely to be small-scale and is unlikely to have a significant impact on the functioning of service infrastructure in the area or the general amenity of the locality.

The likely impact of the proposal on the environment of the affected land and its surroundings

As noted above, the majority of the subject land is already developed, with the exception Lots 12829 and 12830, which are currently vacant and contain remnant native vegetation.

It is our understanding that any future development on the subject land as a result of the 'Special Use' zoning together with proposed Schedule V Column B, permitted uses and provisions applying to the special use sites (*Appendix B*), is likely to be small-scale in nature and is unlikely to have any adverse impact on the amenity of the locality. It is also envisaged that any future development of the vacant land will be the subject of an environmental review as part of the development application process.

Given the small size of the subject land and that the land is predominantly developed, it is unlikely that any future development on Lots 12829 and 12830 will be of a scale and nature that will have a detrimental impact on the environmental value of the land or its surroundings.

Further to this, it is noted that a desktop search of environmental factors indicates that the site is classified as having low to no risk of Acid Sulphate Soils (ASS) occurring generally at depths of less than 3 metres, and that there are no wetlands or vegetation of significance identified on the site.

The complexity of the proposal

The proposed amendment is straightforward and its principal affect will more accurately reflect the landownership and current uses of the subject land, which are considered to be inconsistent with the existing 'Public Purpose' reservation. This proposal simply seeks to rectify the situation whereby the land is reserved for a purpose that is not likely to occur on the site and is inconsistent with the current development on the land.

The degree to which the proposal reflects any significant changes to the planning strategy for the region, and the relationship of the proposal to any current or proposed strategic plans or policies for the region or sub-regions within that region.

Whilst the City does not have a planning strategy in place that deals with the subject site specifically, recent consultation with planning officers at the City has indicated in principle support for the rezoning of the subject land. The WAPC has also indicated in principle support for the proposal.

The proposed rezoning is consistent with the vision for the general area, noting the large-scale redevelopments proposed to the north and east of the subject site, which will substantially alter the existing character of the locality.

The effect on future development as a result of the proposed amendment will be satisfactory, as the proposed 'Special Use' zone will reflect the surrounding development and land uses. Consequently, it is considered that the rezoning will not result in any significant changes to the planning vision for the locality.

Any other land use, transport, environmental or planning implications associated with the proposal

The impact on surrounding land uses and relevant planning implications have been addressed above, with environmental matters addressed in more detail below.

The impact on transport is difficult to determine at this stage but it is likely to be minimal given the small size of the undeveloped land (Lots 12829 and 12830). The proposed TPS amendment does not assume a specific development intensity or range of uses, and therefore it is considered more appropriate for a transport study to be undertaken if/when the vacant land is developed or if/when other properties are redeveloped. It is anticipated that any future traffic studies will be undertaken during more detailed planning and design stages.

Environmental Considerations

A desktop search of environmental factors indicates that the site is classified as having low to no risk of Acid Sulphate Soils (ASS) occurring generally at depths of less than 3 metres, and that there are no wetlands or vegetation of significance identified on the site.

Flora and Fauna Assessments

In July 2014, AAWA commissioned 360 Environmental to undertake during Spring 2014 a Level 2 Flora and Vegetation Assessment, Level 1 Fauna Assessment and Black Cockatoo Assessment for Lots 11329, 12829 and 12830 Bedbrook Place, Shenton Park, as Lots 12829 and 12830 are currently vacant and contain remnant bushland.

360 Environmental advised that:

1. No Threatened species pursuant to the *Environment Protection and Biodiversity Conservation Act 1999* and/or Declared Rare Flora pursuant to the *Wildlife Conservation Act 1950* were recorded during Flora and Vegetation survey. One Priority 4 species (*Jacksonia sericea*), as listed by the Department of Parks and Wildlife, was recorded during the survey. The presence of *Jacksonia sericea* (P4) does not pose a statutory constraint in relation to the project.
2. A total of 15 introduced plant species were recorded during the Flora and Vegetation survey. None of these are listed as Declared under the Biosecurity and Agriculture Management Act or listed as Weeds of National significance.
3. A total of 19 conservation significant fauna species (including Priority species) were identified during the desktop review of database searches. Of these 19, one was observed on site (Rainbow Bee-eater), three were considered to frequent the site but were not observed, four were considered to possibly frequent the site and 11 were considered unlikely to frequent the site.
4. During the Black Cockatoo Assessment, while potential breeding trees were recorded, none contained any hollows and no Black Cockatoos were observed within the survey area. In addition the AAWA CEO has previously met with representatives

of the local Black Cockatoo action group to better understand their key concerns.

360 Environmental concluded that nothing of environmental significance has been found in relation to State requirements for Lots 11329, 12829 and 12830 Bedbrook Place, Shenton Park.

Bush Forever Sites

There are no Bush Forever sites located on the subject land. However, there are two Bush Forever sites in close proximity to the subject land being Site 119 – Underwood Avenue Bushland, Shenton Park (approximately 250m north of the subject land) and Site 218 – Shenton Bushland, Shenton Park (approximately 175m south of the subject land).

City of Nedlands Draft Bedbrook Place Biodiversity Local Planning Policy

The City of Nedland's draft Bedbrook Place Biodiversity Local Planning Policy proposes to establish a biodiversity link between the Lot 4 conservation area and the Shenton Park Bushland. The draft Policy states that it focuses on the creation of two green corridors and encourages the protection of the areas that have been identified as having vegetation that is in 'Very Good Condition'.

The proposed 'Green Corridor 1', which is to be no less than 25 metres wide, traverses the subject land east-west from Lot 3240 Selby Street to Lot 11605 and then northwards through Lots 11329, 12829 and 12830 Bedbrook Place. An area of 'Good Condition Bushland' has been identified within Lots 12829 and 12830.

The draft Policy was advertised in October 2011. To date the draft Policy has not been formally adopted by the City of Nedlands.

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Other Considerations

Subiaco Waste Water Treatment Plant

As noted above, the subject land is located approximately 500 metres east of the Subiaco Waste Water Treatment Plant (WWTP), which has been operating at the corner of Lemnos Street and Brockway Road since 1927. In June 2001, a buffer zone for the plant was implemented that encompasses the subject site and its surrounds. However, following significant upgrade works to the plant that aimed to bring it in line with National Best Practice, an independent report commissioned in 2007 by the Water Corporation found that the risk of odours had been significantly reduced with 95% of odours now being captured under normal operating conditions. As a result, it was recommended that the size of the buffer be reduced and that the occurrence of odours be reviewed again in ten years' time (2017), as it may be appropriate to further reduce the buffer in size. AAWA, having been located on their land at Bedbrook Place since 1993 can confirm that since the WWTP upgrade works were conducted they have had no instances of odours occurring.

In April 2014, the Board of AAWA resolved to explore the possibilities of developing their land holdings in Bedbrook Place through an Expression of Interest (EOI) process. On 30 May 2014, AAWA sought support for the redevelopment of its land from the Water Corporation.

The Water Corporation's response dated 12 June 2014 confirmed that while the existence of the buffer may require design considerations at the Development Approval stage, the Water Corporation would not have any objections to the proposed development provided that the land use complies with its reservation and does not include a residential component or other uses that are sensitive to possible occasional odour from the WWTP.

The Water Corporation acknowledged that it has no statutory control over matters of detailed design and that the Western Australian Planning Commission and the City of Nedlands would consider these issues at the planning approval and building licence stages of the proposal.

The correspondence suggests that, as AAWA's premises are already located on the subject land, AAWA has first hand experience of the likely occasional odour impacts from the WWTP and is therefore well placed to help its partner organisations determine appropriate strategies to manage these in the design of new buildings in the locality.

The Water Corporation provided its support of the proposed development, and the CEO in signing the letter wished AAWA well with its important initiative and stated that, *'On the basis I have outlined above, the Corporation will not have any objections to your proposed development'*.

Considering the Water Corporation's positive advice/ comments regarding the future development of the AAWA landholdings, and following recent discussions with the Water Corporation, it is assumed that the Water Corporation will not object to the proposed MRS Amendment to rezone the subject land 'Urban' under the MRS and 'Special Use Zone' under TPS2, as the proposed Schedule V Column B permitted uses and provisions applying to the special use sites (*Appendix B*) will meet the requirements of the Water Corporation, being the exclusion of residential uses on the land west of Bedbrook Place or other uses that are sensitive to possible occasional odour from the WWTP.

Refer to Appendix C – Water Corporation Correspondence

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Conclusion

This report has been prepared by TPG Town Planning, Urban Design and Heritage, on behalf of the AAWA, together with the Arthritis Foundation of WA and Westcare Inc, in support of an application to amend the zoning of their properties abutting Bedbrook Place in Shenton Park under the City of Nedlands Town Planning Scheme No. 2 (TPS2) from the current 'Public Purpose - Hospital' Reservation to 'Special Use' Zone.

This amendment is proposed to run parallel with our amendment to the MRS, which was lodged with the Department of Planning on 28 January 2016 and proposes to rezone the subject land from 'Public Purpose – Hospital' Reserve to 'Urban' Zone.

This proposal to remove the 'Public Purpose' reservation over Lots 9722, 10024, 11329, 11605, 12829 and 12830 and rezone the land 'Special Use' will resolve the discrepancy between the private, freehold land ownership and the 'Public Purpose' reservation under the TPS2.

The proposed amendment is justified as follows:

- The 'Public Purpose' reservation does not accurately reflect the existing landownership (being a mix of non-government agencies) and current development on the subject land (being a mix of residential, office, commercial and health related services);
- The proposed rezoning will reconcile the difference between the planning intent for 'Public Purpose' reserves under the TPS and the nature of the specific landownership and existing land uses at the subject site, with the subject land currently accommodating a mix of residential, office, commercial and health related land uses that are more closely aligned with the objectives of the Special Use zone;
- The proposed amendment is considered straightforward, and its principal affect will be to more accurately reflect the landownership and current use of the subject land, as the proposal seeks to rectify the situation whereby the land is reserved for a purpose which is not likely to occur on the site;

- The subject land is predominantly developed, and therefore any future development on the site under the 'Special Use' zone will be small in scale and is not likely to have a significant impact on the environment, the functioning of service infrastructure in the area, or the general amenity of the locality; and
- Following recent discussions with the Water Corporation and Department of Planning, it is understood that the Water Corporation will not object to the proposed MRS Amendment to rezone the subject land 'Special Use Zone' under TPS2, as the proposed Schedule V will exclude residential uses on the land west of Bedbrook Place or other uses that are sensitive to possible occasional odour from the WWTP.

The proposed amendment is considered to be a 'standard' amendment to TPS2, and it is respectfully requested that it be processed as such.

Furthermore, the proposed rezoning is considered to be in accordance with the principles of orderly and proper planning, as it represents a logical progression in the development of the subject land. The proposed amendment will correct the discrepancy between the current 'Public Purpose' reservation and the existing tenure arrangements and development on the subject land, allowing value in the land to be unlocked to the benefit of these non-for-profit organisations.

Based on the above, it is respectfully requested that the City initiate the proposed amendment to TPS2 at its earliest convenience.

PD43.17	Scheme Amendment No. 211– Stirling Highway
Committee	12 September 2017
Council	26 September 2017
Applicant	City of Nedlands
Owner	Various
Director	Peter Mickleson – Director Planning & Development
Previous Item	Council Meeting 27 June 2017 (PD27.17)
Attachments	1. Summary Schedule of Submissions 2. Map of proposed Scheme Amendment

1.0 Executive Summary

The purpose of this report is to present to Council recommendations on Scheme Amendment No. 211 – Stirling Highway for final consideration.

Scheme Amendment No. 211 proposes to rezone:

1. Those lots along Stirling Highway partially left without a zone, to the zoning or reservation of the remainder of the lot; and
2. Those lots along Stirling Highway left wholly without a zone: Lot 54 (50) to 'Residential R35'; Lot 111 (142), Lot 100 (166), Lot 1 (174) and Lot 8 (180) to 'Office/Showroom'; and Lot 277 (176) and Lot 276 (178) to 'Retail Shopping'.

A summary of submissions received during advertising and Administration's response is outlined in this report. This provides the justification for Administrations recommendation to Council to support the Scheme Amendment.

2.0 Recommendation to Committee

Pursuant to section 75 of the *Planning and Development Act 2005* and in accordance with section 50(3) of the *Planning and Development (Local Planning Schemes) Regulations 2015* supports without modification Scheme Amendment No. 211 to amend Town Planning Scheme No. 2 as follows:

1. Those lots along Stirling Highway partially left without a zone, to the zoning or reservation of the remainder of the lot; and
2. Those lots along Stirling Highway left wholly without a zone: Lot 54 (50) to 'Residential R35'; Lot 111 (142), Lot 100 (166), Lot 1 (174) and Lot 8 (180) to 'Office/Showroom'; and Lot 277 (176) and Lot 276 (178) to 'Retail Shopping'.

4.0 Key Relevant Previous Council Decisions

Council Resolution Meeting Minutes 27 June 2017

“Council Resolution / Committee Recommendation / Recommendation to Committee

1. Council prepares Scheme Amendment No. 211 to rezone:
 - a) Those areas along Stirling Highway partially left without a zone to the zoning or reservation of the remainder of the lot; and
 - b) Those lots along Stirling Highway left wholly without a zone: Lot 54 (50) to ‘Residential R35’; Lot 111 (142), Lot 100 (166), Lot 1 (174) and Lot 8 (180) to ‘Office/Showroom’; and Lot 277 (176) and Lot 276 (178) to ‘Retail Shopping’.
2. In accordance with Planning and Development (Local Planning Schemes) Regulations 2015 s.35(2) Council is of the opinion that the Amendment is a Standard Amendment because it is “(c) an amendment to the scheme so that it is consistent with a region planning scheme that applies to the scheme area, other than an amendment that is a basic amendment”.
3. In accordance with Planning and Development (Local Planning Schemes) Regulations 2015 s47(2) Council directs Administration to advertise the Standard Amendment and to forward the amendment to the Western Australian Planning Commission s47(1).”

5.0 Legislation / Policy

- *Planning and Development Act 2005 (P&D Act)*
- *Planning and Development (Local Planning Schemes) Regulations 2015*
- City of Nedlands Town Planning Scheme No. 2 (TPS No. 2)
- City of Nedlands draft Local Planning Strategy

6.0 Consultation

6.1 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 type="checkbox"/>	No <input checked="" type="checkbox"/>

Following Council resolution at the meeting of 27 June 2017, consultation was undertaken for 42 days from Monday 10 July to Monday 21 August 2017 in accordance with s.38 of the *Planning and Development (Local Planning Schemes) Regulations 2015*. The Regulations requires the following:

- Advertising in local newspapers (Post and Western Suburbs Weekly);
- Notices displayed in libraries and Administration building;
- Letters to government organisations and agencies considered affected; and
- Information and copies available for download on the website.

A total of **7 submissions** were received, all of which stated that they did not provide any comment in regard to the proposal.

A summary schedule of submissions is provided in Attachment 1. A full copy of submissions is available to Councillors on request.

The following provides a brief overview of the key themes raised in the submissions:

Main points of submissions that were neither supported/objected to proposal:

- These submissions were generally by government organisations and agencies stating that the proposal is not significant enough to warrant a response.

Administration comment:

The City can reasonably assume that the proposal can suitably be accommodated within existing infrastructure resources, if this was to be a concern to these agencies it would be raised in the submissions.

7.0 Risk management

Section 87 of the *Planning and Development Act 2005* states that an amendment to a local government scheme requires the approval of the Minister for Planning. The Minister has the following abilities:

- a) Approve the amendment;
- b) Require the City to modify the amendment to be resubmitted for the Ministers approval; or
- c) Refuse to approve the amendment.

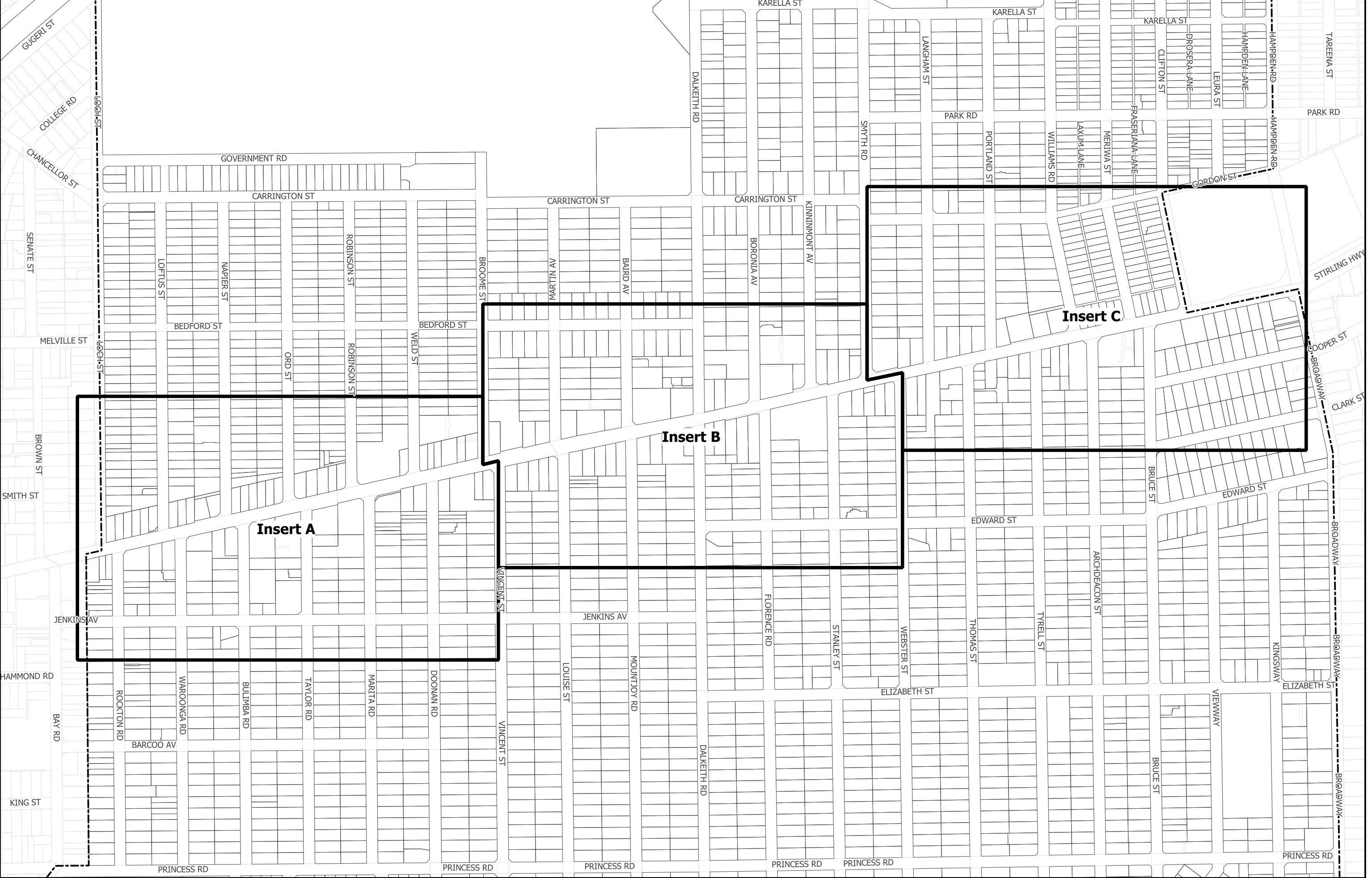
If Council resolves not to support the proposed amendment, the Minister for Planning may approve the scheme amendment or instruct the City to modify the amendment for the Ministers approval.

10.0 Conclusion

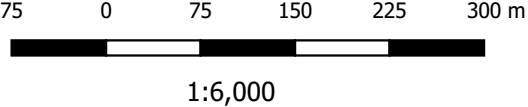
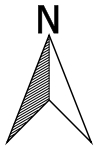
Proposed Scheme Amendment No. 211 to TPS2 proposes to rezone properties along Stirling Highway to give land which is now left without a zone or reservation as a result of Amendment 1210/41. As part of public consultation, the City only received submissions from government agencies with no comment on the proposed amendment. Administration considers rezoning the land necessary for orderly and proper planning and it is recommended that Council support the Scheme Amendment.

SCHEDULE 1 – SUMMARY OF SUBMISSIONS

Submissions Received	
Disclaimer: the following is a summary of submissions received. Submitter numbers do not relate to the date order in which submissions were received, nor do they relate to any hierarchy of importance. Where two submissions were received from the same address they were summarised separately but counted as one submission.	
Submitter Number:	1
Submitter Name:	Department of Fire and Emergency Services
Submitter Address:	20 Southport Street LEEDERVILLE WA 6007
Interest:	Government Agency
Summary of Submission:	No Comment.
Submitter Number:	2
Submitter Name:	Water Corporation
Submitter Address:	629 Newcastle Street LEEDERVILLE WA 6007
Interest:	Government Agency
Summary of Submission:	No Comment
Submitter Number:	3
Submitter Name:	Western Power
Submitter Address:	363 Wellington Street PERTH WA 6000
Interest:	Government Agency
Summary of Submission:	No Comment.
Submitter Number:	4
Submitter Name:	State Heritage Office (Department of Planning, Lands and Heritage)
Submitter Address:	491 Wellington Street PERTH WA 6009
Interest:	Government Agency
Summary of Submission:	No Comment.
Submitter Number:	5
Submitter Name:	Department of Water and Environmental Regulation
Submitter Address:	7 Ellam St VICTORIA PARK WA 6100
Interest:	Government Agency
Summary of Submission:	No Comment.
Submitter Number:	6
Submitter Name:	Department of Transport
Submitter Address:	140 William Street PERTH WA 6000
Interest:	Government Agency
Summary of Submission:	No Comment.
Submitter Number:	7
Submitter Name:	Main Roads
Submitter Address:	Don Aitken Centre, Waterloo Crescent, East Perth WA 6004
Interest:	Government Agency
Summary of Submission:	No Comment.



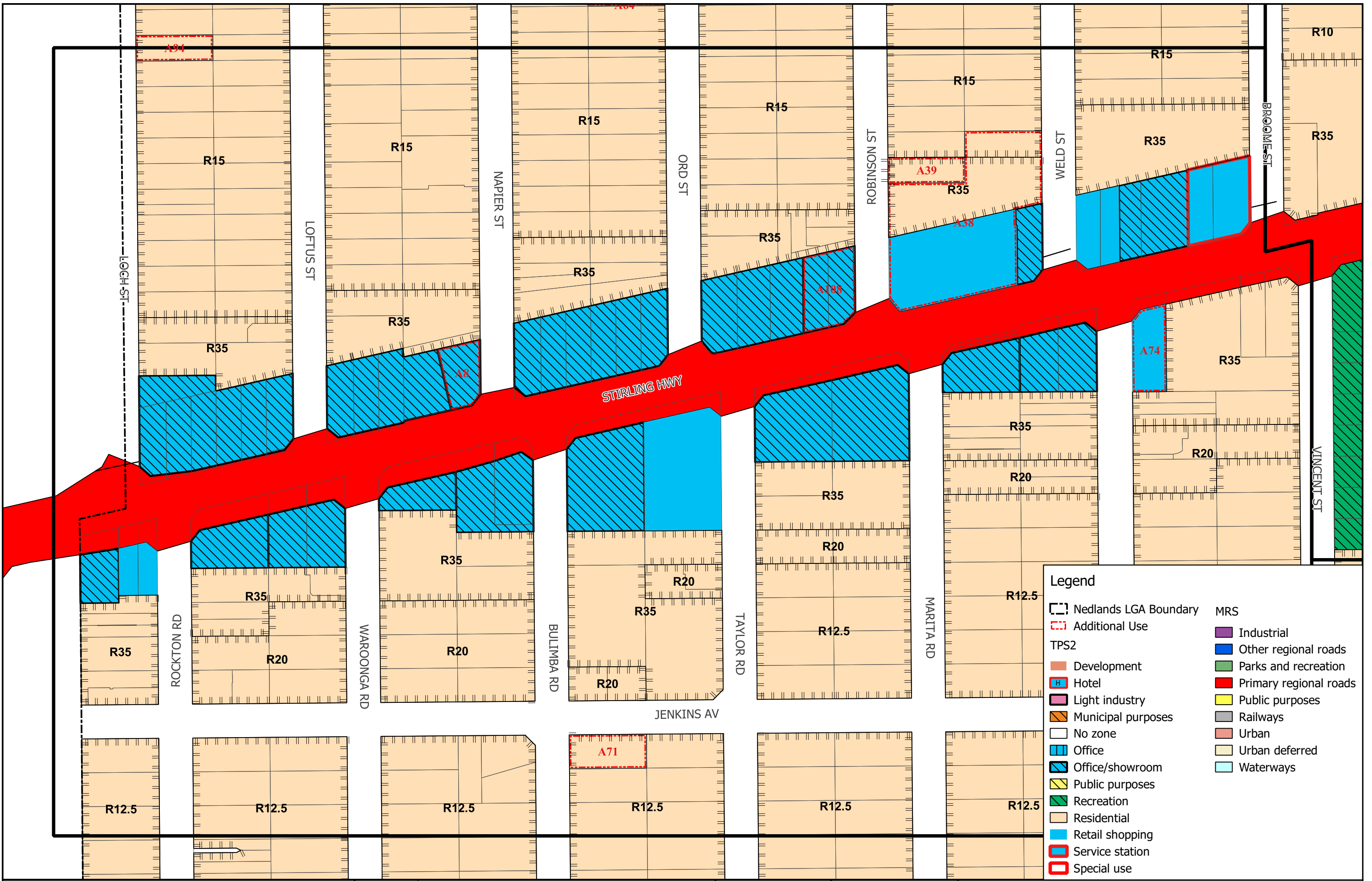
71 Stirling Highway
PO Box 9
Nedlands WA 6009
Phone: 9273 3500
Fax: 9273 3670
Email: council@nedlands.wa.gov.au



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for the accuracy of this
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this image.

Map Sheet Index
TPS2 Scheme Amendment No.211
CITY OF NEDLANDS



Legend

Nedlands LGA Boundary

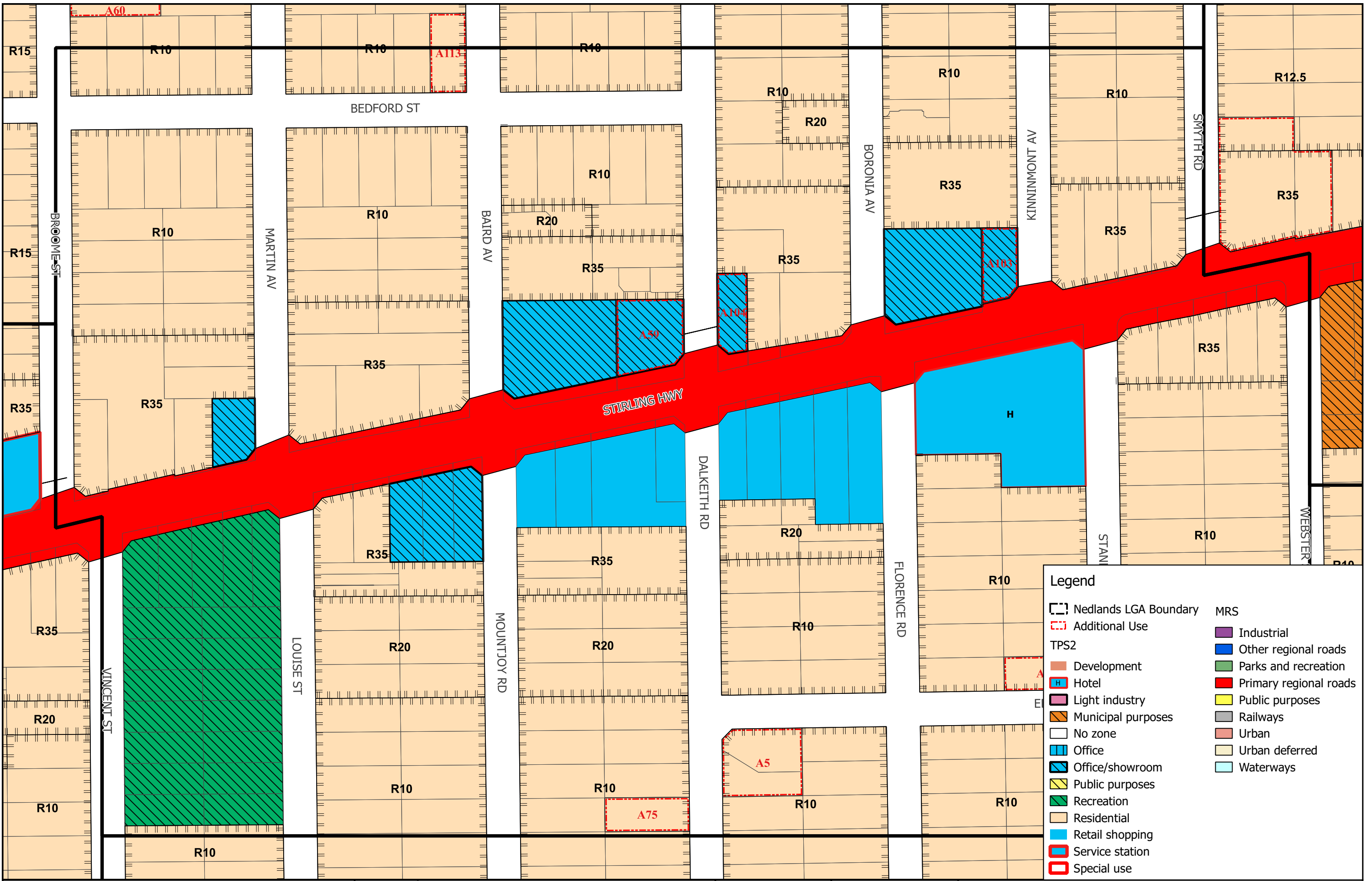
Additional Use

TPS2

- Development
- Hotel
- Light industry
- Municipal purposes
- No zone
- Office
- Office/showroom
- Public purposes
- Recreation
- Residential
- Retail shopping
- Service station
- Special use

MRS

- Industrial
- Other regional roads
- Parks and recreation
- Primary regional roads
- Public purposes
- Railways
- Urban
- Urban deferred
- Waterways



Legend

Nedlands LGA Boundary

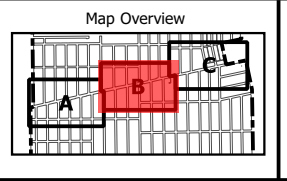
Additional Use

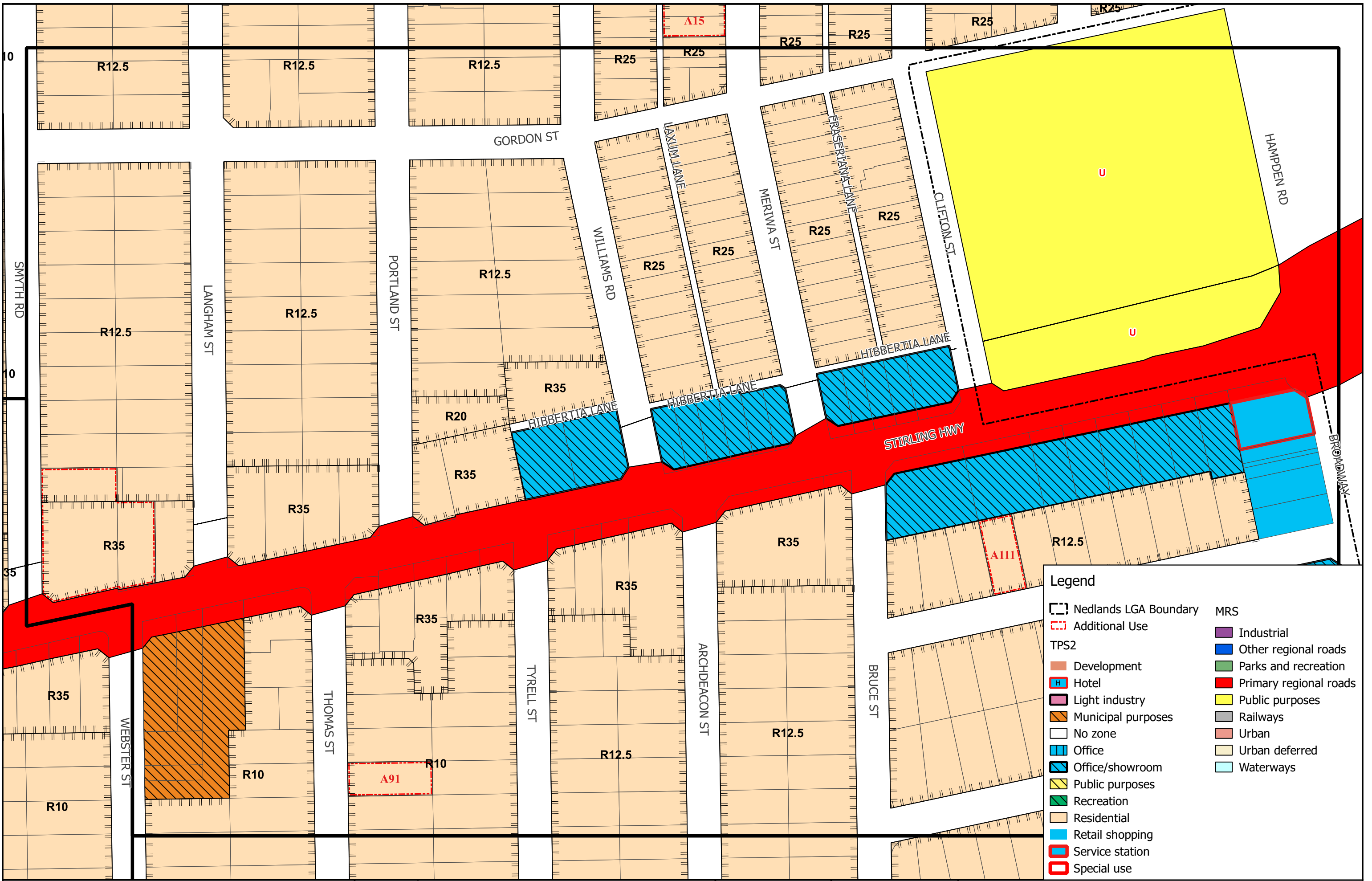
TPS2

- Development
- Hotel
- Light industry
- Municipal purposes
- No zone
- Office
- Office/showroom
- Public purposes
- Recreation
- Residential
- Retail shopping
- Service station
- Special use

MRS

- Industrial
- Other regional roads
- Parks and recreation
- Primary regional roads
- Public purposes
- Railways
- Urban
- Urban deferred
- Waterways





Legend

Nedlands LGA Boundary	Additional Use	MRS
Development	Hotel	Industrial
Light industry	Municipal purposes	Other regional roads
No zone	Office	Parks and recreation
Office/showroom	Public purposes	Primary regional roads
Recreation	Residential	Public purposes
Retail shopping	Service station	Railways
Special use		Urban
		Urban deferred
		Waterways

City of Nedlands
71 Stirling Highway
PO Box 9
Nedlands WA 6009
Phone: 9273 3500
Fax: 9273 3670
Email: council@nedlands.wa.gov.au

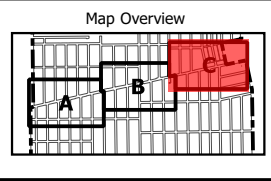
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TPS2 Scheme Amendment No.211
Insert C
CITY OF NEDLANDS

PD44.17	Swanbourne Cricket Club Inc. Management Licence Allen Park Lower Pavilion – Portion of Reserve 7804
Committee	12 September 2017
Council	26 September 2017
Applicant	Swanbourne Cricket Club Inc.
Owner	City of Nedlands
Director	Peter Mickleson – Director Planning & Development
Attachments	Nil

1.0 Executive Summary

This report considers terms of a Management Licence agreement for Swanbourne Cricket Club Inc. in use of the recently refurbished Allen Park Lower Pavilion.

It is proposed that the Club will have exclusive use of the facility during the summer sports season (1 October – 30 March) each year and will make an annual contribution to a reserve fund for ongoing maintenance of the facility. As well the Club will pay for utilities and operational costs during their season of use. Terms of the Licence agreement follow that of Collegians Amateur Football Club Inc. at Adam Armstrong Pavilion, David Cruickshank Reserve, Dalkeith.

2.0 Recommendation to Committee

Council:

- 1. Endorses the terms of the Management Licence with Swanbourne Cricket Club Inc. at Allen Park Lower Pavilion (being a portion of Reserve 7804) as described in this report; and**
- 2. Subject to receiving consent from the Minister for Lands, delegates to the Mayor and Chief Executive Officer authority to execute the Management Licence agreement with application of the City's common seal.**

3.0 Site Details

The proposed Management Licence agreement is for the City's facility being Allen Park Lower Pavilion (the Facility). The Facility is located on class "A" Crown Reserve 7804 (being Lot 403 on Deposited Plan 36773) with management order vested in the City of Nedlands for the purpose of "Park and Recreation". The Order includes a power to lease (or licence) a portion of the reserve subject to the Minister for Lands approval.

The Facility was refurbished in 2016 with a complete redevelopment of changerooms and renovation of the main pavilion, kitchen and storage areas.

An aerial image showing the location of the Facility follows.



4.0 Background

The Swanbourne Cricket Club Inc. (the Club) was formed in 1962 and has been based at Allen Park since inception. The Club started out with one senior cricket team and over the years has grown to the current five teams.

The Club has its home ground at Allen Park and clubrooms at Allen Park Lower Pavilion.

The Swanbourne Tigers Junior Football Club use the facility in the winter sports season, along with members of the public who can book the pavilion through the City's booking system.

The City's Administration and the Club have now negotiated and agreed terms of an exclusive Management Licence for summer sports seasons, being 1 October to 31 March in each year (the Licence). The terms of the Licence are the same as those previously approved by Council on 23rd February 2016 for Collegians Amateur Football Club Inc. at Adam Armstrong Pavilion, David Cruickshank Reserve – being Item PD07.16. The key points of the Licence to note are:

- Term of the Licence is “five consecutive Summer Sports Seasons (being 1 October – 31 March) commencing at the start of the 2017/18 Summer Sports Season (being 1 October 2017) and expiring at the conclusion of the 2022/23 Summer Sports Season (being 31 March 2023)
- Permitted Purpose is “Cricket club, community use and Hire to third parties in accordance with the requirements of this Licence
- The Club must make the Facility available for hire at times when the Licensee is not using it for its own sporting purposes.
- In hiring the Facility to the community, the Club may not charge more than the City would charge (as per Schedule of Fees and Charges)
- The Club must vacate the Facility by 12 midnight on any day of the Term, however they are able to remain onsite after a function or special event only for purpose of cleaning or packing up.
- The Club will pay an annual licence fee of \$2,340 which will be reviewed annually by CPI.
- The Club will be responsible for all utility costs, waste services and emergency services levy for the period of their Term.
- The Club must keep the Facility clean and tidy during the Term.
- The Club must allow public access to the public toilet at the Facility.
- If the Club breaches particular provisions of the Licence – relating to Hours of Occupation, Alcohol and Minimise Nuisance to Neighbours the City will issue a notice advising the Breach and any subsequent breach of such provisions within the same Summer Sports Season will enable the City to terminate the Licence immediately. Any breach of other provisions of the Lease will be addressed via Notice giving one month to remedy.
- The City has the power to enter and use the Facility without notice in times of an emergency or natural disaster impacting residents.
- The Club is required to comply with specific requirements for weekly professional cleaning and end of season cleaning procedures in preparation for hand-over to the City for the Winter Sports Season.
- There is also a provision enabling the City to engage an independent property manager for the Facility where there have been more than two occasions during a Summer Sports Season of notice of default given to the Club.
- The Club will be responsible for cost or repairing any damage caused by the Club or as a result of its use of or access to the Facility.
- The City will maintain the Facility.

The Licence by the Club accords the City of Nedlands Council Policy for Use of Council Facilities for Community Purposes. This policy states the purpose of Management Licences is to provide sporting clubs and other community based user groups with secure, medium-term tenure of a Council facility that is shared with other users.

The proposal for the Club's tenancy qualifies in that the Facility is shared-use, with Swanbourne Tigers Junior Football Club and members of the public. It is appropriate for this Facility to be maintained by the City and as the Club will have exclusive use of the Facility during its season there are additional requirements for Club to make Facility available for Hire as well as bear cost of running the Facility during their sports season.

5.0 Consultation

The City and Club have negotiated and agreed the terms of the Management Licence.

The City's Administration will provide a copy of the draft Licence to the Department of Lands with request for Ministerial consent, as required by section 18 of the Land Administration Act 1997. This consent must be obtained prior to execution of the Licence.

6.0 Budget / Financial Implications

There are no further budget or financial implications to consider with this item. The Club will pay a fee to contribute to the facility's ongoing maintenance and repair and during their term of Licence the Club will cover costs to operate from the facility.

7.0 Risk management

The terms of the Licence follow those associated with other Management Licences by Sporting Clubs at City facilities. The terms of the Licence ensure appropriate risk management where Licensee is responsible for the operations at the Facility during the term of Licence and providing the necessary indemnity to both the City and Minister for Lands.

8.0 Conclusion

The Licence has been agreed with the Club and accords terms of the licence arrangement with Collegians at Adam Armstrong Pavilion, David Cruickshank Reserve. The terms of the proposed Licence have been tried and tested with Collegians for almost 2 sports seasons now and Administration are satisfied with the requirements of such tenancy. The terms of the Licence ensure an appropriate balance of roles and responsibilities.

The City continues to manage the maintenance of the Facility while the Club as a primary user and licensee of the Facility pays a fee to contribute to costs of maintenance and bears costs associated with their operations at the Facility. The Licence provides a sustainable framework for the Club ongoing use of the Facility.