



Planning and Development Reports

Committee Consideration – 13 August 2013
Council Resolution – 27 August 2013

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PD32.13	No. 80 (Lot 74) Rosedale Street, Floreat – Proposed Observatory
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Committee	13 August 2013
Council	27 August 2013
Applicant	Paul & Ligia Kralert
Owner	As Above
Officer	Laura Sabitzer – Planning Officer
Director	Peter Mickleson – Director Planning & Development
Director Signature	
File Reference	DA13/65; RO5/80
Previous Item	Nil

Executive Summary

This application is for a proposed observatory to be located at the rear of No. 80 Rosedale Street, Floreat.

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

It is considered that the development does not satisfy the design principles of the Residential Design Codes of WA (R-Codes) gazetted 2 August 2013, namely clause 5.1.3 P3.1 (lot boundary setback) and clause 5.1.4 P4 (open space). As a result the application is recommended for refusal.

Recommendation to Committee

Council:

1. refuses an application for a proposed observatory at No. 80 (Lot 74) Rosedale Street, Floreat in accordance with the application received 19 February 2013 and the plans received 26 February 2013 for the following reasons:
 - a. the observatory does not meet the design principles listed at clause 5.1.3 P3.1 of the Residential Design Codes of WA 2013 (refer to Advice Note a);
 - b. the observatory does not meet the design principles listed at clause 5.1.4 P4 of the Residential Design Codes of WA 2013 (refer to Advice Note b); and
 - c. the proposal is not orderly and proper planning.

Advice Notes specific to this refusal:

1. the observatory is considered to be a bulky structure in the rear setback area, and the proposed setback does not reduce the impact of the building bulk on the adjoining property to the east; and
2. the addition of the observatory would increase the building bulk at the site and limit the provision of useable open space at the site. The open space provided is not consistent with the character or expectations of a residential property coded R12.5.

Strategic Plan

KFA: Natural and Built Environment

Background

Property address	No. 80 (Lot 74) Rosedale St, Floreat
Lot area	835 sq m
Zoning:	
Metropolitan Region Scheme	Urban
Town Planning Scheme No. 2	Residential R12.5

A single storey dwelling and swimming pool was approved at the address in December 2011. The construction of the residence was completed in June 2013.

In February 2013, the City received a development application for a standalone astronomical observatory at No. 80 Rosedale St, Floreat. The observatory is proposed to be located at the rear of the property. Refer to Attachments 1 - 5 to view the location of the property, photographs and plans of the development.

Legislation / Policy

- City of Nedlands Town Planning Scheme No. 2 (Scheme)
- Residential Design Codes of WA 2013 (R-Codes)*
*the R-Codes were updated on 2 August 2013
- Council Policy 6.4 – Neighbour Consultation (Neighbour Consultation policy)

Discussion

Setbacks

The observatory contains a retractable hatch (shutter), which opens when the observatory is in use. Due to the specialised use of the building, the hatch would likely only be open at night.

The minimum distance the structure is to be setback from the lot boundaries set out at clause 5.1.3 C3.1 of the R-Codes. The table below outlines the assessment of the setbacks.

	Required setback	Proposed setback (hatch open)	Proposed setback (hatch closed)
Rear (E)	Min. 1m	0.13m	1.2m
Side (S)	Min. 1m	0.48m	1.55m

The R-Codes allows for reduced setbacks, providing that the development meets the following Design Principles:

- *'Reduce the impacts of building bulk on adjoining properties;*
- *Provide adequate direct sun and ventilation to the building and open spaces on the site and adjoining properties; and*
- *Minimise the extent of overlooking and resultant loss of privacy on adjoining properties'.*

Officer's Technical Comments:

The proposed observatory would not impact the access to direct sun or ventilation to the residence at the subject property, nor the residences or open spaces at the adjoining properties. Additionally it is considered that the observatory would not directly overlook or impact the privacy between properties. This is due to the specialised use of building the observatory which would only be used at night, and if the observatory is used for its intended purposes (i.e. astronomy) the observer would not be able to look into the adjoining properties.

It is noted that the adjoining property to the east has landscaping along the boundary line and the residence is not adjacent to the observatory, whilst the adjoining property to the south the ground level of the residence is considerable lower and the only view would be to the roof of the property (refer to Attachment 5 for photographs).

For properties coded R12.5 the rear setback is a minimum of 6m; however, the observatory can be classed as an outbuilding (i.e. a shed). An outbuilding can be setback a minimum of 1m from a rear boundary. Even though the proposed observatory can be classed as an outbuilding, the built form differs from a typical 'garden shed'.

The roof line of the observatory is a dome, whilst an outbuilding generally has a pitched roof which is higher in the centre, then angles away. The observatory will be a dominating structure within the rear setback area. The dome roof is above the existing fence line and will be visible to the adjoining eastern property. The roof structure will be bulky and could be considered to be visually obtrusive. Therefore, it is considered that the proposed setback from the boundary will not reduce the impacts of building bulk.

Applicant's Justification:

"The lower shutter/hatch of the observatory dome will be seldom opened. It is noted that this is part of the standard dome package offered by the manufacturer and is not a specially requested option. The upper shutter is the one that will be routinely drawn back when the observatory is in use. When the lower shutter is opened, the precise position of the hatch can be adjusted to any angle (it is not a simple drop-type arrangement). This allows one to view objects that are closer to the horizon, but the design of the observatory/telescope/pier combination is such that one cannot physically train the telescope on targets at altitudes of less than 20 degrees. This means that it will simply not be possible to look into the backyards of neighbouring properties.

The observatory will only be used at night, and so, the position of the lower hatch will not have an impact on the amount of sun reaching the adjoining properties. Additionally, the hatch is minimal in area and has a very thin profile.

The US manufacturer that I have selected for the proposed observatory is one of the best (and most expensive) in the business. In my opinion, they build some of the most beautiful, classic, dome-shaped buildings in the world. There is also a choice of more than 30 exterior colours and my intention has always been to select a colour that blends in with the surroundings and minimises reflected light from the sun. I note that our rear boundary neighbour already has a line of established trees / tall shrubs along the border that would block out views of the observatory from much of their backyard (and certainly inside their house)"

Open Space

The property is zoned Residential R12.5. The R-Codes deemed-to-comply provision notes that for R12.5 properties, a minimum of 55% of the site area is to be open space. With the addition of the proposed observatory, the open space at the property is reduced to 54.3% of the site area. Therefore, a 0.7% (6m²) reduction to the minimum open space requirements is posed.

The R-Codes allows for a reduction in open space, where it is demonstrated that the development meets the following Design Principles:

'Development incorporates suitable open space for its context to:

- *Reflect the existing and/or desired streetscape character or as outlined under the local planning framework;*
- *Provide access to natural sunlight for the dwelling;*
- *Reduce building bulk on the site, consistent with the expectations of the applicable density code and/or as outlined in the local planning framework;*
- *Provide an attractive setting for buildings, landscape, vegetation and streetscape;*
- *Provide opportunities for residents to use space external to the dwelling for outdoor pursuits and access within/around the site; and*
- *Provide space for external fixtures and essential facilities.'*

Officer's Technical Comments:

It is deemed that the reduced open space at the rear has not been designed to adequately complement the building. A development application for a single storey residence at No. 80 Rosedale Street, Floreat was approved in 2011 and construction was complete in June this year. The owners then submitted a development application for the proposed observatory received in February 2013. The observatory should have been considered when the house was initially designed. The design could have then been modified to ensure that the development met the R-Codes deemed-to-comply requirements. There are more appropriate locations at the site for the observatory.

In terms of the design principles, the proposed observatory does not restrict the dwelling's access to natural sunlight, there is sufficient space for access within and around the site, and the observatory does not impact the spaces for external and essential facilities.

It is acknowledged that the reduced open space at the rear of the site will not impact negatively on the streetscape. The buildings on site provide for adequate open space within the front setback, however, this is due to the front setback requirement of minimum 7.5m.

The distinct character of the properties coded R12.5 in this locality, is the open nature and spaciousness around the envelope of dwellings, not just the front setback. Referring to Attachments 2 & 5, it is apparent that there is limited usable open space, behind the front setback area. It is noted that the lot is irregular in shape and tapers towards the rear, however it is considered that there is not a sufficient provision of useable open space to meet the expectations for a lot which is 835 sq m and coded R12.5.

As discussed above, the proposed observatory is considered to be a bulky and a dominating structure in the rear setback area. Generally, development in the rear setback can be classed as open space (i.e. pools, pergolas and planter boxes) or as an outbuilding (i.e. garden shed).

On balance it is recommended that the proposed open space variation is not supported. The City is required to ensure a consistent approach that the minimum

amount of open space should be provided on all residential developments to ensure protection of the existing residential amenity. If the City was to approve this application it may then be expected that Council would approve other similar proposals to vary the minimum open space requirements. This would lead to an overall decrease in open space of the area and may reduce residential amenity and the attractiveness of the streetscape.

Applicant's Justification:

"With regard to the RCodes design principles for open space; I would like to point out that the planned observatory will not have any impact on the existing streetscape. I also believe that there will be sufficient space around the dome/sub-building to complement the new structure (which will, incidentally, be professionally landscaped). Furthermore, the design of the observatory is such that it can be easily disassembled and removed at a later date to accommodate the wishes of any future residents/owners".

Preservation of Amenity

TPS2 clause 5.5.1 (Preservation of Amenity) states:

'Without limiting the generality of Clause 6.5 the 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 response, the proposed observatory would not adversely affect the amenity of the surrounding area when assessing the development's impact in terms of the considerations listed above.

Orderly and Proper Planning

TPS2 clause 6.5.1 (Determination by Council) states:

'The Council may determine an application by granting approval, refusing approval or granting approval subject to such conditions as it thinks fit, having regard to the orderly and proper planning of the area.'

In response, some components of the development do not comply with planning requirements, with some discretionary variations which are not supported (see Discussion section). Accordingly, it is considered that those components do not represent orderly and proper planning in accordance with clause 6.5.1, and are not supported.

Consultation Outcome

The surrounding landowners received a letter from the City, for comments in relation to the proposed R-Codes variations. The City received two (2) submissions; (1) objection and (1) general comments during the neighbour comment period.

A summary of the neighbour consultation is found in Attachment 6. Refer to the Consultation Process section for details as to how consultation was conducted.

Conclusion

An application has been received for a freestanding astronomical observatory. The application proposes variations to the building setbacks and open space provision of the R-Codes. The variations have been assessed against the relevant design principles.

As discussed, it is considered that the proposed observatory does not satisfy all of the listed design principles. Namely, the proposed setback from the rear boundary does not reduce the impact of the building bulk on the adjoining property to the east and the addition of the observatory would increase the building bulk at the site and limit the provision of useable open space at the site.

As a result, the application is recommended for refusal.

Consultation Process

What consultation process was undertaken?

Required by legislation (Scheme/RCodes): Yes No
Required by City of Nedlands policy (Neighbour Consultation policy): Yes No

How and when was the community consulted?

The application was advertised by letter to the surrounding landowners. The comment period was from 18 March 2013 - 2 April 2013.

In total two (2) submissions were received; one (1) objection and one (1) provided comments but did not indicate if they were for or against the proposal.

A summary of the comments received during consultation can be viewed at Attachment 6.

Budget / Financial Implications

The application is for works constructed on a private lot, and therefore has no budget / financial implications for the City.


Risk management

Not Applicable.

Attachments

1. Locality plan
2. Site plans
3. Elevation plan of property
4. Elevation plan of observatory
5. Photographs
6. Summary of consultation

PD33.13 No.173 (Lot 502) Alfred Road, Swanbourne – Proposed Landscaping, Fairway Re-alignment and Re-contouring at Cottesloe Golf Club (Holes 12, 13 & 14)

Committee	13 August 2013
Council	27 August 2013
Applicant	Cottesloe Golf Club Inc
Owner	State of WA – Vested to City of Nedlands
Officer	Elle O'Connor – Planning Officer
Director	Peter Mickleson – Planning & Development
Director Signature	
File Reference	AL3/173-03: DA2010/528: M13/20568
Previous Item	Nil

Executive Summary

The Cottesloe Golf Club (CGC) proposes to undertake extensive works on holes 12, 13 and 14 which are located in the far north east corner of the 62.2 hectare site, adjacent to residential lots on Fortview Road, Mt Claremont.

The works are being out carried to improve the golf course and address issues with golf balls straying into neighbouring properties, and as such in relation to general setback and amenity considerations, the works will likely improve the amenity for neighbouring owners.

The proposed works include:

- Realigning existing fairways;
- Re-contouring (cut and fill to a maximum of 3.25m);
- Removal of 85 trees;
- Removal of remnant vegetation;
- Replacement of trees two (2) for every one (1) removed); and
- Installation of new bunkers and golf cart pathways.

The CGC site is zoned 'Parks and Reserves' under the Metropolitan Region Scheme (MRS) and is required to be determined by the Western Australian Planning Commission (WAPC). The purpose of this report is for Council to consider the application and make a recommendation to the WAPC.

The proposed works require the removal of a significant number of trees and remnant bushland. The guiding principles of the relevant environmental policies

generally recommend the retention of as many trees and remnant vegetation as possible. However, the policies are guiding documents only.

Taking into account the needs of a working golf course, the safety of the neighbouring owners and balancing the environmental concerns, replacement of the trees and top soil relocation of the remnant vegetation is recommended. These will likely results in an increase in the number of trees (Tuarts and WA Peppermints) on the site and in the long term, reduce the effects of the works.

Alternatively, if it is considered appropriate to retain the existing significant trees and remnant vegetation, the application would need to be recommended for refusal.

Recommendation to Committee

Council either:

- 1. recommends approval to the Western Australian Planning Commission (WAPC) for landscaping, fairway re-alignment and re-contouring (Holes 12, 13 & 14) at Cottesloe Golf Club located at No.173 (Lot 502) Alfred Road, Swanbourne in accordance with the application dated 29 October 2010 and the Tree Clearing Plan and site plan dated 3 July 2013 subject to the following conditions:**
 - a. the existing Tuart tree identified as 'possibility to save' in Section 3 of the 'Tree Clearing Plan' received 3 July 2013, shall be retained;**
 - b. the applicant is to replace every single tree removed with two (2) trees;**
 - c. tree species for replacement should be locally occurring natives such as W.A Peppermints and Tuarts at a minimum size of 500L;**
 - d. trees should be planted in the next winter, following the time they were removed;**
 - e. trees not proposed for removal are to be retained and protected during the construction process in accordance with AS 4970-2009 Protection of Trees on Development Sites and AS 4373 Pruning of Amenity Trees;**
 - f. the only trees to be removed are those identified in the 'Tree Removal Clearing Plan' received 3 July 2013, (with the exception of the Tuart tree listed above which is to be retained);**
 - g. the remnant vegetation proposed for removal in Section 7 of Hole 13 as identified on the plan attached to the 'Tree Clearing Plan' is to undergo top soil relocation to the satisfaction of the City (refer to Advice Note 2);**
 - h. all construction is to be undertaken from within the development site as detailed on the Site Plan, not from within surrounding vegetated areas;**

- i. no storage of materials, toilets, site offices or parking for vehicles is to occur in the surrounding vegetated areas along fairways, they are to be treated as tree protection zones; and
- j. survey and relocation of reptile and other fauna is to be undertaken prior to any development work.

Advice Notes:

1. the applicant is reminded that this development approval does not give approval under any other Act. The applicant is required to gain all necessary approvals under all other relevant legislation before undertaking the works. This may include, but is not limited to:
 - a. the *Environment Protection and Biodiversity Conservation Act 1999*;
 - b. the *Environmental Protection Act 1986*; and
 - c. the *Wildlife Conservation Act 1950*.
2. it is preferable that the remnant vegetation to be removed is relocated to the north west corner of the site, directly abutting vegetation contained within the Bush Forever Site 315; and
3. the applicant is reminded of its obligations and requirements under the lease agreement for the site, and all necessary requirements will need to be fulfilled before undertaking the works and/or removing any vegetation. This includes the agreement of a Management Plan with the City and written approval of any tree removal.

Or:

1. recommends refusal to the Western Australian Planning Commission for landscaping, fairway re-alignment and re-contouring (Holes 12, 13 & 14) at Cottesloe Golf Club located at No.173 (Lot 502) Alfred Road, Swanbourne in accordance with the application dated 29 October 2010 and the Tree Clearing Plan and site plan dated 3 July 2013 for the following reasons:
 - a. fifty-two (52) trees proposed to be removed from the site are potential foraging species used by Carnaby Cockatoos and the Red-Tailed Black Cockatoos;
 - b. an area of remnant vegetation of significance is proposed to be removed; and
 - c. the site is a strategic link between identified Bush Forever Sites and Greenways.

Strategic Plan

KFA: Natural and Built Environment
 KFA: Governance and Civic Leadership

Background

Property address	No.173 (Lot 502) Alfred Rd, Swanbourne (refer to Locality Plan below)
Lot area	62.2 ha
Zoning:	
Metropolitan Region Scheme	Parks & Recreation
Town Planning Scheme No. 2	N/A

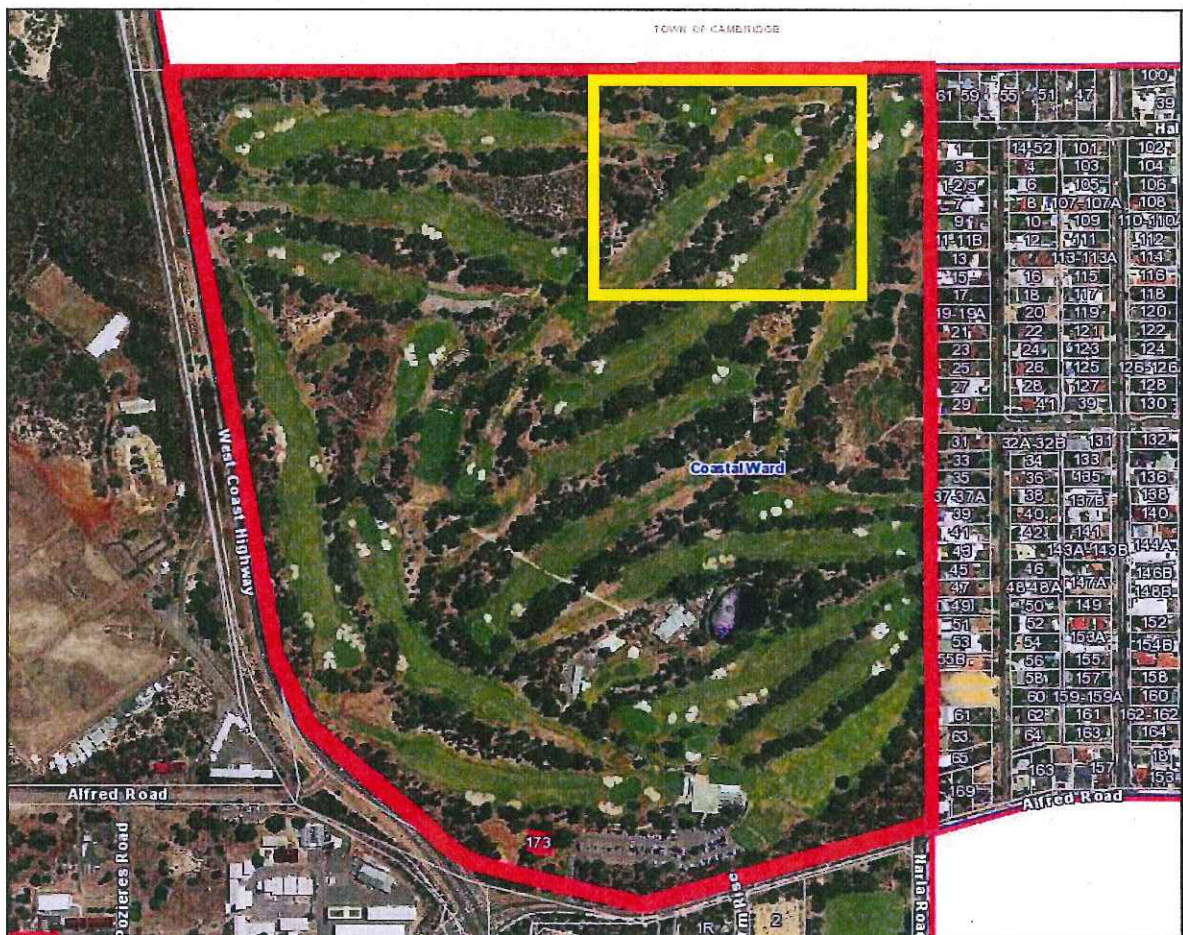


Figure 1 – Locality Plan

Cottesloe Golf Club Inc (CGC) was formed in 1908 and has operated from its current location since 1931. The club is an 18 hole golf course that incorporates a multi level purpose built club and function building with associated facilities.

The site is part of Category 'C' Crown Reserve (Reserve 9299) and has been vested to the City since 27 June 1980, for the purpose of 'Recreation' by way of

Management Order. This grants the City the power to lease Reserve 9299 for any term not exceeding 42 years subject to the consent of the Minister for Lands. The City has leased the land to the Cottesloe Golf Club (CGC) for over 30 years.

The Lease

In summary, the lease for the CGC requires the CGC to:

1. Maintain the surroundings;
2. Get written consent from the City to remove any vegetation, and in particular remnant bushland; and
3. Prepare and agree with the City on a Management Plan for the remnant bushland.

The Lease states that the intent of the Bushland Management Plan is to:

'retain remnant Bushland wherever possible, within the constraints of providing and maintaining a workable golf course'.

The approval of this Management Plan is a requirement under the lease. The lease is between the CGC and the City. This is a completely separate process from the development application which is a statutory planning process.

At this stage, the Management Plan for Remnant Bushland has yet to be finalised and get agreement from the City. This Management Plan is in addition to the development application and will be needed to be agreed to prior to any works being carried out on the site.

Legislation / Policy

Acts

1. *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act)

The applicant will need to ensure they have met any obligations/requirements under this Act before proceeding with the works.

2. *Environmental Protection Act 1986* (EPA Act) & *Environmental Protection (Clearing of Native Vegetation) Regulations 2004*.

The applicant will need to ensure they have met any obligations/requirements under this Act before proceeding with the works. This may include the need for a clearing permit.

3. *Wildlife Conservation Act 1950*.

The applicant will need to ensure they have met any obligations/requirements under this Act before proceeding with the works.

Schemes

1. Metropolitan Region Scheme (MRS)

This application is required to be determined by the WAPC in accordance with this Scheme. The City of Nedlands makes a recommendation to the WAPC.

2. City of Nedlands Town Planning Scheme No. 2 (TPS2)

The land is not zoned under TPS2 and therefore this scheme is not a relevant consideration.

State Government Policies

1. State Planning Policy 2.8 (SPP2.8)

SPP2.8 is a strategic policy guiding State and local planning systems. One of the key initiatives of this policy is the listing of properties under the State planning requirements of the 'Bush Forever' report.

The closest Bush Forever site to the works is Bush Forever Site 315. The far north west corner of the CGC forms part of this Site. However, the portion of land where works are proposed does not fall specifically fall under a Bush Forever Site.

Another key initiative, at a local level, includes the promotion and guidance on local biodiversity and bushland protection strategies. These in turn would require statutory planning control mechanisms, such as Scheme or policy provisions. To date, no such mechanisms have been formally endorsed by Council and/or the WAPC.

2. Perth Biodiversity Project 'Conservation Priorities for Perth and Peel' (Perth Biodiversity Project)

The aim of this project is to identify natural areas in Local Government areas that are not listed as specific Bush Forever Sites. This will then support Local Governments to use their functions and powers effectively to protect and manage Local Natural Areas (LNA's).

The term Local Natural Area (LNA's) is used to describe any physical area that contains native species or ecological communities in a relatively natural state.

The mapping viewer of this project identifies a small portion of hole 13 within a listed LNA.

Local Policies

1. Western Suburbs Greening Plan (Greening Plan) 2002

The Greening Plan is an environmental strategy produced by the Western Suburbs Regional Organisation of Council (WESROC) and the Town of Cambridge. The City of Nedlands is a member of WESROC.

The aims of the Greening Plan are:

- To identify areas of remnant vegetation within the project area;
- To identify the potential to link these areas to form an integrated, cohesive network of greenways;
- To develop policies and broad management guidelines for the conservation, protection and enhancement of the identified greenways;
- To prepare broad management guidelines for the conservation and enhancement (as required) of local biodiversity;
- To recommend areas suitable as sites for establishing appropriate native species; and
- To identify means by which the community can be encouraged to participate in the conservation and enhancement of local biodiversity.

The site has been identified as a Greenway under this Plan. To date, no additional policies or management guidelines have been prepared by the City under this Plan.

2. Council Policy 'Greenways Corridor' (Greenways Policy)

The Council is guided by the Greenways Policy, which has an associated Procedure Manual.

The CGC site is a strategic park which is linked to Bold Park and Allen Park through the local and regional greenway network.

Other

1. Central Perth Regional Parklands Concept Vegetation Connectivity Analysis (Support Document for the Capital City Planning Framework)

As the CGC is a strategic link between bush forever sites and greenways, this support document considers the CGC as a Target Area 2, where the objectives are defined as improving the habitat values of the Lake Claremont Bush forever site and improving the connectivity to the Swan River and through to Bold Park.

This document is a support document to the Capital City Planning Framework. The Capital City Planning Framework is a spatial strategy visioning document which will enable future planning and policies to be undertaken. No current policies or regulations have been developed under this Framework in relation to this area.

Discussion

As the land is reserved under the MRS for Parks & Recreation, the application will be determined by the WAPC.

This report is for Council to consider the application under the relevant planning legislation and applicable policies and to make a recommendation to the WAPC on this basis.

The Council is also the landowner of the property and as discussed in the background section of this report, the Council has a lease agreement with the landowner. However, this consideration by Council is as a statutory authority, not as a landowner. This report considers the statutory requirements of the proposal and the potential effects of the development under these requirements.

Application History

October 2010	The CGC submitted an application to the City for works on holes 5-8 and holes 12-14. The application proposed the following: <ul style="list-style-type: none"> • Re-contouring and realigning of existing fairways; • Tree removal; • Landscaping; and • The construction of new bunkers and golf cart pathways.
November 2010	The application was advertised to residents adjoining the golf course along Mayfair Street and Fortview Road, Mt Claremont. Five objections were received expressing concerns over tree removal between the fairways and residential lots.
January 2012	The City requested additional information regarding the removal of trees and the potential impacts on flora and fauna in the locality. The application was put on hold until this information was received.
May 2012	A flora and fauna study was submitted to the City. The study found that the survey area contained potential habitat (mature tuart trees) for the Carnaby's black cockatoos and forest red-tailed black cockatoos. The study recommended retaining as many potential habitats (mature tuart trees) as possible.
June 2012	The application was amended to works on holes 12, 13 and 14 only and re-advertised to residents on Fortview Road. Three objections were received regarding tree removal and loss of amenity. The application was further put on hold, pending additional information that specified exactly which trees were proposed to be removed.
May / June 2013	All requested information was received and re-advertised to residents along Fortview Road.

Application details

The application proposes to re-align the fairways to holes 12, 13 and 14, angling golf balls away from the residents on Fortview Road. This re-alignment involves clearing 85 mature trees on the site (see Attachment 2). The trees to be removed include:

- 12 Coastal Moort (*Eucalyptus platypus*);
- 5 Sugar gum (*Eucalyptus cladocalyx*);
- 11 Rottneet Tea Tree (*Melaleuca lanceolata*);
- 42 W.A Peppermint trees (*Agonis flexuosa*);
- 1 Tuart (*Eucalyptus gomphocephala*) – this has been flagged as a possible removal;
- 5 Spotted gum (*Eucalyptus maculata*);
- 4 Radiata pine (*Pinus radiata*); and
- 5 Coral gum (*Eucalyptus torquata*).

The CGC proposal is to replace two trees for every one removed.

Earthworks

The application proposes re-contouring (cut & fill) of holes 12, 13 & 14. The maximum fill proposed is 3.25m above the natural ground in the far north-east corner of the golf course, setback 50m from the residential lots on Fortview Road.

As the site is not zoned under the City's Scheme, there are no specific setbacks or other similar provisions applicable. However, in assessing the potential effects on the neighbouring owners it is useful to consider what would be permitted if it was zoned under the Scheme and the R-Codes applied.

If the Residential Design Codes were applicable, the setbacks of the works would need to be considered. Under Clause 6.8.1 of the R-Codes, finished ground levels 0.5m above the natural ground level must be setback a minimum of 7.5m in order to prevent overlooking.

In this case, the earthworks are up to 3.25m in height, but will be located a minimum of 25m from the nearest neighbour. Therefore, no overlooking concerns (other than that which could normally be expected from adjoining a golf course) are created through the proposed re-contouring.

Safety

There is no formal set of safety distances in existence between property boundaries and golf course boundaries, i.e. Australian Standards. Slope of the terrain, prevailing winds, strategy of the golf hole and vegetation can all influence the final destination of a golf ball.

Notwithstanding that the application proposes to remove trees within the vegetated buffer, the re-alignment of the fairways will drive the golf balls further away from the residential lots compared to the current configuration and result in less safety concerns.

Environmental considerations

There are several Acts, Schemes, Policies and plans which have been developed and need to be considered in relation to this application, all with varying degrees of statutory application. These documents have been set out earlier in this report under heading 2.2 Legislation.

The applicant is required to gain approval or meet its obligations under all the relevant legislation and the works cannot commence until all of the relevant approvals, obligations and agreements have been gained. This includes the agreement of a separate Management Plan under the lease agreement with the City.

In this instance, as the site is not zoned under the City of Nedlands Town Planning Scheme, the Council's consideration (and recommendation to the WAPC) is restricted to the relevant state and local policies and plans outlined in section 2.2.

The applicant and the determining authority (WAPC) is required to consider all the Acts and meet the relevant obligations under those Acts.

Relevant Plans and Policies:

The Greenway Policy's, various projects and plans provide a framework for identifying and protecting remnant bushland, however, none of these policies or plans have statutory regulations preventing the determining authority from approving the application. These policies and plans intend to inform the statutory authorities in order for statutory documents to be developed. To date, no additional statutory regulations have been developed in line with these recommendations.

The City's Environmental Conservation Coordinator has provided comment in relation to the relevant policies and plans.

In summary, these comments conclude that the CGC site is a strategic park linked by the greenway corridor network. There is significant remnant bushland and trees which should be protected as proposed clearing of trees on the CGC site will reduce the ecological integrity of the regional greenway corridors along the Swanbourne coast to Floreat, Bold Park and bushland and wetland areas at Lake Claremont.

It is also stated that the remnant bushland and trees (specifically Tuart, Peppermints and Radiata Pines) have been identified as potential foraging habitat for Carnaby Cockatoos. In addition there are also species proposed to be removed that are known foraging trees (including Spotted Gums) used by Red-Tailed Black Cockatoos.

A mature Tuart tree is identified in the 'Tree Clearing Plan' as 'possible removal'. The applicant's flora and fauna study recommended retaining as many potential habitats for the Carnaby Black Cockatoo as possible. Given that this tree may not need to be removed, it is recommended that the works ensure that this Tuart tree is retained. A condition is recommended accordingly.

Although the site is not zoned under the City of Nedlands Town Planning Scheme, Clause 6.4 of the scheme, which would normally be used when assessing a development application on land zoned under the scheme, outlines the:

'desirability of preserving (or replacing) existing trees and other vegetation contributing to the amenity or significance of the locality.'

For this reason, it is also considered desirable to retain as many trees as possible and where necessary replace the vegetation.

Consultation Outcome

The application has been advertised to all adjoining residents on Fortview Road, Mt Claremont, three (3) submissions of support were received. Due to this, it is considered that the proposed works will have a positive impact on surrounding residents, especially where safety is concerned.

A consultation letter was also sent to the Urban Bushland Council WA which consists of sixty (60) community conservation groups. No submissions were received.

Conclusion

The works are being out carried to improve the golf course and address issues with golf balls straying into neighbouring properties, and as such in relation to general setback and amenity considerations, the works will likely improve the amenity for neighbouring owners.

The main concern is the effect of the removal of a significant number of trees and area of remnant vegetation. The site is a strategic link in many of the bushland and greenway corridors (although it is not a specific greenway under the City's Greenways Policy) and many of the trees are foraging trees for Carnaby and Red-tailed Black Cockatoos.

The clearing of remnant vegetation and trees on the CGC is generally against the general intentions and guiding principles of the relevant policies and plans, although it is recognised that these documents are guiding documents only.

It is therefore recommended as a minimum, that there should be no net loss of vegetation cover as a result of this development application. In the development application the CGC stated they would replace two (2) trees for every one (1) removed. If this is to be undertaken then the trees would need to be of significant size (minimum 500L) and of trees species found locally in the area such as W.A. Peppermints and Tuarts.

Taking into account the needs of a working golf course and balancing the environmental concerns, replacement of the trees and top soil relocation of the remnant vegetation is recommended. This will result in a significant increase in trees (Tuarts and WA Peppermints) on the site and, in the long term, minimise the effect of the works.

Alternatively, if it is considered appropriate to retain the existing significant trees and remnant vegetation, the application would need to be recommended for refusal.

Consultation Process

What consultation process was undertaken?

Required by legislation (Scheme/R-Codes): Yes No
Required by City of Nedlands policy (Neighbour Consultation policy): Yes No

How and when was the community consulted?

Community consultation period	4 July 2013 – 18 July 2013
Three (3) submissions of support. No objections were received.	

It is the responsibility of the decision-making authority (WAPC) to consult and refer to relevant agencies.

Budget / Financial Implications

Although the land is vested in the City, Clause 11.3 of the lease agreement with the CGC states that all works are to be carried out at the CGC's expense. As such there are no budget or financial implications for the City.

Risk management

Not Applicable

Attachments

1. Proposed Site Plan
2. Tree Clearing Plan

PD34.13	Proposed Masterplan for Hollywood Private Hospital, Lot 564 (No. 101) Monash Avenue, Nedlands
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Committee	13 August 2013
Council	27 August 2013
Applicant	Peter Driscoll, Landvision on behalf of Hollywood Hospital
Officer	Gabriela Poezyn – Manager Strategic Planning
Director	Peter Mickleson – Director Planning & Development
Director Signature	
File Reference	MO1/101-09
Previous Item	Nil

Executive Summary

At the request of the Hollywood Private Hospital Board, Landvision has created a new masterplan (refer to Attachment 2) to guide the development of the site at No 101 Monash Avenue, Nedlands for the next 20 years. For Locality Plan refer to Attachment 1.

The masterplan provides for additional development within revised setback, height, and landscaping provisions.

The purpose of this report is to obtain approval in principle for the proposed masterplan to allow for public consultation.

Recommendation to Committee

Council:

1. approves the proposed Hollywood Private Hospital Masterplan dated July 2013 for Lot 564 (No. 101) Monash Avenue in principle to allow for public consultation; and
2. instructs Administration to advertise the proposed Hollywood Private Hospital Masterplan dated June 2013 for a minimum period of three (3) weeks.

Strategic Plan

- 3.5 Develop and implement precinct plans for key areas in the City.
- 3.6 Promote programs and policies to facilitate environmentally responsible and sustainable buildings and building practices.
- 7.1 Support local businesses in their activities.

Background

Property address	Formerly: Pt Loc 1715 and Pt Loc 8697 Monash Avenue, Nedlands (Attachment 1:Locality Plan) Now: Lot 564 (No. 101) Monash Avenue, Nedlands
Lot area	116,613.70 m ²
Metropolitan Region Scheme	Urban
Town Planning Scheme No. 2	Special Use – Schedule V

The original buildings on the site were constructed during World War II by the Commonwealth Government as a 500 bed hospital for service personnel. The facility subsequently was used to provide acute care for veterans and war widows, until it was acquired by the current owners, Ramsay Health Care, in 1994.

The hospital is currently licensed for 659 beds, and provides care for private patients, entitled war veterans and war widows.

Development at the site initially occurred on an 'as need' basis.

In 2005, Council approved a masterplan which is still in force, but no longer adequately meets the requirements of the hospital.

In 2009, there was an attempt to revise the 2005 masterplan but the proposal was not progressed.

An amendment of Town Planning Scheme No. 2 (TPS2) was commenced in December 2012 and presented to Council for final approval in June 2013. The purpose of the scheme amendment is to embed the need for a masterplan for this site into the scheme so that tailor made development provisions can guide the development on the site.

The proposed masterplan is the second stage in the process to create a comprehensive development regime for the site.

Key Relevant Previous Council Decisions

Council's decision to approve Scheme Amendment 198 in June 2013 (Item: PD23.13 - Scheme Amendment 198).

Details of Proposed Masterplan

The proposed masterplan is designed to guide the redevelopment of the site for the next 20 years.

The masterplan document comprises of text and maps.

Central to the masterplan are the maps at:

1. Figure 6 entitled 'Hollywood Private Hospital, Monash Avenue, Nedlands – Masterplan', which is supported by Figures 8 and 9 entitled 'Hollywood Private Hospital, Monash, Nedlands - Masterplan – Street Elevations' and 'Hollywood Private Hospital, Monash Avenue, Nedlands – Masterplan – Massing Model' respectively which show the impact of the changes proposed by the draft masterplan to the revised building height limitations;
2. Figure 7 entitled 'Hollywood Private Hospital, Monash Avenue, Nedlands – Vehicle and Pedestrian Access and Circulation and Parking Distribution" which show access details; and
3. Landscaping report attached as Appendix 2 to the Masterplan.

The masterplan has the following features:

Additional Floor Area

Under the draft masterplan it is proposed that approximately 9400m² of additional floor area for the hospital and ultimately 1800 car bays will be built in accordance with a time line. The maximum development of the site is proposed to be at a plot ratio of 1.0, which is higher than required to accommodate the 9400m² in order to provide flexibility.

While the uses on the site are limited to hospital type uses, the exact use of the additional area is not yet known. The ultimate car bay numbers align with the car parking cap imposed on the site by the WAPC.

Revised Building Height Limits

The draft masterplan proposes to establish alternative building heights to the standard heights currently permitted for the site. Through the use of three height zones, the plan proposes that:

- Four (4) storeys (maximum 17m) are permitted in the area facing Monash Avenue (Zone 1);
- Two (2) storeys (maximum 10m) are permitted in the area facing Verdun Street (Zone 3); and
- A maximum height limit of six (6) storeys (maximum 26m) applies to the remainder of the site (Zone 2).

The justification for modified building heights is the size of the lot, and the significant fall across the site from the western to the eastern boundary. This ameliorates the impact of high buildings in the centre of the site, while the proposed heights along the edges of the site are designed to integrate with neighbouring areas.

Setbacks from Boundaries

Under the draft Masterplan setbacks of 10m are proposed from all boundaries except the eastern boundary which abuts the QEII site, where the setback is to be at Council's discretion. The proposed setbacks are almost double the amount than would be required for this site if the scheme provisions were to apply.

Services Infrastructure

The masterplan flags that all future development will meet the design requirements of the Department of Water's Better Water Management (October 2008).

Storm water quality and quantity will be managed through the provision of onsite storm water retention systems given that the soil has good drainage properties. The existing storm water drainage is via soak wells with a storage capacity for a 1:10 year storm, and overland flow paths for greater storm events. Any new development will have a minimum on site storage capacity to accommodate 1:20 year storm events with overland flow for a greater storm event potentially to a different form of on-site storage.

Access and Parking

Although the site is well serviced by public transport, the system does not provide for a 24 hour service. Until a high frequency service is available, and despite the hospital currently actively promoting alternative transport options for staff, access to the hospital will continue to rely primarily on the use of the private motor vehicle.

Having taken the proposed redevelopment of the QEII site into consideration, traffic studies indicate that the road network has adequate capacity to accommodate the development proposed on this site as part of the masterplan.

With the ongoing dependence on private vehicles on-site parking is a relevant consideration. With the addition of one extra floor on the current multi storey car park, there will be 1500 parking bays available on site for the next five (5) years. A further 300 bays are proposed to be built in due course in a future two deck car park located along Verdun Street.

The masterplan envisages that parking provision will become more tailored to specific parking needs e.g. visitors, doctors etc.

The masterplan continues the hospital's current efforts to promote staff use of alternative transport, such as cycling, car pooling and public transport use. Accordingly, the Masterplan provides that additional end of trip facilities are provided within the first five (5) year period. These include 100 secure undercover bicycle parking spaces and 50 additional u-rails, increase in the number of lockers from 500

to 600, additional 5-10 showers and possible laundry facility for cycling gear required by staff. Any new facilities will be provided as part of developments being constructed after 2018.

Vehicle and Pedestrian Circulation

The site has an existing vehicle and pedestrian circulation system which the masterplan proposes to expand on and improve.

The current vehicle access points which are the five points to the site from Monash Avenue, or the two (2) from Verdun Street, will continue to be used for specific type of traffic only. In the case of the western most access point in Verdun Street, it will only be available on weekdays. The network of internal roads is a ring road that allows access to each existing and proposed new facility.

The masterplan proposes to expand the existing pedestrian network to all new facilities proposed as part of the masterplan. The existing pedestrian network is a north-south corridor and links all major functions of the site. The current system is largely intuitive and self explanatory but is complemented by highly visible colour coded signage, a practice which is expected to be continued as part of the masterplan.

Landscaping

As part of the masterplan, approximately 25% of the site will be landscaped. Landscaping will comprise of garden areas, pathways, shade trees and tree planter boxes, landscaping features, signage, lighting and retention of mature trees wherever possible.

Discussion

The proposed master plan provides a comprehensive tailor-made approach to cater for the needs of the hospital that appropriately responds to adjacent land uses.

Although the development proposal as a whole is considered to be acceptable, the following proposed variations from the standard provisions merit comment.

Impact of Building Height Variation

With the area along Verdun Street (Zone 3) earmarked to comply with the standard building height of 10m (8.5 to wall height and 10m to roof height), the only impact from the proposed height variations is in relation to Zones 1 and 2.

From Figure 8 of the masterplan, which shows the comparison between the current and proposed development, it is evident that the additional height requested in Zone 1 will only be visible from Monash Avenue (see southern site elevation). In addition, the impact of this height increase on the overall built form of the streetscape along Monash Avenue is minimal.

The additional building height in Zone 2 will be visible from all boundaries, but as the six (6) storey buildings are located in excess of 100m from Monash and Verdun Street, their impact on the respective streetscapes is expected to be negligible. The increased building height will also not have any negative impact along the site's eastern boundary, as the buildings will have the significantly taller QEII Central plant as a backdrop. The only potential impact of the increased building height is along the western boundary of the site, but this impact has been mitigated through a 10m building setback that is proposed to be landscaped.

Given the above the height variations proposed by the masterplan for Zones 1 and 2 are considered to be acceptable.

Additional Development

The current development on the site is 91000m². The proposed additional floor space of 9400m² represents just over 10% of the existing development. This is less than the requested plot ratio of 1.0 which would allow additional development of approximately 28% of the existing development.

Given the size of the lot, the additional increased development of the site as proposed under the masterplan, is not considered to have a negative impact on the locality.

Access

The site is easily accessible, although, there is scope to improve the role of modes of transport other than the private motor vehicle. While any expansion of the public transport will benefit the development, the developments proposed under the masterplan will not have a negative impact on the efficiencies of the existing system, since the development does not exceed the demand for car parking set by the car parking cap set for the site.

Car parking

The current development generates a demand for 539 on-site car parking bays.

With the proposed development of 9400 m² this demand is expected to increase at a maximum by a further approximately 450 car bays. Should the development occur at a plot ratio of 1.0 the maximum number of additional bays required would be 1235.

As the proposed use of the additional floor area is not yet available, the car parking calculations are based on the assumption that the entire additional floor area will accommodate consulting rooms, which is one of the likely uses to be accommodated on this lot and is the use with the highest car parking requirement under the scheme.

Under the masterplan, maximum parking demand is estimated to be between 1000 – 1774 bays, while ultimately 1800 bays are proposed. Given that the parking supply for the site will be in excess of its parking demand, the proposed development is not expected to have any negative impact on parking in the area in this category.

Consultation

Required by legislation:

Yes

No

Required by City of Nedlands policy:

Yes

No

Consultation will be conducted once the proposed masterplan has been adopted in principle by Council for a minimum period of twenty-one (21) days.

Legislation / Policy

The proposed masterplan will become a part of the City of Nedlands Town Planning Scheme No. 2 (TPS2).

Budget/Financial Implications

Within current approved budget:

Yes

No

Requires further budget consideration:

Yes

No

Scheme Amendments have no financial implications for the City as all costs incurred in relation to the amendment will be recovered by the applicant.

Risk Management

Lack of support of this proposal will potentially result in a development proposal that responds with less sensitivity to the surrounding land uses, or not meet the needs of the hospital.

Conclusion

The proposed masterplan is considered to have carefully balanced the future need of the hospital while responding sensitively to surrounding land uses.


With the exception of increased height limitation for portions of the site and the plot ratio, the development parameters proposed for the site under the proposed masterplan are more restrictive that would ordinarily be permitted under the TPS2, and accordingly will make a positive contribution to amenity of the area.

It is therefore recommended that the draft masterplan is approved in principle to allow public consultation.

Attachments

1. Locality Plan
2. Draft Masterplan document for Hollywood Private Hospital

PD35.13	Proposed Outlined Development Plan for the Christ Church Grammar School Playing Fields - Lot 816 Stephenson Ave, Mt Claremont
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Committee	13 August 2013
Council	27 August 2013
Applicant	Robertsday
Owner	Christ Church Grammar School
Officer	Elle O'Connor – Planning Officer
Director	Peter Mickleson – Director Planning & Development
Director Signature	
File Reference	ST4/L816-02 : M13/19390
Previous Item	DA07/306 - DA for Earthworks D17.07 – Limited ODP for Earthworks

Executive Summary

The purpose of this report is to present to Council a proposed Outline Development Plan (ODP) for the Christ Church Grammar School Playing Fields site (CCGS PF) for approval in principle for referral and advertising purposes only. The ODP is Attachment 1.

CCGS PF Pty Ltd owns an 8.6 hectare site forming part of the former Brockway Road landfill site. CCGS PF Pty Ltd purchased the land from LandCorp with the aim of developing the site for playing fields.

A limited ODP for earthworks at the CCGS PF site was previously lodged and approved in 2007.

This is the second ODP applicable to the site. The ODP proposes five (5) playing fields, car parking, access roads, fill, fencing, change rooms, a grounds building and a future pavilion.

Recommendation to Committee

Council:

1. approves the Outlined Development Plan for the Christ Church Grammar School Playing Fields site in principle for advertising purposes;
2. instructs Administration to refer the ODP to the WAPC to seek consent to advertise; and
3. instructs Administration to advertise the proposed ODP, upon receiving consent to advertise from the WAPC.

Strategic Plan

KFA: Natural and Built Environment

Background

Property address	Lot 816 Stephenson Ave Mt Claremont
Lot area	8.6ha
Town Planning Scheme No. 2	Development Zone

History and Key Relevant Previous Council Decisions

In 1999, Landcorp sold Lot 816 Stevenson Avenue to Christ Church Grammar School (CCGS). The land was highly sought after by CCGS because it provided direct access to Stephenson Avenue and only portions of the site were contaminated as a result of the former landfill use, making it suitable for the development of playing fields and car parking.

In July 2005, an ODP was prepared that detailed the proposed use of the site as playing fields. Concurrently, the Department of Sport and Recreation (DSR) and the University of Western Australia (UWA) were developing an overall master plan for the Mt Claremont Sporting Precinct. As a consequence of this, the Department for Planning and Infrastructure resolved in July 2006 not to support the advertising of the 2005 ODP, as it was considered to be premature and would prejudice overall planning for the area.

Instead, in order to commence preliminary site works, while at the same time not prejudicing the overall planning for the area, a scaled back ODP was prepared for the site. This ODP outlined the preliminary site works and interim access arrangements and enabled planning approval to be issued for the site works. The WAPC adopted this ODP in May 2007.

Following to the adoption of the ODP, a Development Application was lodged with the City of Nedlands to gain approval to develop the site for playing fields which has triggered the need for this ODP.

Legislation / Policy

- City of Nedlands Town Planning Scheme No. 2 (TPS2)
- Outline Development Plan (ODP)

In relation to the proposed ODP and the process that is required for its adoption, Clause 3.8 of the City's TPS No. 2 applies and specifies that the following steps are taken as part of the approval process:

1. Council approves the ODP in principle (Clause 3.8.3);
2. Council refers the document to the WAPC for approval for advertising (Clause 3.8.3);
3. Once the WAPC has granted approval in principle public consultation is for a period of twenty- one (21) days following an advert having been placed in a local paper each week for three (3) consecutive weeks. Advertising will also include a sign to be displayed on the site and letters sent to surrounding neighbours (Clause 3.8.5);
4. Once the advertising period has concluded Council considers the ODP in the light of the submissions (Clause 3.8.6); and
5. Council may decide not to proceed with the proposal. If Council agrees to adopt the proposal (in its original or revised form), Council forwards the proposal to the WAPC together with the submissions (Clause 3.8.7).

No appeal rights exist should Council decide not to proceed with the proposed ODP.

Key Elements of Proposed ODP

The ODP proposes the following:

- A maximum of five (5) playing fields to host ALF, Soccer, Rugby and Cricket games depending upon the season;
- 166 car parking bays located in the north west corner of the site which is the only area of site not affected by the former landfill use. This amount will decrease to 159 bays when the pavilion is constructed;
- A bus turn-around to enter the site and turn around to exit in a forward gear and parking for six (6) buses;
- A grounds building located in the south east corner of the site. The grounds building will be accessed via a service road that extends from the parking area and along the southern boundary of the site. This building will be used to store grounds maintenance and sports equipment and is proposed to be 200m² in area with a maximum height of 3.8m;

- Temporary changerooms, public toilets and a storeroom are proposed to be located in the north-west corner of the site. Indicative plans for the structure (Appendix 8 of the ODP) illustrate that it will be 25m² in area, 2.5m in height and setback approximately 18m from adjoining residential lots. The change rooms will be demolished prior to the construction of the future pavilion and converted into car parking;
- A proposed future two-storey pavilion. Indicative plans for the pavilion illustrate that it will be approximately 500m² and setback 35m from adjoining residential lots. The pavilion will be designed to facilitate permanent change rooms at ground level with the pavilion and spectator areas located on the first floor with capacity to cater for approximately 100 people. The ODP reserves the right to use the pavilion in the evenings, not more than ten (10) times per year;
- Fill on the eastern playing field to maintain the minimum 1m of sand cap thickness to the underlying rubbish;
- Landscaping buffers between the proposed car parking and the adjoining residential lots; and
- Main entry gates from Stephenson Ave and emergency access from Van Kleef Circuit where access is restricted at all times by a locked gate.

Discussion

Due to zoning of the subject site as 'Development', an ODP must be in place before planning approval can be granted for any proposed works. The purpose of the ODP is to provide a comprehensive overview of the future development of the site.

The scale of the development, including the new access way, onsite parking, playing fields, building additions, fill and fencing is appropriate within its context. Vehicle access via Stephenson Avenue and the comprehensive landscaping plan will assist in ameliorating potential negative impacts on the locality and adjoining residents.

Planning Framework

The Mt Claremont Regional Sport Centre Structure Plan relates to the 'Sporting Precinct', comprising of Challenge Stadium, the AK Reserve (owned by the Town of Cambridge), the UWA Sports Park on McGillivray Road and the CCGS PF site. The proposed ODP is consistent with the Structure Plan, which identifies the CCGS PF site as future playing fields.

The AK Reserve/UWA Sports Park Master Plan was adopted by the WAPC pursuant to the *Perry Lakes Redevelopment Act 2006*. The proposed ODP is also consistent with this master plan, which identified the subject site as 'Christ Church Grammar School Playing Fields'.

Car parking and Future Pavilion

The ODP proposes 166 parking bays, providing for thirty-three (33) bays for each rectangular field, or sixteen (16) bays per team. This proposed number of bays is considered sufficient for the following reasons:

- Most players will arrive/depart via school buses;
- Not all players will have spectators; and
- Not all of the playing fields will be used at the same time.

The ODP has identified an area in the north western portion of the site to locate a future pavilion which would provide permanent changing rooms, ablutions and a formal viewing space for spectators. When constructed in the future, the pavilion would replace the temporary changerooms which would revert to car parking.

The construction of the pavilion will result in a seven (7) car bay reduction on site to 159 bays. It is not considered that this reduction would have any impact on the sites availability to accommodate its parking needs at the estimated peak hours (Saturday mornings) which generates up to 80 cars.

Whilst the pavilion is not intended for use for private functions and will generally be utilised during daylight hours, the ODP reserves the right to utilise the pavilion for school related functions and events in the evening on a limited basis. The hours of operation and parking implications for these events will be assessed at the development application stage.

Access and Traffic

Appendix 3 of the ODP outlines the performance of the Stephenson Avenue crossover at three (3) separate times of the week. The three (3) separate times have been identified as 'worst case' scenarios based upon existing sports arrangements and patterns of use by the School at the existing playing fields in Mt Claremont. The scenarios cover training afternoons, Friday afternoon sports and Saturday morning sports.

The worst case scenario identified by this traffic report is Saturday morning sport (between 8.00pm and 12:30pm). Based upon current evidence of Saturday morning sport, this scenario assumes that six (6) buses and 60-80 cars will be parked on site with departures staggered between 11:00am and 12.30pm dependent on the sport being played. The typical Saturday morning arrival/departure timetable is as follows:

SPORT	TEAM	ARRIVAL TIME	START TIME	FINISH TIME	DEPARTURE TIME
AFL	1 st	9.00am - 9.45am	10.30am	12.00pm	12.00pm - 12.30pm
	2 nd	8.15am - 8.45am	9.00am	10.30am	10.30am - 11.00am
	3 rd	8.15am - 8.45am	9.00am	10.30am	10.30am - 11.00am

Access to Stephenson Avenue from the playing fields will have a right and left turning lane. With this design, in addition to the minor road widening of Stephenson Avenue (which will be conditioned at the development application stage), there is room for a car to pass a stopped car turning right into the playing fields. Due to this and the staggered arrival/departure times, it is considered that the crossover will generally operate at a good level of service with acceptable queues and delays, including on Saturday mornings.

Grounds Building

The proposed grounds building located in the south east corner of the site will be set back 3m from the residential lots on Blenheim Lane.

The TPS2 does not specify minimum setbacks for buildings of this nature. It is not considered that the setbacks and external appearances of the proposed grounds building will adversely affect the amenity of the surrounding area. This is because the building will be barely visible from the adjoining residential lots as its finished floor level is 2.5m lower than the finished floor level of the dwellings.

Consultation

Public consultation will commence once the WAPC has agreed to the proposal in principle.

Risk Management

By failing to lend support to this proposal, Council could be perceived as not fulfilling its role to deliver efficient and effective governance of its local area.

Conclusion


The site is currently vacant and unused which has resulted in significant dust management issues. The City has received numerous complaints from residents in the locality regarding dust pollution. It is in the City's best interest to develop the site to be utilised for playing fields and car parking.

Overall, the proposal for the site as detailed in the ODP is considered to be a balanced response to the constraints and opportunities provided by the site, and the amenity of the surrounding locality. It is considered to be an acceptable proposal and recommended to be adopted in principle so that the public consultation process can be undertaken.

Attachments

1. Outlined Development Plan

PD36.13 No. 15 (Lots 9970 & 10754) Bedbrook Place, Shenton Park – Proposed Outline Development Plan for Cancer Council Western Australia

Committee	13 August 2013
Council	27 August 2013
Applicant	Bernard Seeber Pty Ltd
Owner	Cancer Council Western Australia
Officer	Christie Downie – Sustainable Planning Officer
Director	Peter Mickleson – Planning & Development
Director Signature	
File Reference	BE2/15-03
Previous Item	D08.10 – February 2010 D44.10 – July 2010

Executive Summary

The purpose of this report is for Council to approve in principle for advertising the proposed Outline Development Plan (ODP) for the development of additional facilities for the Cancer Council Western Australia (CCWA) located on No. 15 (Lots 9970 and 10754) also known as Reserve 39424 Bedbrook Place, Shenton Park.

Recommendation to Committee

Council:

1. approves in principle, the Outline Development Plan (ODP) for No. 15 (Lots 9970 and 10754) Bedbrook Place, Shenton Park, as per Clause 3.8.3 of Town Planning Scheme No.2 (TPS2), for the purpose of seeking consent from the Western Australian Planning Commission (WAPC) to formally advertise the ODP;
2. instructs Administration to refer the ODP to the WAPC to seek consent to advertise the ODP;
3. instructs Administration to advertise the proposed ODP in accordance with Clauses 3.8.4 and 3.8.5 of TPS2, upon receiving consent to advertise from the WAPC; and
4. requires the Cancer Council of Western Australia to:
 - a. commence the process to amalgamate Lots 9970 and 10754 before the final adoption of this ODP for this site; and
 - b. consent to providing pedestrian access along the northern boundary of the subject site to allow controlled public access to the conservation area of Lot 4 to the satisfaction of the City when required by the City.

Strategic Plan

KFA: Natural and Built Environment

KFA: Governance and Civic Leadership

Background

Property address	No. 15 (Lots 9970 & 10754) Bedbrook Place, Shenton Park
Lot area	18 392 m ²
Metropolitan Region Scheme	Urban
Town Planning Scheme No. 2	Development Zone

The subject site is used by the Cancer Council of Western Australia (CCWA) and comprises of two (2) lots (refer attached Locality Plan). The site currently houses Milroy Lodge for country patient residential accommodation, Gordon Basford House Facility for Research, Education and Support programs and minor ancillary structures. There are access and parking areas on the site, as well as undeveloped bushland. The site rises approximately 8.5 metres from the south-east corner to the north-west corner.

The site is also known as Reserve 39424 and is under Crown ownership with the Primary Interest Holder being the CCWA. The site is subject to a conditional Management Order, which specifies that the reserve be used for the purpose of:

'accommodation for country cancer and leukaemia patients, cancer related programs and services, and Cancer Council of Western Australia Administrative Staff'.

Prior to 1994 a portion of the site was reserved 'Public Purpose – Hospital' under the Metropolitan Region Scheme (MRS) and the remainder 'Urban'. As a result all applications on this lot were referred to the WAPC for determination. The MRS was amended and the 'Public Purpose' portion of the lot was changed to 'Urban', leaving this land unzoned under the City's Scheme. This anomaly was corrected in 2012 through Scheme Amendment 193 so that the entire site is now zoned 'Development'.

In 2010, the CCWA submitted an ODP to facilitate development of the site. This ODP was endorsed by Council and formally adopted by the WAPC in September 2010. The CCWA have since revised their development proposals for the site, which are incompatible with the currently approved ODP, thus, triggering the need for the proposed ODP.

Key Relevant Previous Council Decisions

February 2010 - Council resolves to approve in principle an ODP for the site, subject to advertising.

July 2010 - Council resolves to approve an ODP for the site

Legislation / Policy

City of Nedlands Town Planning Scheme No. 2 (TPS2).

The procedure for processing an ODP is outlined in Clause 3.8 of the City's TPS2. This process is summarised below:

1. Council approves the ODP in principle (Clause 3.8.3);
2. Council refers the document to the WAPC for approval for advertising (Clause 3.8.3);
3. Once the WAPC has granted approval in principle, advertising commences by giving notice for a period of twenty-one (21) days following an advert placed in a local paper each week for three consecutive weeks (Clause 3.8.4). Advertising will also include a sign that is displayed on the site and letters are sent to surrounding neighbours (Clause 3.8.5);
4. Once the advertising period has concluded Council considers the ODP in the light of the submissions (Clause 3.8.6); and

5. Council may decide not to proceed with the proposal. If Council agrees to adopt the proposal (in its original or revised form), Council forwards the proposal to the WAPC together with the submissions (Clause 3.8.7).

No appeal rights exist should Council decide not to proceed with the proposed ODP.

Key Element of Proposed ODP

The proposed ODP provides for:

- Alterations and additions to existing buildings;
- Additional buildings to accommodate office and administrative functions;
- A site wide maximum building height of 50.5 metres (Australian Height Datum);
- Natural bushland that is proposed to be preserved; and
- A program of planting and revegetation.

The ODP divides the subject site into Building Zones 1-5 and Landscape Zones A-H (shown on page 10 of Attachment 2). These zones are configured in a manner that integrates the current development, proposed building areas, remnant bushland and the planted landscape.

The applicant proposes that development on the site will be sequenced so that the Landscape Zones and Building Zones proceed interdependently. Three (3) stages of planting and landscaping are proposed before any works within Building Zones are commenced.

Environmental assessments relating to Carnaby's Black Cockatoos and Graceful Sun Moth have been prepared for the applicant and are available on request.

Discussion

The ODP document has been prepared as part of the requirements for a 'Development' zone and addresses the relevant points outlined in Clause 3.8.2 of TPS2. The ODP will act as a guide under which future development is to take place upon the subject site.

Built Form

The ODP proposes Building Zones that will allow for new buildings, intensifying the use of the site. It is proposed the new buildings will accommodate the CCWA functions spread across the metropolitan area, co-located with those already existing on the site. The Building Zones coordinate with the Landscape Zones and generally concentrate development in the centre of the lot. While TPS2 does not impose setback restrictions, the proposed building zones are generally set back substantial distances from the site boundaries (the exception being an existing building).

The built form and related intensification of the site is considered appropriate, largely due to the way in which the Building Zones have been considered in conjunction with Landscape Zones which minimises the impact on the surrounding lots.

In relation to the request to vary building height, TPS2 restricts non-residential developments to three storeys including parking, with a maximum height of 10m from the mean natural ground level. This ODP requests the City use its discretionary power to set a Maximum Building Height of 50.5 metres (Australian Height Datum) across the site. The figure on page 12 of Attachment 2 diagrammatically shows this proposed height variation.

The requested height limit would result in a maximum building height to be approximately 8 metres higher than current development on site. The impact of the additional height on this site is minimal given the size of the site, the location of the proposed building area in relation to the streetscape and the retention of mature vegetation. The requested increase in height limit is therefore considered to be acceptable particularly given that greater building heights assist in containing the building footprint, thereby limiting the negative impact on the site's vegetation.

Car parking and Access

Although the ODP does not specify car parking numbers it does indicate that all parking will be provided within the building zones, either beneath new buildings or utilising existing car parking areas. As adequate space is available within these zones to accommodate the expected amount of parking this approach for the provision of parking is acceptable.

Vegetation and Landscape

As the site is within an important bushland corridor the applicant has advised that the natural bushland of the site was a key consideration in the location of future development. Although, the approach taken to conserve the remnant bushland in the western portion of the site and its staging of replanting and landscaping in order to improve the vegetation to be retained is commendable. The ODP does not protect every significant tree on site and does allow for some clearing.

Ecology

The City is satisfied that the ecological assessments are sound and that the applicant has given due regard to the information within when preparing the ODP document.

Pedestrian Access

The site borders onto the conservation areas of Lot 4 Underwood Avenue along its northern boundary and it would be ideal if controlled public access to these conservation areas can be provided. It is therefore recommended that a pedestrian access point along the northern boundary is secured.

Consultation Process

Required by legislation:

Yes

No

Required by City of Nedlands policy:

Yes

No

Public consultation will commence once the WAPC has agreed to the proposal in principle.

Budget / Financial Implications

Within current approved budget:

Yes

No

Requires further budget consideration:

Yes

No

ODPs have no financial implication for the City as all costs incurred in relation to the application will be recovered from the applicant.

Risk management

By failing to lend support to an appropriate ODP proposal for this site the Council could be perceived as not fulfilling its role to deliver efficient and effective governance of its local area.

Conclusion

The proposed ODP provides the planning framework to facilitate development of the site in line with the conditional Management Order while also outlining a strategy for the management of the natural vegetation. It is expected that through the community consultation process comments will be received and assessed with appropriate recommendations, allowing Council to consider its position before the adoption of the ODP.

It is therefore recommended that the proposed ODP be supported in principle and that advertising is commenced as required in Section 3.8 of TPS2.

Attachments

1. Locality Plan
2. Outline Development Plan Report
3. Background and Support Information

PD37.13 Finalisation of Scheme Amendment No. 200 - Amend the Zoning of Lot 289 (No 123) Dalkeith Road from 'Service Station' to 'Residential' with 'Additional Use' to Allow Three (3) Dwellings

Committee	13 August 2013
Council	27 August 2013
Applicant	Burgess Design Group
Officer	Jason Moore – Strategic Planning Officer
Director	Peter Mickleson – Director Planning & Development
Director Signature	
File Reference	TPN/A200
Previous Item	PD10.13 - 26 March 2013

Executive Summary

The purpose of this report is to recommend to Council to adopt Scheme Amendment No. 200 which Burgess Design Group submitted to amend the zoning of Lot 289 (No. 123) Dalkeith Road from 'Service Station' to 'Residential' with 'Additional Use'. The proposal will facilitate the development of three (3) dwellings at the site.

Council initiated the scheme amendment in March 2013 at its Ordinary Council Meeting. The amendment was advertised for forty two (42) days from 31 May 2013 until 12 July 2013. No objections have been received. It is recommended that the amendment be adopted.

Recommendation to Committee

Council:

1. adopts the proposed scheme amendment to rezone Lot 289 (No 123) Dalkeith Road from 'Service Station' to 'Residential' with 'Additional Use' to allow three (3) dwellings without modification;
2. instructs Administration to progress the proposal in accordance with requirements of the relevant legislation; and
3. instructs Administration to ensure that the 'Feast Cafe' operates with no more than 20 seats when the service station is no longer operational.

Strategic Plan

KFA: Natural and Built Environment

KFA: Governance and Civic Leadership

Background

Property Address	Lot 289 (No. 123) Dalkeith Road, Dalkeith
Lot area	1011 m ²
Metropolitan Region Scheme	Urban
Town Planning Scheme No. 2	Service Station

A service station has operated at the Lot 289 (No. 123) Dalkeith Road since the late 1950's. The surrounding area of the subject site is mainly characterised by low density single residential housing, with a small group of shops located directly east of the subject site. Together they combine to function as a small local hub.

The proposal is for an amendment to Town Planning Scheme No. 2 (TPS2). The scheme amendment proposes to rezone Lot 289 (No. 123) Dalkeith Road from 'Service Station' zone to 'Residential' zone with 'Additional Use' that permits for three (3) dwellings. The redevelopment of the site will require the removal of existing underground petrol storage tanks.

The applicant has raised the following points in support of the proposal:

1. The proposed change of zoning to residential reflects the surrounding land uses;
2. On the basis of removing an undesirable land use from a predominantly residential area that generates greater activity than a residential zoning, would increase in density from the R10 density coding that ordinary applies in this area to residential properties to an equivalent R30 density coding is appropriate;
3. Although the proposed zoning under Draft Local Planning Scheme No. 3 (LSP3) is not yet known, given the Draft Scheme has not yet been released for public consideration, the likelihood is that 'Service Station' zone will not be included in LSP3, and the site may be classified as 'Commercial / Retail' or 'Residential' with an additional use of 'Service Station' in accordance with current State requirements to rationalise uses; and
4. The cost of remediation of the site and the inability to sell the business leaves the landowner in an undesirable financial position, given the years he has put into the business.

Council initiated the scheme amendment in March 2013. The amendment was advertised for forty two (42) days from 31 May 2013 until 12 July 2013. No objections have been received. It is recommended that the amendment is adopted.

Key Relevant Previous Council Decisions:

Council initiated the proposal at its Ordinary Council Meeting on 26 March 2013 in accordance with the *Planning and Development Act 2005*.

Discussion

Current Function of Site

The use classes of 'Dwelling Houses – Single, Grouped /Attached or Multiple dwellings' are not permitted uses under the site's current zoning of 'Service Station'.

The service station assists the shops on Princess Road by generating business and providing a source of overflow parking.

One of the traders in this group of shops, 'Feast Cafe' has a parking arrangement with the service station. The arrangement was formalised to permit the restaurant to operate with twenty five (25) seats rather than twenty (20) seats as long as two (2) parking bays at the service station are made available ([2010] WASAT 53).

Proposed Zoning

The proposed zoning for the service station is 'Residential' with an 'Additional Use'. The 'Additional Use' outlines what is permitted on the site. It is a mechanism that has been widely used for smaller lots within the City resulting from historic subdivision practices. The proposed 'Additional Use' for the service station site is for:

1. *“Three (3) Single or Grouped Dwellings; and*
2. *Dwellings shall comply with the relevant provisions of the Residential Design Codes as they would normally apply to the ultimate density to which the site is developed.”*

After assessing the proposal it is considered that this particular mechanism ('Residential' zone with an 'Additional Use') is acceptable. It is noted that the proposal facilitates the service station site to be redeveloped according to the R30 density code.

Future Planning for the Area

Although this part of the City has not been identified as a growth area and there are no specific plans that direct the future of this area, some broad planning for the locality has occurred namely:

1. The Strategic Community Plan, which identifies this site as being part of a potential hub; and
2. The Draft Local Planning Scheme No 3 (LPS3), which is based on the premise that existing uses in areas not identified for development are retained.

The Strategic Community Plan confirms the City's long-term intent to pursue hubs. The service station is identified in this document as being a part of a potential hub. Given its location and function, it is reasonable to draw the conclusion that the function of this hub will be to serve its immediate locale.

It is likely that a more generic use class category will apply in the LPS3 in line with state planning's rationalisation of schemes, which would potentially result in a residential use being a permitted use on the site which provides for an existing service station use.

Impact of proposed Scheme Amendment

From a planning perspective there are arguments for and against this proposal.

The following counts in favour of progressing this proposal:

1. As the proposed use of this lot for residential purposes aligns with the uses of lots surrounding it, the proposal is expected to blend into the area;
2. The proposed amendment aligns with the already existing handful of smaller lots in the area that are a result of historic subdivision practices, both R20 and R30 density code equivalent, and would not negatively impact the area. An example of a relatively recent subdivision at R30 is the land on the corner of Adelma Place and Waratah Avenue that previously accommodated the Bridge Club, which was subdivided into three (3) lots of approximately 330m² each;
3. The proposal would contribute to housing diversity in the City; and
4. The resulting availability of land could be used to enhance the capacity of the existing shopping area by providing space for the necessary parking shortfall that currently limits the shopping area and due to additional households being introduced in the area.

The following counts against this proposal:

1. In the absence of detailed planning having been done for the area this proposal amounts to ad hoc planning, which is contrary to the orderly and proper planning, and may set an undesirable example;
2. Implementation of this proposal potentially will impact on the viability of the current business area as it will result in a decrease in activity and will impact on the adjoining neighbour along the northern boundary of the site, who would have three neighbours as opposed to the current one neighbour; and
3. The proposal limits the potential expansion of the commercial activities of a future 'hub' for the area.

Ideally, planning actions such as scheme amendments should occur within a strategic framework in order to ensure comprehensive development of an area. In this instance, the need for comprehensive planning is to provide certainty regarding

to the potential of a 'hub' for the area. Accordingly, this approach would suggest that it is not appropriate to support this rezoning proposal.

However, given the low density low rise residential nature of the area, and the location of the existing shopping area in this area, it is likely that a potential 'hub' identified in the Strategic Community Plan will remain a locally focussed area characterised by low intensity activity.

Within this context, the aspects in favour of supporting this proposal outweigh those against the proposal, despite the concern that ad hoc scheme amendments are generally not desirable.

Consultation

Consultation was undertaken as required under the *Planning and Development Act 2005*.

Required by legislation:

Yes No

Required by City of Nedlands policy:

Yes No

How and when was the community consulted?

The proposal was open for comment for a period of forty two (42) days from 31 May 2013 until 12 July 2013.

Letters were mailed to residents and landowners affected by the proposal with a comment form and explanatory document enclosed.

A sign was erected on site notifying surrounding stakeholders.

The amendment was advertised in 'The Post Newspaper' on 1 June 2013.

Response to submission:

1. Two (2) responses were received from the public, neither of them objected to the proposal; and
2. Two (2) submissions were received from State Government Agencies (Western Power and Water Corp). Neither submission is objecting to the proposal.

A schedule of submissions is included in Attachment 3.

Legislation / Policy

- *Planning and Development Act 2005 (Part 5)*
- City of Nedlands Town Planning Scheme No. 2

Budget/Financial Implications

Within current approved budget:

Yes

No

Requires further budget consideration:

Yes

No

Scheme Amendments have no financial implications for the City as all costs incurred in relation to the amendment will be recovered by the applicant.

Risk Management

Under section 76 of the *Planning and Development Act 2005* the Minister for Planning has the power to order a Local Government to adopt a proposed scheme amendment.

Conclusion

The proposed scheme amendment will impact the property to the north of the subject site and the 'Feast Cafe'. However, its impact on the overall area in the short or long term is likely to be neutral, or potentially positive if the opportunities that are created are capitalised on.

Whilst there are a number of arguments in favour and against the proposal, on balance, it is considered that there is sufficient planning merit to support this proposal. This position is supported by the fact that no objections to the proposal were received following the advertising period and that this proposal is not expected to negatively impact subsequent planning in the City.

It is therefore recommended that Council finally adopts this scheme amendment.

Attachments

1. Locality Map
2. Scheme Proposal
3. Schedule of submissions

PD38.13 Lots 4 & 105 Underwood Avenue, Shenton Park - Adoption of Proposed Limited Outline Development Plan for the University of Western Australia Biological Resources Support Facility

Committee	13 August 2013
Council	27 August 2013
Applicant	CLE Town Planning + Design
Owner	University of Western Australia
Officer	Christie Downie – Sustainable Planning Officer
Director	Peter Mickleson – Director Planning & Development
Director Signature	
File Reference	UN1/L4-09
Previous Item	PD08.13 - February 2013

Executive Summary

The purpose of this report is for Council to adopt the proposed limited Outline Development Plan (ODP) for the upgrade and reconstruction of the University of Western Australia (UWA) Biological Resources Support Facility located along the southern boundary of Lots 4 and 105 Underwood Avenue, Shenton Park.

Recommendation to Committee

Council:

1. approves the proposed limited Outline Development Plan for the University of Western Australia Biological Resources Support Facility, Lots 4 & 105 Underwood Avenue, Shenton Park (refer attached); and
2. instructs Administration to forward the limited Outline Development Plan to the Western Australian Planning Commission for final adoption.

Strategic Plan

KFA: Natural and Built Environment

KFA: Governance and Civic Leadership

Background

Property address	Portion of Lots 4 & 105 Underwood Avenue, Shenton Park
Lot area	29 974 m ² (land within limited ODP area)
Metropolitan Region Scheme	Urban
Town Planning Scheme No. 2	Development Zone

The area covered by the proposed limited ODP presently accommodates the UWA Biological Resources Support Facility. The site has vehicle access via Underwood Avenue. The Randall Street road reserve leading to the south-west corner of the ODP area is currently unconstructed.

Located to the west of the proposed limited ODP area is the UWA Biomedical Research Facility and Field Station. A limited ODP for this facility was adopted by Council in 2004.

A subdivision approval was granted in September 2010 to allow for subdivision of the land to the north east of the ODP area (Lot 4 Underwood Avenue) for residential purposes.

The land in question is located within the odour buffer zone of the Subiaco Waste Water Treatment Plant.

This is the third ODP submitted for a portion of Lot 4 Underwood Avenue, leaving the western portion of the lot (the UWA Field Station) the only area not currently subject to an ODP.

Key Relevant Previous Council Decisions

Council resolved to proceed with advertising of this limited ODP in its February 2013 round of meetings.

Legislation / Policy

City of Nedlands Town Planning Scheme No. 2 (TPS2)

The procedure for processing an ODP is outlined in Clause 3.8 of the City's TPS2. This process is summarised below:

1. Council approves the ODP in principle (Clause 3.8.3);
2. Council refers the document to the WAPC for approval for advertising (Clause 3.8.3) ;
3. Once the WAPC has granted approval in principle, advertising commences by giving notice for a period of twenty one (21) days. This notice requires an advert be placed in a local paper circulating in the district once per week for each of the

three consecutive weeks (Clause 3.8.4) and also includes a sign that is displayed on the site and letters are sent to surrounding neighbours (Clause 3.8.5);

4. Once the advertising period has concluded Council considers the ODP in the light of the submissions (Clause 3.8.6); and
5. Council may decide not to proceed with the proposal. If Council agrees to adopt the proposal (in its original or revised form), Council forwards the proposal to the WAPC together with the submissions (Clause 3.8.7)

No appeal rights exist should Council decide not to proceed with the proposed ODP.

Discussion

The ODP document has been prepared as part of the requirements for a 'Development Zone' and addresses the relevant points outlined in Clause 3.8.2 of TPS2. The purpose of the limited ODP is to provide a comprehensive overview of the future development of the site. In line with the minor nature of the proposed development, the proposed limited ODP is brief.

The area subject to the limited ODP is currently used for research and education relating to Australian native birds and animals as well as other livestock. Current development on the site consists of a laboratory/office space, large animal pens, small animal pens/aviaries and an informal car parking area. Proposed development under the limited ODP includes replacement of aviaries, pens and sheds. This use complements UWA's Biomedical Research Facility and Field Station located adjacent to the ODP area, and is a compatible land use within the odour buffer zone. The limited ODP facilitates continuation of this function without expanding or intensifying the current activity.

No new roads are proposed, as access to the site will continue to be via the driveway from Underwood Avenue. The limited ODP area currently has access to all required services.

Parking is currently provided informally on site and is adequate. Given that the extent of proposed works is minimal, the proposed changes facilitated by this limited ODP will not generate an increase in parking demand.

The details in relation to the parking, design of upgraded facilities and access to additional services will be addressed as part of the development application process.

Consultation Process

Consultation was undertaken in accordance with Clauses 3.8.4 and 3.8.5 of TPS2.

Required by legislation:

Yes No

Required by City of Nedlands policy:

Yes No

The limited ODP was advertised in the Post Newspaper on 18 May, 25 May and 1 June 2013. The proposal was then open for comment for a further twenty one (21) days, until 21 June 2013.

Officer's technical comment:

The ODP document shows the proposed upgrades and replacement structures contained within the existing fence lines. A development application received for structures beyond this fence line would contradict the ODP and would therefore not be capable of being approved.

Summary of submission:

One (1) submission was received during the consultation period.

The submitter expressed concern that bushland to the north of the existing animal pens (within the boundary of the Biological Resources Support Facility) would be cleared.

Budget / Financial Implications

Within current approved budget:

Yes

No

Requires further budget consideration:

Yes

No

Outline Development Plans have no financial implication for the City as all costs incurred in relation to the application will be recovered from the applicant.

Risk management

By failing to adopt an appropriate limited ODP for this site, the City could be perceived as not fulfilling its role to deliver efficient and effective governance of its local area.

Conclusion

This ODP provides for the continuation of the current educational and research functions on the site at the same level of intensity as has occurred in the past. Given that the use is compatible with the surrounding land uses and has been in operation without adverse impact on the area for many years, continuation is supported.

It is therefore recommended that the proposed limited ODP is approved and forwarded to the Western Australian Planning Commission (WAPC) for final adoption.

Attachments

1. Limited ODP Document
2. Indicative Future Development Diagram.

PD39.13 Approval to Keep Three (3) Dogs at 127 Rochdale Road, Mt Claremont

Committee	13 August 2013
Council	27 August 2013
Applicant	Samantha Allen
Officer	Kayla Binding – Ranger Team Leader
Director	Peter Mickleson – Director Planning & Development
Director Signature	
File Reference	RGS/003-08
Previous Item	Nil

Executive Summary

This report has been prepared and is presented to Council in response to a request from the owner Samantha Allen to seek approval in the application to keep three (3) dogs at 127 Rochdale Road, Mt Claremont in accordance with the *Dog Act 1976* and the City of Nedlands Dog Local Law 2012.

Recommendation to Committee

Council:

1. approves the keeping of three (3) dogs on the premises at 127 Rochdale Rd, commencing with a three (3) month trial period ending on 30 November 2013 to be reviewed;
2. self closing latches are to be installed on all gates; and
3. authorises final approval to the Chief Executive Officer (CEO) if no complaints are received during the trial period.

Strategic Plan

KFA: Natural and Built Environment

Background

Samantha Allen of 127 Rochdale Road, Mt Claremont has applied for permission to keep a third dog at the premises. Mrs Allen currently has two (2) dogs, a female Collie cross Heeler and a male Whippet which are both registered with the City.

The dog in which the application is for, is a seven month old male Collie Heeler cross Whippet named Mickey who is a puppy of the other two (2) dogs. It was intended that the dog live with a friend of the family's, however, the friend's living circumstances have changed and they can no longer keep a dog at their premises. Mickey is responsive to training and they are happy to have him as their family pet to prevent relocating him.

Discussion

Rangers received a phone call in April to advise of three (3) dogs that had wandered onto a property in Swanbourne. The dogs were being looked after by the owner's relative at the property when they escaped. Rangers returned the dogs to the property and upon examination; it was found that a gate had been inadvertently left open.

The gates and fencing were inspected whilst on site to ensure that they were adequate to contain the animals and it was determined that there was sufficient space and fencing to adequately contain the dogs. It is expected that the installation of a self closing mechanism will prevent any future occurrence.

The City sought comments in relation to the application on 30 April 2013. Feedback listed below shows a concern regarding a potential noise nuisance.

Based on the comments provided and there being no history of barking/noise complaints from the property, Administration recommends that a three (3) month trial be granted for the owners to demonstrate that they can keep three (3) dogs on the premises without affecting the amenity of the neighbourhood.

Consultation

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

Comments were sought from surrounding properties to seek their views on the application. Responses were received from eight (8) of the nine (9) properties with the following feedback received from each property listed below:

Supportive of application

- Dogs are no problem within the area;
- No problems with the whole street; and
- No Comment.

Unsupportive of application

- Younger dog barks constantly. Does not believe dogs are being cared for responsibly;
- Concern over noise level and setting precedent;
- Concern dogs are not sterilised and breeding may increase rat problem within area;

- Believes only two (2) should be allowed, and if not, for all three (3) to be sterilised as does not think breeding should be allowed within the area if this is occurring; and
- No comment.

Legislation / Policy

Section 26 (3) of *The Dog Act 1976* and Section 3.2 of the City of Nedlands Dogs Local Law 2012 refers to the limitation on the number of dogs that may be kept at a premises.

The Local Government may grant exemptions and any such exemption may be made subject to conditions.

Budget/Financial Implications

Within current approved budget:

Yes

No

Requires further budget consideration:

Yes

No

Risk Management

The City is aware of its obligations under all relevant legislation and will:

1. Investigate any concerns regarding noise and/or rodent problems;
2. Barking noise will be followed up by Rangers; and
3. A three (3) month trial is recommended for further consideration following the trial period.


Conclusion

After assessing the application it is recommended that approval is granted to keep three (3) dogs on the premises at 127 Rochdale Rd, Mt Claremont commencing with a three (3) month trial period to be reviewed by the City's administration at the end of the trial period following the installation of a self latching gate.

Attachments

No Attachments

PD40.13	Naked Fig Cafe Sub-Lease Amendment
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Committee	13 August 2013
Council	27 August 2013
Applicant	City of Nedlands
Owner	City of Nedlands
Officer	Chris Hammond – Environmental Health Coordinator
Director	Peter Mickleson – Director Planning & Development
Director Signature	
File Reference	M13/19736
Previous Item	Council Minutes – Item 13.6 Naked Fig Cafe Variation of Sub-lease, 11 December 2012.

Executive Summary

This report details the results of the pro-active monitoring of the conditions of approval for the Naked Fig Cafe, particularly in relation to closing times and noise.

The City considers that the Naked Fig Cafe has substantially complied with the Noise Management Plan during the monitoring period.

The Council had previously resolved that if the Naked Fig was in substantial compliance with all conditions of approval, the sub-lease would be amended to be in strict compliance with the Western Australian Planning Commission (WAPC) decision issued on 13 March 2012.

The monitoring identified that the general public and neighbouring venues may often be the source of noise impacting on the nearby residences. The Cafe has no control over these noise sources.

Of the five (5) complaints received during the monitoring period, none were able to be substantiated in accordance with the "Substantiation of Complaints" Advice Note in the conditions of the WAPC's decision.

The City also recommends that the Naked Fig undertake some additional minor works, to ensure continued compliance with the conditions of approval by eliminating reliance on human responsibility, and judgement which will ensure the Noise Management Plan is adhered to.

Recommendation to Committee

Council:

1. require that the operator of the Naked Fig Café:
 - a. immediately ensures that the southern single leaf entry/exit door is locked and not used during operation Mode 3 (Live Music/DJ at Band Location 3), except in an emergency situation where the lock can disengage if required, to align with the previous acoustic modelling which the Noise Management Plan dated February 2012 relied on for this door being closed during such mode of operation;
 - b. have installed on the southern external bifold doors a locking mechanism, so that when configured as required for an operation mode, the doors cannot be manipulated (opened) by anyone except the Naked Fig Cafe staff; and
 - c. incorporate with the in-house amplification system, a noise limiting system which will automatically limit the in-house system's volume from 10:00pm and this limit is set in accordance with the advice of an acoustic consultant such that it ensures amplified noise will comply with the *Environmental Protection (Noise) Regulations 1997*, when it is received at neighbouring residential properties.
2. require that the operator of the Naked Fig Café amend the Noise Management Plan dated February 2012 to reflect 1.a, 1.b and 1.c (above), to the satisfaction of the City and the Naked Fig Cafe;
3. is satisfied that the operator of the Naked Fig Cafe has substantially complied with conditions of approval of the Western Australian Planning Commission (WAPC) decision issued 13 March 2012, instructs the Mayor and Chief Executive Officer to sign an amendment of Sub-lease with Naked Fig Pty Ltd and Greer Julia Marns and Lorna Alexandra Marns in strict accordance with the aforementioned WAPC decision, specifically on the following terms:
 - a. approved hours of operation are as follows:
 - i. core hours
Sunday 7 am to 10 pm;
Monday to Thursday 7 am to 10 pm;
Friday and Saturday 7 am to 12 midnight; and
New Year's Eve 7 am to 1 am the following day.

ii. **extended hours**

**Sunday 6.30 am to 10 pm;
Monday to Thursday 6.30am to 11pm;
Friday and Saturday 6.30am to 12 midnight; and
New Year's Eve 6.30 am to 1 am the following day.**

iii. **if substantiated complaints are received in respect to the extended hours, approval for the extended hours will be rescinded and the hours of operation will revert to the core hours. (Substantiation of complaints will be determined by City of Nedlands after an officer/s of the City has attended the site, and has verified that the approved Noise Management Plan dated February 2012 has not been complied with and/or any noise or disturbance arising from the café has exceeded noise levels regulated by the *Environmental Protection (Noise) Regulations 1997*).**

b. **the approved Noise Management Plan dated February 2012 (as amended) must be implemented at all times during operation of the premises.**

4. **in accordance with the previous resolution of 11 December 2012 deletes any reference to "functions" in the Sub-lease.**

Strategic Plan

KFA: Natural and Built Environment

Background

This item is coming before Council as a result of a previous Council Resolution (11 December 2012) which initiated a Variation of Sub-lease with the Naked Fig for extended hours of operation until 30 June 2013. This Variation was initiated following Council's consideration of a decision of the WAPC.

The decision of the WAPC was issued by letter dated 13 March 2012 in response to an application for review by the State Administrative Tribunal (SAT) on application No 08-50124-1 by the Naked Fig Pty Ltd.

Following this decision, Council's Resolution on 11 December 2012 (details in Key Relevant Previous Council Decisions of this item) instructed the Mayor and Chief Executive Officer to sign a Variation of Sub-lease for the period to 30 June 2013.

This Variation included specific terms relating to approved hours of operation which were in strict accordance with the WAPC decision. In essence, Council endorsed a variation to allow extended hours of operation for the Naked Fig Cafe up until 30 June 2013.

Among the Council's terms of the Variation of Sub-lease, Council resolved that the Administration initiate proactive (noise) monitoring of the "conditions of approval" (i.e. of the WAPC decision) focusing on closing times and compliance with the noise monitoring plan (i.e. Noise Management Plan dated February 2012) in addition to reacting to any complaints received. For any complaints in respect to the extended hours which an officer at the City substantiated, approval of the extended hours would be rescinded and the hours of operation would revert back to the core hours.

Administration is reporting on the results of the noise monitoring which occurred between February and July 2013. Council's previous resolution instructed Administration to report to Council in July 2013, however, timeframes did not permit such reporting to make the July 2013 meeting of Council.

Key Relevant Previous Council Decisions

Council Minutes 11 December 2012 – 13.6 Naked Fig Café Variation of Sub-lease

Council Resolution

That Council:

1. *notes the decision of the Western Australian Planning Commission (WAPC) issued by letter dated 13 March 2012 in response to application for review to State Administrative Tribunal (SAT) on application No 08-50124-1 by the Naked Fig Pty Ltd;*
2. *instructs the Mayor and Chief Executive Officer (CEO) to sign a Variation of Sub-lease with Naked Fig Pty Ltd and Greer Julia Marns and Lorna Alexandra Marns for the period to 30 June 2013 in strict accordance with the Western Australian Planning Commission (WAPC) decision referred to above, specifically on the following terms;*
 - c. *approved hours of operation are as follows:*
 - i. *core hours*

Sunday 7 am to 10 pm;
Monday to Thursday 7 am to 10 pm;
Friday and Saturday 7 am to 12 midnight; and
New Year's Eve 7 am to 1 am the following day.
 - ii. *extended hours*

Sunday 6:30 am to 10 pm;
Monday to Thursday 6:30am to 11pm;
Friday and Saturday 6:30am to 12 midnight; and
New Year's Eve 6:30 am to 1 am the following day.
 - iii. *if substantiated complaints are received in respect to the extended hours, approval for the extended hours will be rescinded and the*

hours of operation will revert to the core hours. (Substantiation of complaints will be determined by City of Nedlands after an officer/s of the City has attended the site, and has verified that the approved Noise Management Plan dated February 2012 has not been complied with and/or any noise or disturbance arising from the café has exceeded noise levels regulated by the Environmental Protection (Noise) Regulations 1997).

- d. *the approved Noise Management Plan dated February 2012 must be implemented at all times during operation of the premises;*
 - e. *commencement of the extended hours of operation granted under Condition 2 is not to occur until the bi-fold doors approved under this application have been constructed and are operational and the City of Nedlands has been notified and completed an inspection of the doors;*
3. *deletes any reference to “functions” in the sub-lease;*
 4. *concurrently with 2. above instructs Administration to initiate a period of proactive monitoring of the conditions of approval focusing on closing times and compliance with the noise monitoring plan in addition to reacting to any complaints received;*
 5. *notes the additional cost of this pro-active monitoring has not been budgeted and Council will address this cost at the mid-year budget review;*
 6. *instructs Administration to nominate a dedicated officer to be the “point of contact” for all compliance issues relating to the operation of the Naked Fig café; and*
 7. *instructs Administration that the results of the monitoring be reported to Council in July 2013 and if the operator is in substantial compliance with all conditions the sub-lease will be amended to be in strict compliance with the WAPC decision issued 13 March 2012.*

Legislation / Policy

The *Environmental Protection (Noise) Regulations 1997* is the legislation which the Noise Management Plan dated February 2012 is guided by which in turn the proactive monitoring checked against.

Although not legislation or policy, the decision of the WAPC of 13 March 2012 in response to application for review to State Administrative Tribunal on application No 08-50124-1 by the Naked Fig Pty Ltd; applies to this item for consideration.

In accordance with this WAPC decision, Council previously instructed as to a Variation of Sub-lease for the Naked Fig Cafe for the period to 30 June 2013.

Council is now to determine if the Sub-lease will be amended to be in strict compliance with the WAPC decision.

Discussion

Council's Resolution of 11 December 2012, instructed Administration to initiate a period of pro-active monitoring of the conditions of approval (i.e. WAPC decision conditions) focusing on closing times and compliance with the noise monitoring plan in addition to reacting to any complaints received.

The City acquired the services of Lloyd George Acoustics to monitor the Naked Fig Cafe for compliance with its Noise Management Plan dated February 2012 and overall compliance with the *Environmental Protection (Noise) Regulations 1997* (the noise regulations). Onsite attendances occurred between February and July 2013. Lloyd George Acoustics compiled a "Venue Noise Management Assessment – The Naked Fig Cafe 278 Marine Parade, Swanbourne" (refer to Attachment 1), herein referred to as "the Lloyd George Report". Results of the noise monitoring are as follows.

Noise monitoring for compliance with Noise Management Plan dated February 2012 and *Environmental Protection (Noise) Regulations 1997*

The Naked Fig Cafe's Noise Management Plan defines five modes of operation, each with a set of requirements to ensure compliance with the Noise Regulations. These modes are described as follows:

- Mode 0: No live music, DJ or piped music;
- Mode 1: Live music/DJ at Location 1;
- Mode 2: Live music/DJ at Location 2;
- Mode 3: Live Music/DJ at Location 3; and
- Mode 4: Amplified "piped" music through in-house system only.

Please refer to Attachment 2 - site diagram of the Naked Fig Café, for reference to locations for the various modes.

Lloyd George Acoustics monitored the Cafe during periodic site attendances. A total of 12 attendances occurred between 21 February 2013 and 8 June 2013 inclusive. Attendance dates and indication of overall compliance with the Noise Management Plan are summarised in Table 1 below.

Observation Date	Time	Visit Duration (hours: minutes)	Mode of Operation (0-4)	Noise at Residence	Group booking	Observed Staff Checking	Noise Mgt Plan Compliance
Thurs 21 Feb	21:00 to 22:15	1:15	4	No	No	No	Yes
Sat 2 Mar	11:30 to 12:30	1:00	4	No	No	No	Yes
Sat 23 Mar	21:00 to 22:15	1:15	3	Yes	Yes	Yes	No
Sat 6 April	10:00 to 11:00	1:00	4	No	No	No	Yes
Sat 6 April	21:00 to 00:15	3:15	2&4	No	Yes	No	Yes
Tues 9 Apr	20:45 to 21:45	1:00	1&4	No	No	No	Yes
Fri 26 April	19:00 to 22:00	3:00	4	No	No	No	Yes
Wed 15 May	14:30 to 16:00	1:30	4	No	No	No	Yes
Fri 24 May	20:30 to 21:45	1:15	4	No	No	No	Yes
Sun 26 May	15:30 to 16:30	1:00	4	No	No	No	Yes
Wed 5 June	18:30 to 20:00	1:30	4	No	No	No	Yes
Sat 8 June	19:30 to 22:30	3:00	4&3	No	Yes	No	Yes

Table 1 – Lloyd George Acoustics site attendances and indication of Noise Management Plan compliance (transposed from Lloyd George Report, page 4, Table 4.1 – Summary of Site Visits)

From Table 1, the Cafe's compliance with the Noise Management Plan with respect to the mode of operation can be seen. Explanation of observations by Lloyd George Acoustics during specific modes is summarised as follows (further detail in the Lloyd George Report – refer to Attachment 1)

Mode 0: No Live Music, DJ or Piped Music

This was the only mode not observed in operation and so no comment is made in the Lloyd George Report for compliance with the Noise Management Plan. It is worth noting that Mode 0 does not entail any live music, DJ or piped music and has no sound level limit requirement. Mode 0 covers general patronage with no additional noise sources. It could be considered the most basic and quiet mode of operation.

Mode 1: Live Music/DJ at Location 1

The Café was observed in Mode 1 on one occasion. Music was of a solo/background nature and doors were configured correctly. No music was audible at the nearest

residence. The musician stopped at 9:00pm which was before the 10:00pm curfew. Overall compliance with the Noise Management Plan was achieved.

Mode 2: Live Music/DJ at Location 2

The Café was observed in Mode 2 on one occasion. A trio of musicians played soft infrequent background music, moving around tables. Doors were configured correctly with the exception of three panels of the external doors which were open between 9:00pm and 9:40pm. It is possible they were opened by patrons. The panels should have been closed. This may have presented an issue if the music had been more consistent in terms of nature and locality. There was no amplification through speakers and the music ceased before the 10:00pm curfew. Music was not audible at neighbouring residence. The period when part of the external doors were open and musicians were moving around tables did not strictly comply with the Noise Management Plan. However, it did not create undue noise and the Lloyd George Report deemed overall compliance with the Noise Management Plan.

Mode 3: Live Music/DJ at Location 3

The Café was observed in Mode 3 on two occasions. Both occasions were Saturday evenings with large group bookings and DJ music through an additional set of speakers. External doors were correctly configured both times.

On the first occasion on 23 March 2013, the dance floor was observed to be in use and DJ music was being played past 10:00pm. Where this occurs, the Noise Management Plan requires a staff member walk over to the neighbouring residence at 10:00pm and check if the music is audible. If music is audible, the volume of the in-house system must be turned down. Following this, a re-check is to occur and if music is still discernible, the volume must be reduced further. As it was 10:00pm, the external doors must be closed and no additional speakers are permitted. The music was clearly discernible at the neighbouring residence at 10:00pm. A staff check occurred at 10:00 pm; however, by 10:15pm (end of observation period) music was still audible at the neighbouring residence. The City received a noise complaint from a resident for that evening for music with audible bass characteristics.

Attendance on 8 June 2013 was observed to be quieter with no dance floor area use prior to the end of the observation period (10:30pm). Staff were not required to check if music was audible at neighbouring residence as music was not playing at/after 10:00pm.

On both occasions, use of the Cafe's southern single leaf entry/exit door was noted. The prevalent use of the door during group bookings was problematic in terms of channelling noise out towards neighbouring residence. On the first occasion, the door was observed to be propped open by a patron and music was audible at neighbouring residence for several minutes, before staff closed the door. Despite attempts by staff to control the door, the door was observed to be used at all times, even after 10:00pm. Not only did its use allow noise to escape, but it created a further audible noise source at neighbouring residence by allowing people to congregate and converse outside. The Noise Management Plan does not directly address this door for compliance as Mode 3 operation for large group bookings was

based on noise modelling with this door closed. The DJ is supposed to face southwest which positions them partially in front of this door. Lloyd George Acoustics advised that during their observations, the DJ was facing west towards the ocean. Aside from changing the sound direction, it made the door more accessible. While it may be the obvious entry/exit point from the southern side of the Café, the door is required to be closed during Mode 3.

The noise complaint potential for Mode 3 is higher than for other modes, given large numbers of patrons from group bookings and dance/bass nature of music. Compliance with the Noise Management Plan during Mode 3 is most critically dependent on staff procedures and the southern single leaf entry/exit door being closed. Staff checking and reducing levels promptly at 10:00pm and ensuring external doors are configured correctly are essential to managing noise levels. Staff were not observed to be regularly monitoring noise levels at location 3 (M3 measurement location). The Noise Management Plan does not specify when these are to occur but should be regular enough to ensure the set sound level limits are being adhered to. Regardless of measurement, the staff check at neighbouring residence is supposed to safeguard against unreasonable noise. Overall compliance with the Noise Management Plan was not achieved on Saturday 23 March 2013.

During large group booking evenings, the Café continued to serve patrons in the northern restaurant area which operated in Mode 4, with in-house amplified background music up until 10:00pm.

Mode 4: Amplified “Piped” Music through in-House System Only

The Cafe was mostly observed in this mode, on eleven separate occasions. Music through the zoned in-house system was observed to be background in nature at all times. Staff measurements at prescribed locations were not observed, however, given no music was audible at the nearest residence on these occasions, compliance with the noise regulations was achieved regardless. The Cafe ran more speakers when there were more patrons which tended to be during the day time hours operation. Use of external speakers occurred during these times and was dependent on weather conditions. Each time the Café was in Mode 4, overall compliance with the Noise Management Plan was achieved.

Group Bookings

The Noise Management Plan contains a section on group bookings as the Café has large group bookings on a regular basis. The operator of the Cafe voluntarily supplied the City with a list of large group bookings in March 2013, for the months of March, April and June. Three group bookings were observed for extended periods, which provided noteworthy points both on operation of the Cafe and also the surrounding locality.

Lloyd George Acoustics was able to observe one of the group bookings finishing and noted patrons left the venue quietly in small groups. This complied with the Noise Management Plan requirement for crowd control and dispersing of group bookings. The Lloyd George Report cites that during this time, the general public and

neighbouring venues may often be the source of noise at residences nearby, where the Cafe is not making noise. For example, on April 6 2013, a large group booking was in session at the Café but was not creating any noise from music. However, the neighbouring Swanbourne Nedlands Surf Life Saving Club was also using their premises and dance music was clearly audible at the neighbouring residence up until 12:15am. That same evening at 10:50pm, a group of youths gathered in three vehicles on the street in front of the neighbouring residence, with their conversation being clearly audible. The Lloyd George Report notes that at times, noise in the locality surrounding the Café is often present outside the control of the Cafe.

As previously stated earlier in this item, use of the southern single leaf entry/exit door allowed the escape of noise during large group bookings. The effect of opening the door during live music Mode 3 was found to significantly increase the music being audible at the neighbouring residence.

The Lloyd George Report identifies that the Cafe substantially complies with the Noise Management Plan, for the times it undertook monitoring. The one exception of non-compliance was during Mode 3 large group booking. This is a key area which will need to be addressed further. With better noise controls in place which are less subjective or reliant on human judgement, this will ensure steadfast compliance in future.

Noise Complaints

From the commencement of monitoring by Lloyd George Acoustics (21 February 2013) to the end of monitoring (8 June 2013), the City received a total of five noise complaints from three residents between 9 March 2013 and 12 April 2013. Two of the five complaints were for noise on the same evening. None of the complaints were substantiated per the "*Substantiation of complaints*" Advice Note in the conditions of the WAPC decision. One of the complaints was given credence for the only night Lloyd George Acoustics observed the Cafe did not comply overall with the Noise Management Plan. Complaints are summarised as follows:

Resident 1:

Saturday, 9 March 2013 – It was alleged that the resident was awoken at 11:30pm by noise from patrons leaving a function (i.e. large group booking) at the Naked Fig Cafe. When they investigated, 20 guests were standing outside the southern entrance yelling and singing for 10-15 minutes, with no apparent effort by the Cafe to reduce the disturbance. A bus was parked nearby to take guests away. It was commented by the resident that this was the first large function (i.e. large group booking) which had occurred that the resident was aware of since New Year's Eve.

Resident 2:

1. Saturday, 23 March 2013 – It was alleged that bass music and high pitch music from stereo/live band from 7:00pm to 11:00pm, could be heard by the resident with their windows and doors closed. Lloyd George Acoustics happened to be monitoring that night and as per Table 1, it was the only instance overall compliance with the Noise Management Plan was not achieved. Lloyd George

Acoustics commented that it would not have been unreasonable if the City received noise complaints for that night. The resident's complaint was supported by the monitoring. Use of the single leaf southern entry/exit door allowed noise to escape the venue and be audible at the neighbouring residence. Music was still audible at the neighbouring residence at 10:15pm despite staff checks (although it had been turned down a few minutes after the initial 10:00pm check). Music had a reasonable bass component and songs being played were clearly recognisable;

2. Saturday 30 March 2013 – It was alleged that party noise, loud music and shouting/yelling was audible at the resident's property with their windows and doors closed between 7:00pm and 1:00am; and
3. Friday 12 April 2013 – It was alleged that bass and high pitch content of live band noise could be heard from 5:00pm to 1:00am, as well as shouting and screaming as the evening progressed. This was one of two complaints from two different residents for the same evening.

Resident 3:

Friday 12 April 2013 – This was the second complaint for the same evening from different residents. It was alleged a female vocalist and live band could be heard in the resident's house with all their windows and doors shut from 8:00pm-11:45pm. On this occasion the noise was particularly disturbing at 11:15pm when the resident went outside to see where it was coming from. The following week the resident queried with the Cafe why the southern single leaf entry/exit door had been open the night of the noise. They were advised it could not be locked.

On receipt of noise complaints, the City forwarded details to Lloyd George Acoustics (without personal details or identifying information). The purpose of this was to help tailor monitoring to focus on problematic days/times and any issues to do with noise management.

The City considers that the Naked Fig Cafe has substantially complied with the Noise Management Plan during monitoring, which facilitates the Sub-lease to be amended in line with Council's previous resolution.

However, it is evident from monitoring and complaints received that when and if noise is an issue, it is prominently on Friday and/or Saturday evenings/nights when Cafe has large group bookings. Further noise management of large group bookings is critical to ensuring steadfast compliance with the Noise Management Plan at all times. Residents can then be assured of noise controls and the City will not be spending unnecessary resources trying to substantiate complaints, when controls could be strengthened.

Based on discussion with Lloyd George Acoustics and in view of the monitoring which has been completed and those complaints received, Administration recommends that the following measures be implemented by the Naked Fig Cafe, unless the Cafe can reasonably show otherwise:

1. The Cafe should immediately ensure that the southern single leaf entry/exit door is locked and not used during operation Mode 3 (Live Music/DJ at Band location 3), to align with previous acoustic modelling which the Noise Management Plan relied on for this door being closed. The DJ setup should also face southwest and not west as was observed. If the door is vital as an escape in an emergency situation during operation Mode 3, the Cafe should employ an automatic emergency release to allow the door to be used in such cases;
2. The Cafe should install a locking mechanism on the southern external bifold doors so that when configured as required for an operation mode, the doors cannot be manipulated by anyone except the Naked Fig Cafe staff; and
3. The Cafe should incorporate with its in-house amplification system, a noise limiting system which will automatically limit the in-house system's volume from 10:00pm. Any limit should be set in accordance with the advice of an acoustic consultant such that it ensures amplified noise will comply with the Environmental Protection (Noise) Regulations 1997, when it is received at neighbouring residential properties. Complaints about noise have generally been for large group bookings with music after 10:00pm and Lloyd George Acoustics identified non-compliance with the Noise Management Plan after this time. Monitoring has shown that staff checking if music is audible at 10:00pm cannot be relied on to be 100 percent effective. Staff audibility checks are subjective and may differ between staff depending on their interpretation of noise.

Use of the Cafe's in-house sound level meter to check levels at measurement locations is a handy tool, but was not observed during monitoring. Realistically, it is unlikely that staff will measure sound levels at the designated measurement location for the required duration in front of an artist/DJ while a large booking is going on. A noise limiting system guarantees a reduced level of noise from 10:00pm onward. Sound level measurement and staff checks should still occur but do not need to be relied on to ensure music is not discernible at neighbouring residences.

The above measures eliminate reliance on human responsibility and judgement and strengthen the control of noise so that the Noise Management Plan is adhered to. These measures should be implemented and reflected in an amendment to the existing Noise Management Plan dated February 2012.

Conclusion

Council Resolution from 11 December 2012 initiated a Variation of Sub-lease with the Naked Fig Cafe for extended hours of operation until 30 June 2013. This Variation followed a decision of the WAPC in light of an application for review by the State Administrative Tribunal.

Upon expiration of the Variation of Sub-lease, Council was to consider the results of pro-active noise monitoring it had instructed Administration to initiate. Results of the noise monitoring conducted by Lloyd George Acoustics for the Naked Fig Cafe from February to July 2013, demonstrate that the Cafe substantially complied with the requirements of the Noise Management Plan 2012 and the *Environmental Protection*

(Noise) Regulations 1997. In doing so the operator of the Naked Fig Cafe has demonstrated substantial compliance with all conditions (of the WAPC decision).

While Administration is of the view that substantial compliance has been achieved, further measures relating to the southern single leaf entry/exit door, southern external bifold doors and a noise limiting system at 10:00pm, should be implemented and reflected in an amendment to the existing Noise Management Plan dated February 2012.

Should Council agree substantial compliance has been demonstrated, this facilitates the Sub-lease to be amended in strict compliance with the WAPC decision issued 13 March 2012, in accordance with Council's previous resolution.

Consultation Process

What consultation process was undertaken?

Required by legislation: Yes No
Required by City of Nedlands policy: Yes No

How and when was the community consulted?

Not applicable

Budget / Financial Implications

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

There are no budget or financial implications for this item. However, as part of Council's Resolution of 11 December 2012, which this item relates to, Council noted that the additional cost of pro-active monitoring had not been budgeted and Council would address this cost at the mid-year budget review. This has occurred.

Administration requested three quotes for the pro-active noise monitoring. The most cost competitive quote was accepted, which was \$17,721 incl. GST.

Risk management

Should Council not endorse the Sub-lease to be amended to bring it into alignment with the WAPC decision issued 13 March 2012, a risk exists with having two documents that control the operation of the Naked Fig Café that do not mirror one another. This creates confusion and can be a source of conjecture as to which provision applies.

A further risk is that any amendment to the Sub-lease must be agreed to by both parties to the Sub-lease. Therefore any proposed amendment must be reasonable and satisfy the interest of both parties. Should Council endorse the Sub-lease to be amended in strict compliance with the WAPC decision issued 13 March 2012, the Naked Fig Café will have extended hours of operation.

To comply with the WAPC decision, the approved Noise Management Plan dated February 2012 must be implemented at all times during operation of the premises. However, in the interests of the City and as a result of the noise monitoring, Council should consider those measures, relating to the southern single leaf entry/exit door, southern external bifold doors and a noise limiting system at 10:00pm. This would afford greater control of noise from the Café operation that was observed. This will minimise the risk that residents are burdened with unreasonable noise and the Administration having to allocate resources substantiating noise complaints, per the conditions of the WAPC's decision.

Implementing more effective control measures now will result in fewer complaints and less subjectivity for the future. This can only be an outcome beneficial to the Café, local residents and the City. These measures should be reflected in an amendment to the existing Noise Management Plan dated February 2012.

Attachments

1. Venue Noise Management Assessment
2. Site Diagram of the Naked Fig Cafe