



# Development Services Reports

**Committee Consideration – 8 February 2011**  
**Council Resolution – 22 February 2011**


## Table of Contents

Item No.		Page No.
D01.11	Reserve 33244 Monash Ave (QEII Medical Centre), Nedlands – Proposed At Grade Carpark for 328 Bays. ....	3
D02.11	No.43 (Lot 89) Portland Street, Nedlands - Proposed Carport and Solid Front Fence.....	17
D03.11	No.65 (Lot 4) Mayfair Street, Mt Claremont 6010 –Two Storey Dwelling and Pool .....	25
D04.11	No.119 (Lot 227) Rochdale Rd, Mt Claremont – Proposed Single Storey Additions/Alterations .....	35
D05.11	No. 140 (Lot 127) Rochdale Road, Mt Claremont – Proposed Home Business – Tutoring.....	44
D06.11	No.81 (Tenancy 4 & 5) Stirling Hwy Nedlands – Proposed Change of Use from Showroom to Office .....	52
D07.11	Unit 19, No.69 (Lot 25) Melvista Avenue, Nedlands - Retrospective Single Storey Alterations.....	61
D08.11	Unit 7, No.69 (Lot 25) Melvista Avenue, Nedlands - Retrospective Single Storey Alterations.....	66
D09.11	Item Removed.....	70
D10.11	Karrakatta Underpass Road Name .....	71
D11.11	Old Swanbourne Hospital Road Names .....	75
D12.11	Point Walter Family Concert and Fireworks, Sunday 6 March 2011 – Point Walter Reserve, Bicton .....	78
D13.11	Soundwave Festival, Monday 7 March 2011 – Claremont Showground, Claremont .....	83

D14.11	Part Lot 13423 on DP 194320 Monash Avenue, Nedlands – Reserve 20838.....	89
D15.11	Perth Flying Squadron Yacht Club Inc – Reserve 17391 (Lot 254 on Deposited Plan 37070), 254 Birdwood Parade, Dalkeith. - Surrender of Lease and Deed of Variation of Lease and proposed new 21 year Lease.....	94

<b>D01.11</b>	<b>Reserve 33244 Monash Ave (QEII Medical Centre), Nedlands – Proposed At Grade Carpark for 328 Bays.</b>
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<b>Committee</b>	8 February 2011
<b>Council</b>	22 February 2011

<b>Applicant</b>	Strategic Projects, Department of Treasury and Finance
<b>Owner</b>	QEII Medical Trust
<b>Officer</b>	Nick Bakker – Planning Officer
<b>Director</b>	Carlie Eldridge – Director Development Services
<b>Director Signature</b>	
<b>File ref</b>	MO1/R33244-09
<b>Previous Item No's</b>	DA10/444 : DA10/382 : DA09/107
<b>Disclosure of Interest</b>	No officer involved in the preparation of this report had any interest which required it to be declared in accordance with the provisions of the <i>Local Government Act (1995)</i> .

**Purpose**

This application is referred to Council for determination as officers have no delegation to approve an application once objections have been received.

The site is located on MRS land and as such Council is required to provide a recommendation to the Western Australian Planning Commission who will determine the application.

**Recommendation to Committee**

**Council**

- 1) **Recommends refusal to the Western Australian Planning commission (WAPC) for the proposed 328 bay at-grade carpark at Reserve 33244 (QEII Medical Centre), Nedlands in accordance with the application dated 11 November 2010, on the grounds that:**
  - i. **there is insufficient information regarding the environmental impact associated with the clearing of the existing bushland;**
  - ii. **there is a lack of evidential proof that there are no protected and/or significant species located within the existing bushland;**

- iii. the Environmental Protection Authority (EPA) assessment has not been completed;
  - iv. there is insufficient information regarding this site meeting the requirements defined in the *Environment Protection and Biodiversity Act 1999* (EPBC Act);
- 2) That the WAPC does not make a decision until an independent environmental survey conducted during spring has been undertaken at the site that addresses and answers the queries identified above.
- 3) Should the WAPC see fit to approve the application despite the lack of evidential information relating to the significance of the flora and fauna, then Council recommends the approval should be subject to the following conditions:
- i. a Landscaping Plan is to be prepared by the applicant to the specifications of the City of Nedlands (refer advice note a);
  - ii. a Construction Management Plan is to be prepared by the applicant to the specifications of the City of Nedlands (refer advice note b);
  - iii. any necessary Approvals and Licences shall be obtained by the applicant from the Department of Environment and Conservation (DEC), Environmental Protection Authority (EPA) or any other authorising body and copies of the relevant documents submitted to the City;
  - iv. at the completion of the carparks use in 2015 the site be returned to open space and re-established/ rehabilitated with bushland.

#### Advice notes

- a) With regards to Condition 3) i. the applicant is advised that the Landscaping Plan is to be submitted prior to the commencement of operations and is to include but not be limited to the following;
- i. the areas of all existing and proposed landscaping on the verge; and
  - ii. details of any existing and proposed landscaping, including hard landscaping.

The applicant is advised that all proposed landscaping shall be in accordance with the City of Nedlands Greenways Policy 4.14.

- b) With regards to condition 3)ii, the Construction Management Plan shall include but not be limited to the following:**
- i. hours of operation;**
  - ii. number of construction employees;**
  - iii. location of employee vehicle parking and information on transporting**

### **Strategic Plan**

#### KFA 2: Natural Environment

To enhance and protect the City's environmental assets to ensure:

- Management of natural resources and habitats;
  - Environmental sustainability
- 2.1 Develop and implement a hierarchy of parks consistent with City plans and community requirements.
  - 2.2 Prepare and implement management plans for natural areas.
  - 2.3 Promote, maintain and protect existing plant diversity (both native and introduced) in the City.

### **Background**

Property Address: Reserve 33244 Monash Avenue, Nedlands (QEII Medical Centre) (refer Locality Plan – attachment 1)  
MRS Zoning: Public Purpose- Hospital  
TPS Zoning: MRS Public Purpose- Hospital  
Lot Area: 8000 m<sup>2</sup>

The WAPC approved the QEII Access and Structure Plan (Structure Plan) in June 2007. Since the approval of the Structure Plan the City has considered and provided comment to the WAPC for a number of major developments on the QEII site.

In November 2008 the City recommended the WAPC refuse an application for a new pathology building located on the site as Council did not accept the Travel Plan and was concerned about the lack of parking on and around the site.

In July 2009 the City recommended refusal for an application for the proposed Comprehensive Cancer Centre on the QEII site. The City was still concerned about the parking issues and resolved that the application would not be supported until sufficient parking bays and alternative transport options had been provided.

In April 2010 the City recommended refusal for an application for the proposed new Western Australian Institute for Medical Research (WAIMR). The City recommended refusal for this application and requested no further development approvals be issued until sufficient parking is provided on site and the objectives of the QEII Travel Plan have been affectively implemented.

In December 2010 the City recommended refusal for an application for the proposed new Central Plan Facility. Council also recommended a number of conditions to be placed on any approval if the WAPC should see fit to approve the application. The WAPC approved the application for the new Central Plant Facility with the following conditions:

- “1. The materials and finishes to be used in the external elevations of the proposed development are to complement those of the surrounding buildings.*
- 2. The proponent to prepare and implement a construction management plan for the workshop/waste management building in liaison with the City of Nedlands to the satisfactory of the WAPC and to address, amongst others, noise, access, vibration, hours of work and dust control.*
- 3. The proponent to prepare and implement a waste management plan for the workshop/waste management building in liaison with the City of Nedlands to the satisfactory of the WAPC.*
- 4. The proponent to prepare and implement a landscape management plan for central energy plant site in liaison with the City of Nedlands to the satisfactory of the WAPC.”*

### **Proposal Detail**

The purpose of the proposed temporary car park is to compensate for the loss of the existing bays which are to be removed during the construction of the proposed multi-deck car park and new children's hospital.

The proposed at-grade temporary car park will:

- accommodate 328 car bays;
- be used only by staff currently parking within the QEII Site;
- be accessed solely from Banksia Street (via the existing boom gates), internal to the QEII site, with no direct access to Monash Avenue;
- retain a 18.5 m vegetation setback from Monash Avenue;
- include light poles 2.5 m in height;

- be constructed with finished bitumen surface incorporating on site drainage; and
- operate from July 2011 until the opening of the proposed multi-deck car park in early 2015.

In progressing the future development potential of the site, and to support the short term temporary use for car parking, an environmental investigation was undertaken by GHD in October 2010, as attached. The study identified that:

- vegetation within the study area is considered to be moderately diverse. A total of 91 plant taxa, representing 73 genera and 28 plant families were recorded in the survey area. This total comprises 62 native species and 29 introduced (exotic) species;
- the vegetation condition identified in the survey ranged from Good to Completely Degraded;
- no threatened Ecological or priority Ecological Communities were recorded within the study area;
- no Declared Rare Flora (DRF) was recorded within the study area;
- a significant portion of the survey area has been severely impacted by exotic species (weeds) and other disturbances;
- one vegetation type was recorded during the survey - Open forest to low woodland of *Allocasuarina fraseriana*, *Banksia attenuate*, *Banksia menziesii* and *Eucalyptus marginata* over *Acacia saligna* and *Xanthorrhoe*; and
- two flora species of conservation significance were recorded in the study area - *Dodonaea hackettiana* (P4) and *Jacksonai sericea* (P4). Although both are considered conservation significant species by the DEC, they are well represented on the Swan Coastal Plain and are not offered any formal protection under current WA environmental legislation.

The applicant states that the site meets the general exemption requirements for a Clearing Permit under Regulation 5 of the Environmental Protection (clearing of Native Vegetation) Regulations 2004, however, the temporary car park does not include a "building" or a "structure with a roof" and therefore a Clearing Permit will still be required. A separate application in this regard is being progressed with the EPA.

**Consultation**

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

21 Day Community Consultation Period: 29 November 2010 - 20 December 2010.

The advertising period was extended to 14 January 2011 as concerns were raised by residents that there would not be enough time to provide comment over the Christmas Holiday Period.

Comments received: 19

The table below provides a summary of the issues raised from comments received.

**QEII Proposed At Grade Carpark – Summary of Submissions  
 Objections**

<b>Protect bushland</b>
<ul style="list-style-type: none"> <li>• The Hospital Bushland is habitat for many species of flora and fauna and it forms part of a Greenway through from Bold Park to Kings Park, Greenway 19. We should be actively working to protect our remaining greenways</li> <li>• Community does not want this bushland removed for a carpark which is only designed for temporary use only</li> <li>• Protect small areas of bushland and not covered in concrete, even if it is temporary</li> <li>• The proposal involves the destruction of a mature and dense parcel of the last area of natural bushland along Monash Avenue</li> <li>• Urge the city to recommend to the WAPC that the application be refused as the bush can never be replaced</li> <li>• The bush between the Crawford Cancer Centre and the Dental/Medical Library is therapeutic for clients</li> <li>• Disagree with the destruction of natural bushland</li> <li>• Save the Nedlands area and keep bushland</li> <li>• Concerned that a proper assessment of the environmental impacts of the proposal has not been conducted</li> <li>• The claim by proponents to have assessed the proposal against DEC's Ten Clearing Principles is incorrect because the assessment performed is superficial and lacking in scientific rigour</li> </ul>



- The natural environment is being made to pay the price for poor planning
- The bushland has been deemed to be eminently expendable when assessed against the “Ten Clearing Principles” of the *Environmental Protection Amendment Act 2003*, probably because its upkeep has been neglected over the past 20 years. This negligence makes the findings questionable.
- The response by the assessor in relation to the ‘Ten Principals of Clearing’ are inaccurate and wrong
- The GHD Report has demonstrated that the bushland is categorised as ‘Endangered’ this being the case, clearing ‘should be avoided’
- This bushland is too important to loose. No thought has been given to the value of the bushland and the seemingly hasty proposal is unacceptable (The Urban Bushland Council WA Inc)

#### **Restore Bushland**

- There is no indication or commitment to restore the land to natural bushland after the five year period
- restoration to its current habitat, biodiversity and aesthetic value would take many years
- There has been no undertaking, as there was with Rosalie Park, that the temporary carpark for 328 bays will be restored to bushland

#### **Endangered Flora and Fauna**

- Understand that this bushland is used as habitat for the endangered Carnaby Cockatoo
- The bushland corridor from Kings Park to Bold Park facilitates the movement of birds, some reptiles, frogs and insects, as well as allowing a genetic flow for plants
- Local Governments should recognise and protect Greenways to ensure that ecological linkages are effectively retained and protected
- Carnaby’s Cockatoos are listed as a threatened species under the state *Wildlife Conservation Act 1950*, and endangered under the *EPBC Act 1999*
- destroying bushland which provides foraging habitat to cockatoos which will have or is likely to have a significant impact on this species should require approval under the *Federal EPBC Act 1999*
- This area of bushland (included other in the corridor) are nominated

as biodiversity hotspots because the biodiversity within the areas is threatened

- This proposal increases threats on our bushlands where some vulnerable species will face the risk of extinction

**Traffic/Parking**

- Believe that a new slip road off Winthrop into carpark two (2) will solve a lot of access problems to QEII site
- Already finds it hard to get out of the driveway onto Monash Ave and the carpark will increase traffic and exacerbate this
- Recommend QEII have an entry for cars from Thomas Road and close off all entry from Monash Ave (except houses)
- Greater use should be made of the existing staff parking at Graylands Hospital
- Lack of foresight and planning, as planners should plan for adequate space for parking before rather than after the approval for the construction of buildings
- Before each of these individual plans is considered, a solution needs to be found to the traffic problems arising from these developments.

**Public Involvement and Governance**

- The applicant is presenting piecemeal the various proposals related to the enlargement of facilities at the QEII site
- Council should withhold permission for this carpark until separate entry from Thomas Road is agreed to
- Disappointed this letter has come through right on Christmas time
- No signage for proposal, members of the community are generally unaware of the proposed changes, unless they have received notification by mail
- Lacking in an integrated, coordinated plan for the future of the QEII complex, which is becoming increasingly high density
- Lot 33244 should be properly assessed for its environmental values prior to the application going out for public consultation
- Public interest includes the preservation of this bushland to continue to provide benefits to humans (community health, water and air quality, sequestration of carbon)
- Request that the application needs to be assessed thoroughly in an open and transparent manner

### **Amenity**

- The general amenity of the area will be compromised by SCGH redevelopment (scale/building to land ratio) and this bushland helps to offset the impact
- Did not buy in Nedlands to live opposite a massive carpark, absolutely object to the carpark being constructed opposite my house on Monash Avenue
- This will definitely devalue property and I will seek compensation

### **Support /Conditional Support**

- No objections as long as 'temporary' does not become permanent
- I don't really have an objection. The above property is a rental property and my tenant usually walks to work
- No problem with the temporary car park provided that it is temporary and rehabilitation takes place afterwards
- I agree with this proposal – 100%
- Agree with the carpark but wish to make the following comments;
  - There be minimal noise during the construction of the carpark
  - There be no collateral damage to surrounding buildings from compacting of the soil in preparation for the laying of the bitumen surface
  - There be minimal dust drift from the construction site
  - There be a plan for re-planting of suitable native vegetation on the site when the proposed Multi-Storey Carpark is built & restoration of the complete site

### **Legislation**

The site is located on MRS land and as such Council is required to provide a recommendation to the Western Australian Planning Commission who will determine the application.

#### **Council Policy 6.4 – Neighbourhood Consultation**

The application is currently with the Environmental Protection Agency (EPA), who are currently considering whether the application will need to be assessed. If the EPA determines the application will need to be assessed it is understood the WAPC will not be able to make a determination until this has been undertaken.

**Discussion**

It is considered insufficient information was submitted with the application for the City to undertake a thorough assessment of the proposal.

Despite the lack of information the City’s Bushcare Officer was able to provide the following comments:

The GHD Report	Officer Comment
<p>Dot point 3 in the study states that they propose to <i>“retain a 18.5 m vegetated setback from Monash Avenue”</i>.</p>	<p>Currently the majority of this area is grass (between 9-13 m from verge) very little existing natural vegetation will be able to be retained in this proposed setback area.</p>
<p>Several statements made in the GHD Report covering letter are misleading about the condition of the bushland and the level of disturbance, specifically the following dot points;</p> <ul style="list-style-type: none"> <li>• Dot point 1 states,  <i>“vegetation within the study area is considered to be moderately diverse. A total of 91 plant taxa, representing 73 genera and 28 plant families were recorded in the survey area. This total comprises 62 native species and 29 introduced (exotic) species”</i>;</li> <li>• Dot point 2 states,  <i>“the vegetation condition identified in the survey ranged from Good to Completely Degraded”</i>;</li> <li>• Dot point 5 states,  <i>“a significant portion of the survey area has been severely impacted by exotic species (weeds) and other disturbances”</i>.</li> </ul>	<ul style="list-style-type: none"> <li>• GHD's statement of the bushland condition is not accepted. In terms of an urban bushland of this size there is quite a high level of native herbs and ground covers and there are obvious signs of natural regeneration;</li> <li>• Except for the edges and some small patches close to the edges and pathways the majority of this bushland is in good condition, also GHD identify "other disturbances" but these are not named;</li> <li>• The majority of weed species are grass weeds and can easily be controlled removing this disturbance and increasing the regeneration potential of the bushland.</li> </ul>

<p>In relation to a Vegetation and Flora Assessment undertaken by GHD in November 2010, Section 2.4 of the GHD report states there are no direct linkages to Kings Park from the study area.</p>	<p>Firstly the study area is identified as a regional linkage area from Bold Park to Kings Park in the state greenways plan, the WESROC Greening Plan, its identified by WALGA's Perth Biodiversity Project regional greenway areas and it is listed on the City's Greenways Policy as a regional greenway.</p> <p>Secondly one of three roosting sites for the Endangered Carnaby Cockatoos in Nedlands is at the Hollywood Hospital Site directly adjacent to the QEII site. It is highly likely the Cockatoos use this bushland to feed on their way to or from Kings Park. The statement that there is no direct linkage at the study area is unsubstantiated and misleading. Continuous vegetation linkages are not required for avi fauna (particularly large avi fauna);</p>
<p><i>Section 4.2.2 on page 12 of the GHD report it is states:</i></p> <p><i>"No Declared Rare species listed by the DEC (2010) or species of national significance listed under the EPBC Act 1999 were recorded from the study area."</i></p>	<p>The study undertaken was time specific and does not determine whether Endangered Carnaby Cockatoos use the site to feed - this statement is misleading; and several locations of <i>Jacksonia Sericea</i> are located on the site that have not been identified in the GHD report as the <i>mapping of priority flora</i> is incorrect.</p>
<p>Table 7. Point b. of the GHD Report States;</p> <ul style="list-style-type: none"> <li><i>"The study area has been subject to a number of disturbances, particularly invasion from weed species, have likely reduced the habitat value for indigenous fauna."</i></li> </ul>	<p>Several statements are not correct in this section and they are considered to be inconsistent with the ten (10) Clearing Principles which GHD claim to subscribe to in their report.</p> <ul style="list-style-type: none"> <li>This statement is not correct - although a lot of grass weeds are evident on the this does not mean that they will reduce/impede the reptile, insect or avi fauna populations.</li> </ul>

<ul style="list-style-type: none"> <li>• <i>“The area proposed for clearing is small and does not provide a direct linkage to any surrounding bushland... the study area vegetation is not considered to compromise habitat necessary for the maintenance of significant fauna”.</i></li> </ul>	<p>Grass weeds or other broadleaf/bulbous weeds would be easily reduced with a control program. The site has very good regeneration at present and the regeneration potential would be increased following a weed control program.</p> <ul style="list-style-type: none"> <li>• This statement is again unsubstantiated and lacking any proper data analysis or investigation. The site has between 50 - 75 established Banksia trees (including <i>B. menziesii</i>, <i>B. attenuata</i> and <i>B. grandis</i>) all of which are Carnaby cockatoo food sources; along with several Peppermint and Marri trees which again are a Carnaby Cockatoo food source. This reserve has a significant amount of locally indigenous trees that provide valuable food source for these endangered birds. They have a permanent roost site within 250 m of the study area and would possibly use it to travel to Kings Park and back to Bold Park.</li> </ul>
<p>Table 7. Point c. states;  “No Declared Rare Flora (DRF) species were recorded during the survey of the study area.”</p>	<p>An independent survey (on behalf of the City) is required to determine whether any DRF are present - also mapped populations of <i>Jacksonia sericea</i> were incorrect on the GHD report maps.</p>
<p>Table 7. Point e. states;  “Clearing native vegetation within the study area will not significantly the known extent from pre-European extents.”</p>	<p>This vegetation type is already considered vulnerable - and therefore not consistent with this principle.</p>
<p>Table 7. Point h. states;  “There are no conservation areas within or immediately adjacent to</p>	<p>The study area is identified as a regional linkage area from Bold Park</p>

<p><i>the study areas. Kings Park across Thomas Road but no direct links to the study area."</i></p>	<p>to Kings Park in the State Greenways Plan, the WESROC Greening Plan, is identified by WALGA's Perth Biodiversity Project Regional Greenway Areas and it is listed on the City's Greenways Policy as a regional greenway from Bold Park to Kings Park.</p> <p>One of three roosting sites for the Endangered Carnaby Cockatoos in Nedlands is at the Hollywood Hospital Site directly adjacent to the QEII site.</p> <p>It is highly likely the Cockatoos use this bushland to feed on their way to or from Kings Park. Continuous vegetation linkages are not required for avi fauna (particularly large avi fauna);</p> <p>Figure 1. in the GHD report has not identified locations of P4 <i>Jacksonia sericea</i> accurately - there are more populations than those identified by GHD on the study area.</p>
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#### **Additional Officer Comments**

- The roost sites for Endangered Carnaby Cockatoos are less than 250 m from the study area;
- Several habitat trees are located on the site: two (2) dead trees with approximately three (3) hollows and one large Marri tree with more than 12 nest hollows;
- Between 50 - 75 banksia trees (and more regenerating seedlings), along with more than 15 Marri trees and more than 20 Peppermint trees are all valuable food source for nearby roosting Carnaby Cockatoos.

After considering the information provided with the application it appears the GHD report was written without accurately surveying the vegetation, flora and fauna of the site, or a survey being done at the optimal period to identify species.

With reference to other issues associated with parking/traffic and general amenity, it is considered that the temporary carpark will not increase the amount of traffic coming and going from the site as it will be replacing

existing carparking on the site which will be temporarily removed. However it is considered that the amenity of the area will be compromised if the vegetation removed.

### **Conclusion**

It is concluded that the proposal is not consistent with all points of the ten clearing principles and there is a lack of information and insufficient assessments have been undertaken to provide clear evidence that the clearing of the bushland will not adversely impact on significant flora and/or fauna.

For these reasons, it is recommended the application is refused until the necessary assessments are undertaken and there is clear evidence that there will be no impact on any significant flora or fauna.

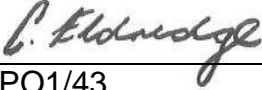
### **Attachments**

1. Locality Plan
2. GHD Report for Vegetation and Flora Assessment
3. Applicant's Site Plan
4. Detailed Carpark Plan



<b>D02.11</b>	<b>No.43 (Lot 89) Portland Street, Nedlands - Proposed Carport and Solid Front Fence</b>
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<b>Committee</b>	8 February 2011
<b>Council</b>	22 February 2011

<b>Applicant</b>	Reuben & Deborah Kooperman
<b>Owner</b>	As above
<b>Officer</b>	Nick Bakker – Planning Officer
<b>Director</b>	Carlie Eldridge – Director Development Services
<b>Director Signature</b>	
<b>File ref</b>	PO1/43
<b>Previous Item No's</b>	Nil
<b>Disclosure of Interest</b>	No officer involved in the preparation of this report had any interest which required it to be declared in accordance with the provisions of the <i>Local Government Act (1995)</i> .

### Purpose

The purpose of this report is for Council to give consideration to an application for a proposed carport and solid front fence with a maximum height of 2.285 m above natural ground level (ngl) located in the primary street setback. It is considered the proposed fence does not comply with the Acceptable Development or Performance Criteria of the Residential Design Codes (RCodes) and therefore Council is requested to determine the application.

### Recommendation to Committee

**Council approves the application for a carport and front fence at No. 43 (Lot 89) Portland Street, Nedlands in accordance with the application dated 22 October 2010 and amended plans dated 26 November 2010 subject to the following conditions:**

- 1) **The proposed front fence is to have a maximum height of 1.8 m above natural ground level and is to be visually permeable above 1.2 m from natural ground level in accordance with the RCodes.**
- 2) **The front fence and footings shall be constructed wholly inside the allotment.**
- 3) **All storm water from building and paving areas (including driveways) shall be contained on site by draining to soakwells of adequate capacity to contain runoff from a ten (10) year recurrent storm event and the capacity of soakwells shall be a**

**minimum of one (1) cubic metre for every 80 m<sup>2</sup> of paved or roofed surface on the property.**

- 4) The use of bare or painted metal building materials is permitted on the basis that, if during or following the erection of the development the Council forms the opinion that glare which is produced from the proposed building has or will have a significant detrimental effect upon the amenity of neighbouring properties, the Council may require the owner to treat the building/roof to reduce the reflectivity to a level acceptable to Council.**
- 5) Any additional development, which is not in accordance with the original application or conditions of approval, as outlined above, will require further approval by Council.**

### **Strategic Plan**

#### **KFA 3: Built Environment**

To provide a built environment and land use planning framework which:

- 3.3 Promote urban design that creates attractive and liveable neighbourhoods.
- 3.6 Promote programs and policies to facilitate environmentally responsible and sustainable buildings and building practices.
- 3.8 Facilitate appropriate development of existing residential housing to complement the surrounding residential amenity.

### **Background**

Property Address: No.43 (Lot 89) Portland Street Nedlands  
Zoning MRS: Urban  
Zoning TPS2: Residential – R12.5  
Lot Area: 907 m<sup>2</sup>

### **Proposal Detail**

The application proposes a carport in front of the existing dwelling at No. 43 Portland Street within the 9 m front setback area. The carport has a total roof area of 36 m<sup>2</sup> with a setback of 0.725 m from the south side boundary and 3 m from the front boundary.

The application also proposes a solid front fence around the existing swimming pool located within the front setback area. The front fence has a minimum height of 1.8 m above ngl with a maximum height of 2.285 m above ngl.

## Consultation

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

As the application proposes variations to the RCodes and the City's Policy 6.23 the application was required to be advertised to surrounding residents for comment.

In this case the owner of No. 43 Portland Street approached the relevant neighbours personally to sign the plans and agree to the variations. Therefore the City did not advertise the application for the usual 14 day period.

### Comments received

All five (5) affected neighbours, two (2) next door and three (3) directly across the road, signed the plans and agreed to each specific variation. No objections were received.

## Legislation

The application does not comply with either:

### 1. The Residential Design Codes

The application does not comply with the Acceptable Development Criteria under Clause 6.2.5 of the RCodes "Street Walls and Fences" as the fence is not visually permeable above 1.2 m. Therefore the fence must be assessed against the Performance Criteria of this clause.

### 2. Policy 6.23 'Carports and Minor Structures forward of the Primary Street Setback'

Policy 6.23 'Carports and Minor Structures forward of the Primary Street Setback' requires carports to have a minimum front setback of 3.5 m. Policy 6.23 also requires a minimum side setback of 1 m.

The proposed carport has a front setback of 3 m and a side setback of 0.725 m and therefore does not fully comply with the provisions of Policy 6.23.

The above requirements are discussed in further detail in the table below.

**Discussion**

Issue: Carport

Requirement	Policy 6.23 ' <i>Carports and Minor Structures forward of the Primary Street Setback</i> ' requires carports to have a minimum front setback of 3.5 m and a minimum side setback of 1 m.
Applicants Proposal	The proposed carport has a front setback of 3m and a side setback of 0.725 m.
<p>Applicant justification summary</p> <p>Note: A full copy of all relevant consultation feedback received by the City has been given to the City's Councillors prior to the meeting.</p>	<p><i>The existing dwelling is similar to many of the older homes in Nedlands in that it was originally constructed with a single garage.</i></p> <p><i>To cater for two (2) additional vehicles a double carport is proposed in the front setback area. It is not possible to achieve a greater front setback without reducing the size of the carport. This would not be desirable or effective in adequately sheltering the cars.</i></p> <p><i>The applicant has also outlined a number of dwellings which have carports with a reduced front setback in the surrounding area.</i></p> <p><i>The carport has been designed to be constructed with the same colour, materials, finishes and roof pitch as the existing house so that it complements both the house and the streetscape.</i></p>
Officer technical comment	<p>The location of the existing dwelling on the site limits the amount of space available for the carport within the front setback area.</p> <p>Given that the existing dwelling only provides a single car garage and that there is no alternative location for the proposed double carport, it is considered the proposed location of the carport is acceptable under Policy 6.23.</p>

Issue: Solid Front Fence

Requirement	<p>The Performance Criteria under Clause 6.2.5 of the RCodes state;</p> <p><i>"Front walls and fences to promote surveillance and enhance streetscape, taking account of:</i></p>
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	<ul style="list-style-type: none"> <li>• <i>the need to provide protection from noise and headlight glare where the roads are designated as Primary or District Distributors or Integrator Arterials; or,</i></li> <li>• <i>the need to provide screening to the front setback; or</i></li> <li>• <i>the need to provide privacy to north facing outdoor living areas.”</i></li> </ul>
<p>Applicants Proposal</p>	<p>The application proposes a solid fence along the front boundary, continuing down the side of the driveway located within the 9m front setback area.</p> <p>The solid front fence ranges in height from 1.8m to a maximum of 2.285 m above natural ground level in the north west corner of the lot.</p>
<p>Applicant justification summary</p> <p>Note: A full copy of all relevant consultation feedback received by the City has been given to the City's Councillors prior to the meeting.</p>	<p><i>The existing fence is a timber picket fence that enclosed the swimming pool at the front of the property. The height of the existing fence is 1.8 metre above the swimming pool level. The pool and fence were built in 1989.</i></p> <p><i>The existing fence is of solid construction (i.e. no gaps between pickets except for a small section near the gate) and the proposal is to re-construct it in rendered brickwork along the same alignment and to exactly the same dimensions as the existing fence. The visual impression of the new fence will be the same as the existing fence.</i></p> <p><i>There are existing 1.8m high solid fences in Portland Street, these being at No's. 2, 38 and 49 Portland Street and several others in the vicinity (this is discussed later in the report in Table 1).</i></p>
<p>Officer technical comment</p>	<p>The following comments are in relation to the Performance Criteria under Clause 6.2.5 of the RCodes;</p> <ul style="list-style-type: none"> <li>• <i>the need to provide protection from noise and headlight glare where the roads are designated as Primary or District Distributors or Integrator Arterials;</i></li> </ul> <p>The subject property is not located on a Primary or District Distributor or Integrator</p>

	<p>Arterial. The property is located in a low density residential zone and therefore it is considered the majority of traffic to the area would be local. Issues of vehicle noise and headlights are not considered to be any greater than that in any other of the surrounding streets in the neighbourhood and therefore the Performance Criteria of the Codes is not met.</p> <ul style="list-style-type: none"> <li>• <i>the need to provide screening to the front setback;</i></li> </ul> <p>The purpose of the proposed solid front fence is to provide screening to the swimming pool which is located within the front setback area of the site.</p> <p>The lot is 907 m<sup>2</sup> and there is an abundance of space around the site for a swimming pool and outdoor living areas.</p> <p>Although the applicant chose to construct a pool in the front setback many years ago, the existing solid fence in the front setback has never been approved by the City.</p> <p>Currently there is a wooden picket fence and significant vegetation along the front boundary. The rules do not prevent the applicant from again planting vegetation to provide some form of screening. However a 2.285 m high solid fence is not considered necessary or desirable in this instance.</p> <p>It is therefore considered the need to screen the front setback area is not justifiable under the performance criteria.</p> <ul style="list-style-type: none"> <li>• <i>the need to provide privacy to north facing outdoor living areas.</i></li> </ul> <p>The proposed solid front fence is located on the eastern boundary and there is no need to provide screening to north facing outdoor living area.</p> <p>Therefore, it is considered this Performance Criteria is not applicable in this case.</p>
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Issue: Existing Solid Fences in the Surrounding Area

The applicant provided a list of properties (Table 1 below) outlining examples of existing solid fences in the surrounding residential area.

**Table 1**

<b>Address Provided by Applicant</b>	<b>Applicant's Description</b>	<b>Officer Comment</b>
15 Portland Street	Solid to 2.1 m	There is no fencing within the front 9 m setback area. A solid 1.8 m high secondary street fence was approved in 1993. (complied with RCodes)
47 Williams Road	Solid to 2.15 m	A visually permeable fence within the front setback area and a solid 1.8 m high secondary street fence were approved in 2007. (complied with RCodes)
6 Langham Street	Solid to 1.9 m	Similar to this subject application, the house at No. 6 Langham is an older house with a solid front fence, no approvals were found on file.
16 Langham Street	Solid to 2.18 m	There is no fencing within the front 9 m setback area. A solid 1.8 m high secondary street fence was approved on the site. (complied with RCodes)
23 Meriwa Street	Solid to 2.15 m	A visually permeable fence within the front setback area and a solid 1.8 m high secondary street fence were approved in 1983. (complied with RCodes)
25 Meriwa Street	Solid to 2.1 m	A visually permeable fence within the front setback area and a solid 1.8 m high secondary street fence were approved in 2009. (complied with RCodes)
Cnr Hardy Road & Meriwa Street	Solid to 2.0 m	This is a solid secondary street fence with an open visually permeable fence located within the 9 m front setback area. (complies with RCodes)
Cnr Hardy Road & Williams Raod	Solid to 2.1 m	This is a solid secondary street fence with an open visually permeable fence located within the 9 m front setback area. (complies with RCodes)

After researching the files for the properties above it is evident that all properties (with one exception) are in compliance with the current RCode requirements for street walls and fences, which allow for solid 1.8 m fences along secondary streets and 1.8 m high fences which are visually permeable above 1.2 m within the front setback area.

It is therefore considered that the streetscape in the area reflects the provisions under the RCodes and these provisions have been applied consistently for fences within the surrounding residential area.

### **Conclusion**

Despite the non-compliance of the Policy 6.23 it is recommended Council supports the proposed carport. However, the proposed increased solid wall height is not supported and it is recommended a condition be placed on any approval that the proposed front fence located in the 9m front setback area is to have a maximum height of 1.8 m above natural ground level and is to be visually permeable above 1.2 m as per the RCodes requirements.

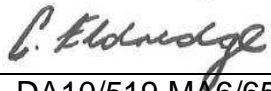
### **Attachments**

1. Locality Plan
2. Site, Floor and Elevation Plan



<b>D03.11</b>	<b>No.65 (Lot 4) Mayfair Street, Mt Claremont 6010 – Two Storey Dwelling and Pool</b>
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<b>Committee</b>	8 February 2011
<b>Council</b>	22 February 2011

<b>Applicant</b>	Klopper & Davis Architects
<b>Owner</b>	Mark and Juliet Lennon
<b>Officer</b>	Joseph Ravi – Planning Officer
<b>Director</b>	Carlie Eldridge – Director Development Services
<b>Director Signature</b>	
<b>File ref</b>	DA10/519 MA6/65 M11/467
<b>Previous Item No's</b>	Nil
<b>Disclosure of Interest</b>	No officer involved in the preparation of this report had any interest which required it to be declared in accordance with the provisions of the <i>Local Government Act (1995)</i> .

**Purpose**

This application is referred to Council for determination as officers have no delegation to approve an application once objections have been received.

**Recommendation to Committee**

**Council approves the application for a two storey dwelling and pool at No. 65 (Lot 4) Mayfair Street, Mt Claremont in accordance with the application dated 25 October 2010 and amended plans dated 14 December 2010 subject to the following conditions:**

- 1) All storm water from building and paving areas (including driveways) shall be contained on site by draining to soakwells of adequate capacity to contain runoff from a ten (10) year recurrent storm event and the capacity of soakwells shall be a minimum of one (1) cubic metre for every 80 m<sup>2</sup> of paved or roofed surface on the property.
- 2) All crossovers to street shall be constructed to the Council's Crossover Specifications and the applicant/owner to obtain levels for crossovers from the Council's Infrastructure Services under supervision on-site, prior to commencement of works.
- 3) The retaining walls and footings shall be constructed wholly inside the allotment.

- 4) **A grated channel strip-drain shall be constructed across the driveway, aligned with and wholly contained within the property boundary and the discharge from this drain to be run to a soakwell situated within the property.**
- 5) **Any additional development, which is not in accordance with the original application or conditions of approval, as outlined above, will require further approval by Council.**

**Advice Notes specific to this approval**

- a) **No street tree removal or verge works (with the exception of lawn) is approved as part of this development approval. A separate application is required to be lodged by the applicant and approved by the City.**
- b) **All internal WC's and ensuites without window access to outside air must be serviced by mechanical ventilation, which is ducted to outside air and the minimum rate of air change must be equal or greater than 25 litres per second.**
- c) **All swimming pool waste water is to be disposed of into an adequate dedicated soakwell located on the same lot, or in a manner approved by the Council's Sustainable Nedlands department.**
- d) **Ensure that airconditioner unit(s) complies with relevant Australian Standards and that noise emissions comply with the *Environmental Protection (Noise) Regulations 1997*.**
- e) **It is strongly advised that consultation is undertaken with the installer and adjoining neighbour(s) prior to installation of airconditioning equipment. In the event of a noise complaint being received by the City, remedial action (including potential relocation or other attenuation measures) may be required or the airconditioner may be prohibited from being used.**
- f) **Any pump or pump enclosure and filter equipment for the swimming pool/spa pool should be carefully located so as to ensure that a nuisance is not caused by unreasonable noise or vibration. Should noise levels exceed those stipulated in the *Environmental Protection (Noise) Regulations 1997*, equipment may require relocation or other attenuation measures, or the equipment may be prohibited from being used. It is recommended that applicants refer to the City's Visual and Acoustic Privacy Information document.**

## Strategic Plan

KFA 3: Built Environment

3.7 Provide efficient and integrated approvals systems.

5.6 Ensure compliance with statutory requirements and guidelines.

## Background

Property Address: No.65 (Lot 4) Mayfair Street, Mt Claremont  
(Refer Locality Attachment 1)

Zoning MRS: Urban

Zoning TPS2: R10/20

Lot Area: 1461.5 m<sup>2</sup>

## Proposal Detail

The application is for a two storey dwelling which proposes:

- 1) a rear (west) setback variation;
- 2) a side (north) setback variation; and
- 3) fill and retaining on the northern boundary which do not comply with the acceptable development criteria of the Residential Design Codes.

The variations are discussed in detail below. Objections to the development were received and will also be discussed below.

## Consultation

Required by legislation: Yes  No

Required by City of Nedlands policy: Yes  No

Two Storey Notification 25 November 2010 – 10 December 2010

Advertising Variations 30 November 2010 – 14 December 2010

Comments received: Two (2) Objections, One (1) Support

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

The objections were received during the two storey notification period. The objections do not relate to the specific variations. The objections relate to the southern boundary and the variations relate to the northern and rear boundaries only.

Summary of comments received	Officers technical comment
<p><b>Overlooking</b></p> <p>The scale of the proposed building, the height of the building and its orientation will result in significant overlooking.</p>	<p><b>Dismiss</b></p> <p>The application is compliant with all overlooking requirements of the RCodes. The areas to which the objectors suggest that overlooking is occurring, is setback a sufficient distance from the adjoining properties to comply with Clause 6.8.1 of the RCodes which relates to Visual Privacy.</p>
<p><b>Noise</b></p> <p>The open style design of the upper floor will cause noise to carry from the property which will adversely affect the amenity of neighbouring properties.</p>	<p><b>Dismiss</b></p> <p>The development and use is consistent with the residential zoning. It is therefore not considered that it will adversely affect the amenity of the neighbouring properties any more than any other compliant dwelling which could be built on the site.</p>
<p><b>Bulk</b></p> <p>The overall height of the building is accentuated by the increase in natural ground level from north to south at 65 Mayfair Street and thus the impact of building bulk is significantly increased. The proposed building will impose itself unreasonably on all properties to the south.</p>	<p><b>Dismiss</b></p> <p>The development complies with the building height and site cover requirements. There is no exceptional build up of land and as such there will be no excessive impact of bulk on adjoining properties.</p>
<p><b>Overshadowing</b></p> <p>The proposed dwelling will result in a loss of sunlight onto southern properties.</p>	<p><b>Dismiss</b></p> <p>The development complies with Clause 6.9.1 of the RCodes which relates to the affect of solar access to adjoining properties.</p>

### Legislation

City of Nedlands Town Planning Scheme No.2  
 Residential Design Codes 2010  
 Council Policy 6.4 – Neighbours Consultation Planning Approval

### Budget/financial implications

Nil

## Risk Management

Nil

## Discussion

All aspects of the development to which the objectors have commented are compliant with the Residential Design Codes. According to Clause 2.5.4 of the Residential Design Codes.

*“A council shall not refuse to grant approval to an application in respect of any matter where the application complies with the relevant acceptable development provisions and the relevant provisions of the council’s planning scheme or a local planning policy.”*

The only legislative non compliance stated in the objection is to Clause 5.5.1 of the City of Nedlands Town Planning Scheme.

*“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 are 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 factor inconsistent with the use for which the area is zoned.”*

This development is not inconsistent with the use for which the area is zoned. There are no adverse affects on the amenity of 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 area is zoned, being a two storey residential dwelling.

After assessment of the application the following variations to the acceptable development criteria of the RCodes were identified. The variations are considered to comply with the Performance Criteria of the RCodes as explained below:

### Issue: Clause 6.3.1

Requirement	The length of the north facing upper floor wall should be setback 6.6 m from the northern boundary in accordance with Table 2b.
Applicants Proposal	The wall has a minimum setback of 5.7 m from the northern boundary
Performance Criteria	Buildings setback from boundaries other than street boundaries so as to: <ul style="list-style-type: none"> <li>• provide adequate direct sun and ventilation to the building;</li> <li>• ensure adequate and direct sun and ventilation being available to adjoining properties;</li> </ul>

	<ul style="list-style-type: none"> <li>• provide adequate direct sun to the building and appurtenant open spaces;</li> <li>• assist with protection of access to direct sun for adjoining properties;</li> <li>• assist in ameliorating the impacts of building bulk on adjoining properties; and</li> <li>• assist in protecting privacy between adjoining properties.</li> </ul>
<p>Applicant justification summary</p> <p>Note: A full copy of the applicant justification received by the City has been given to the City's Councillors prior to the meeting.</p>	<ol style="list-style-type: none"> <li>1. <i>The upper floor is setback (on average) 7.5 m from the (angled) northern boundary. The minimum setback from this boundary is 5.7 m and the maximum setback is 9.7 m. It is therefore argued that on average the building is setback further than the minimum required. (see attached plan with setback diagram) attachment 6.</i></li> <li>2. <i>The design orients the building on the East-West Axis, rather than cranked to follow the Northern boundary. This philosophy complies with Passive solar design requirements and it is argued that to comply with the requirements of designing for energy efficient homes, the building must be so angled.</i></li> <li>3. <i>The properties affected by this reduction are both NORTH of the applicant's lot and UP HILL therefore issues such as height, bulk and overshadowing are negated.</i></li> </ol>
<p>Officer technical comment</p>	<p>The proposed development is considered to comply with this performance criteria.</p> <p>As the applicant has stated at its closest point the setback of wall is 5.7 m from the boundary. As the wall does not run parallel to the boundary the overall impact of the dwelling is reduced. The applicant has also stated that the potentially affected site has a higher natural ground level than the subject site. Therefore the impacts of building bulk will be reduced.</p> <p>There will be no significant light or ventilation impacts to the subject site or adjoining properties as the setbacks are still great</p>

	<p>enough to allow for adequate light and ventilation. In addition the potentially affected property is to the north of the subject site and as such it will not be over shadowed.</p> <p>There is no overlooking from any of the major openings on this wall, therefore there will be no impact on the visual privacy.</p> <p>In addition to this justification, the variation was advertised to the affected party and they responded with a letter of non objection.</p>
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Issue: Clause 6.3.1

Requirement	Table 1 of the Residential Design Codes requires a 6 m rear setback.
Applicants Proposal	The dwelling is setback 1.79 m from the rear (western) boundary.
Performance Criteria	<p>Buildings setback from boundaries other than street boundaries so as to:</p> <ul style="list-style-type: none"> <li>• provide adequate direct sun and ventilation to the building;</li> <li>• ensure adequate and direct sun and ventilation being available to adjoining properties;</li> <li>• provide adequate direct sun to the building and appurtenant open spaces;</li> <li>• assist with protection of access to direct sun for adjoining properties;</li> <li>• assist in ameliorating the impacts of building bulk on adjoining properties; and</li> <li>• assist in protecting privacy between adjoining properties.</li> </ul>
<p>Applicant justification summary</p> <p>Note: A full copy of the applicant justification received by the City has been given to the City's Councillors prior to the meeting.</p>	<p><i>The building abuts a non-residential lot to the rear (being the Cottlesloe Golf Club). The setback requirements of the codes (Clause 6.3) are designed to ensure the adequate provision of direct sun and ventilation for buildings and to ameliorate the impacts of building bulk, interference with privacy and overshadowing on adjoining properties. The reduction of the setback on this boundary (being a non-residential lot) will not adversely affect the amenity of any adjacent neighbours.</i></p>

	<p><i>The existing dwelling on the site is setback 1.5 m with the eaves setback 0.4 m. It is therefore further argued that this in an increase on the existing setback and therefore is not adversely affecting the golf course.</i></p>
Officer technical comment	<p>The proposed development is considered to comply with this performance criteria.</p> <p>The applicant makes mention of the rear setback variations impact upon the Cottlesloe Golf Course, however does not mention the setback variations effect on No. 63 Mayfair Street and 171A Rochdale Road which both abut this rear setback area.</p> <p>The portion of the dwelling which is proposed within the rear setback area is however sufficiently setback from both side boundaries (6.38 m to the north and 7.45 m to the south). These large side boundary setbacks will ensure that the abovementioned performance criteria is upheld. In addition to these side boundary setbacks the impact of the rear setback variation will be reduced due to the applicant's proposal to retain the majority of the mature trees located on the site. The landscaping will soften the impact of the dwelling on residential properties</p> <p>An aerial photograph (attachment 2) indicates that there appears to be a precedent for rear setback variations in this street. The variation was also advertised with no responses.</p>

Issue: Clause 6.3.3 & 6.6.1

Requirement	Fill and retaining greater than 0.5 m above natural ground level shall be setback 1 m from adjoining residential properties.
Applicants Proposal	Fill and retaining with a nil setback to the northern boundary to approximately 1 m above natural ground level.
Performance Criteria	<p>Retaining walls designed or setback to minimize the impact on adjoining properties.</p> <p>Developments retain the visual impression of the natural level of a site as seen from the street or other public place, or from an adjoining property.</p>
Applicant justification summary	<i>The fall of the block necessitates an incredible degree of finessing and consideration to respond to the proposed dwelling, the outdoor areas, adjacent</i>
Note: A full copy of the applicant justification received	



<p>by the City has been given to the City's Councillors prior to the meeting.</p>	<p><i>properties and the natural ground level. We have made complied [sic] in most location, however in this one location we seek a variation to the acceptable development provisions.</i></p> <p><i>We note that the area affected is behind the adjacent neighbours brick shed and therefore not visible from this neighbour.</i></p> <p><i>It is argued that this small variation complies with the requirement to maintain the visual impression of the natural ground level, as seen from the adjacent neighbours and the street and therefore complies with the performance criteria of clause 6.6.1 of the RCodes.</i></p>
<p>Officer technical comment</p>	<p>The proposed development is considered to comply with this performance criteria.</p> <p>The affected property to the north has a greater natural ground level than the subject site. Although the fill which is occurring on the subject site is approximately 1 m above NGL on the neighbouring property the finished level will be 570 mm above the natural ground level at its greatest point. It is therefore considered that the impact of this level of fill and retaining will not negatively impact the visual impression of the natural ground level nor will it negatively impact the neighbouring property.</p> <p>The variation was also advertised to the affected party. There response was consenting to the development.</p>

### Conclusion

The above mentioned variations to the Residential Design Codes requirements have been justified against the performance criteria of the Codes. All variations were advertised to potentially affected parties and no responses relating to the variations were received.

Further to this, the objections which were received were in relation to compliant factors of the development. Under Clause 2.5.4 of the Codes "A council shall not refuse to grant approval to an application in respect of any matter where the application complies with the relevant acceptable development provisions and the relevant provisions of the council's planning scheme or a local planning policy."

The objectors only mention of legislative non compliance is in relation to Clause 5.5.1 concerning the developments affect on the amenity of their property. In consideration of this clause it is concluded that there are no adverse affects on the amenity of the locality in terms of either, the external appearance of the development, traffic congestion and hazard, noise, or any other factor inconsistent with the use for which the area is zoned. As such, there is no adverse affect on neighbour's amenity than that which is permitted on any other residential site in the City.

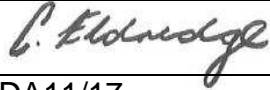
In the interest of orderly and proper planning it is recommended that Council approve this development application.

### **Attachments**

1. Locality Plan
2. Aerial Photograph of street
3. Survey Plan
4. Demolition Plan
5. Site Plan
6. Ground Floor Plan
7. First Floor Plan
8. North and East Elevations
9. West and South Elevations

<b>D04.11</b>	<b>No.119 (Lot 227) Rochdale Rd, Mt Claremont – Proposed Single Storey Additions/Alterations</b>
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<b>Committee</b>	8 February 2011
<b>Council</b>	22 February 2011

<b>Applicant</b>	BGC Australia Pty Ltd
<b>Owner</b>	Emma Ambrose
<b>Officer</b>	Coralie Anderson – Senior Statutory Planning Officer
<b>Director</b>	Carlie Eldridge – Director Development Services
<b>Director Signature</b>	
<b>File ref</b>	DA11/17
<b>Previous Item No's</b>	Nil
<b>Disclosure of Interest</b>	No officer involved in the preparation of this report had any interest which required it to be declared in accordance with the provisions of the <i>Local Government Act (1995)</i> .

**Purpose**

This application is referred to Council for determination as officers have no delegation to determine an application once objections have been received.

**Recommendation to Committee**

**Council refuse an application for single storey additions and alterations at No. 119 (Lot 227) Rochdale Road, Mt Claremont in accordance with the application and plans dated 17 January 2011 for the following reasons:**

- 1) The southern parapet wall does not comply with the Acceptable Development or Performance Criteria of the Residential Design Codes;**
- 2) The application will have an adverse impact on the amenity of the southern adjoining property.**

**Strategic Plan**

- KFA 3: Built Environment
  - 3.8 Facilitate appropriate development of existing residential housing to complement the surrounding residential amenity.

**Background**

Property Address: No.119 (Lot ) Rochdale Rd, Mt Claremont  
 (refer to attachment 1 for Locality Plan)  
 Zoning MRS: Urban  
 Zoning TPS2: R10/20  
 Lot Area: 1011.9 m<sup>2</sup>

Date	Action
24 Nov 2010	Application for single storey additions and alterations with a parapet wall on the southern boundary was submitted to the City.
22 Dec 2010	Amended plans submitted with the additions having side setbacks of 1.5 m from both the northern and southern boundary. As the proposal complied with the acceptable development provisions of the Residential Design Codes it was approved under delegation.
12 Jan 2011	Application appealed to the State Administrative Tribunal (SAT),
17 Jan 2011	New application made to the City for single storey additions and alterations at the rear of the subject property. The proposal was the same as the original application with a parapet wall on the southern boundary.
18 Jan 2011	Variations to the acceptable development criteria were advertised to the affect adjoining neighbours.
19 Jan 2011	At the SAT directions meeting the applicant withdrew the SAT appeal.  The SAT member requested the current development application be taken to the February 2011 Council Meetings for consideration.

**Proposal Detail**

The application is for single storey additions and alterations at the rear of the existing dwelling. The application includes a 14.65m parapet wall on the southern boundary. Refer to Attachment 2 and 3 for a copy of the proposed plans.

**Consultation**

Required by legislation: Yes  No

Required by City of Nedlands policy: Yes  No

Advertising 17 Jan 2011 – 1 Feb 2011

Comments received

1 comment of objection received.

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

Summary of comments received	Officers technical comment
<p>Out of keeping with area</p> <ul style="list-style-type: none"> <li>• This area still has quarter acre blocks with a feeling of space, not the 'shoulder to shoulder' high density now common elsewhere.</li> <li>• This is why I brought here.</li> <li>• Parapet walls are contrary to this and will make the backyard much more enclosed.</li> <li>• other properties do not have parapet walls and generally occupy less than 50% of the block area. This proposal fills the backyard and there is already an imposing garage of excessive height.</li> </ul>	<p><b>Support</b></p> <p>The RCodes acceptable development criteria do not permit parapet walls in this R10 zoned area.</p> <p>Parapet walls are only acceptable if there is no adverse impact on the amenity of the adjoining owners and direct sunlight to adjoining properties is not restricted.</p> <p>In this case, the parapet wall will restrict direct access to sunlight and the bulk of the wall will adversely affect the amenity of the adjoining property.</p>
<p>Effect on sunlight</p> <ul style="list-style-type: none"> <li>• Proposal will have significant impact on sunlight to property.</li> <li>• Ground level already elevated 800mm above height of neighbouring property.</li> <li>• Height of wall excessive.</li> <li>• Sundeck built at great expense immediately to south of proposed wall. The wall will limit its usefulness, especially in spring and autumn.</li> </ul>	<p><b>Support</b></p> <p>The proposed wall will adversely impact on the existing outdoor living area by compromising the direct sunlight to the area.</p>
<p>Impact on value of property</p> <p>Potential buyers will take imposing northern structure into account.</p>	<p>Property values are not a planning matter.</p>

<p><b>Floor space</b></p> <p>The additional floor space is unnecessary and would normally be incorporated into a multi-storey home.</p>	<p><b>Dismiss</b></p> <p>The amount of floor space requested is irrelevant, provided the proposal does not extend beyond the coverage requirements of the acceptable development provisions of the RCodes.</p> <p>In this case, the proposal does comply with the coverage provisions, however, it does not comply with the setback requirements. The same amount of floor space could be incorporated into the development in a different configuration and fully comply with the RCodes.</p>
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### Legislation

City of Nedlands Town Planning Scheme No.2 (TPS2)  
 Residential Design Codes (RCodes)  
 Council Policy Manual (Policy 6.4)

The application complies with the above legislation, with the exception of three variations to the acceptable development criteria of the RCodes as listed below:

1. A parapet wall is proposed on the southern boundary. Clause 6.3.1 requires a setback 1.5 m;
2. The proposed northern side setback of the additions northern is 1.0m. Clause 6.3.1 requires a setback of 1.5 m;
3. The cone of vision (overlooking) from the rear verandah to the south is nil. Clause 6.8.1 requires a cone of vision of 7.5 m.

### Budget/financial implications

Nil

### Risk Management

Nil

## Discussion

The applicant has provided written justification for the variations which includes personal reasons why the applicant believes the application should be approved and approved within a timely manner. A full copy of the applicant's justification will be provided to the Councillors prior to the Council Meeting.

The three variations to the acceptable development provisions are discussed below:

### Issue: Southern Parapet Wall

Requirement	Parapet Walls are not permitted as of right under the R10 provisions. The acceptable development criteria of Clause 6.3.1 of the RCodes require the parapet wall is setback 1.5 m.
Applicants Proposal	A parapet wall (nil setback) is proposed on the southern boundary. The parapet wall is 14.65 m in length and approximately a maximum of 4.0 m in height.
Performance Criteria	<p>The Performance Criteria of Clause 6.3.2 states:</p> <p><i>Buildings built up to boundaries other than the street boundary where it is desirable to do so in order to:</i></p> <ul style="list-style-type: none"> <li>• <i>Make effective use of space; or</i></li> <li>• <i>Enhance privacy; or</i></li> <li>• <i>Otherwise enhance the amenity of the development;</i></li> <li>• <i>Not have a significant effect on the amenity of the adjoining property; and</i></li> <li>• <i>Ensure that direct sun to major openings to habitable rooms and outdoor living areas of adjoining properties is not restricted</i></li> </ul>
Officer technical comment	<p>The proposed development is considered to not comply with this performance criteria.</p> <p>It is considered the size and the location of the parapet wall will have an adverse affect on the amenity of the adjoining property.</p> <p>The proposed parapet wall is 14.65 m in length and maximum height 3.15 m above the Finished Floor Level of RL 17.77.</p> <p>However, the natural ground level along the</p>

	<p>southern boundary was approximately RL 17 and this level was raised 0.5m and retained a few years ago. Refer to attachment 2 for a contour map of the lot.</p> <p>Therefore the parapet wall measured from the natural ground level is a maximum of 4.0m in height. The natural ground level at neighbouring property is approximately 0.4 m lower than the subject property. As a result the parapet wall will be higher from the neighbouring side.</p> <p>The parapet wall will be located next to the neighbouring outdoor living area and the northern elevation of the neighbouring dwelling. The outdoor living area includes a deck area with a spa and outdoor seating and a patio. The northern elevation of the neighbouring dwelling includes a window to a bedroom.</p> <p>Given the height and location of the parapet wall it will cast a shadow of approximately 5.0m onto the southern lot, which will extend over the majority of the outdoor deck. As a result direct sunlight will be restricted to these outdoor living areas.</p> <p>Given the height and length, and the neighbouring natural ground level, the parapet wall will be bulky and will dominate this portion of the neighbouring property's northern elevation. This will significantly affect the amenity of the neighbouring property, specifically the outdoor living area.</p> <p>It is considered the parapet wall is not appropriate and the development can make more effective use of the space without impacting on the amenity of the southern neighbour.</p> <p>The previous application was approved by the City in December 2010 with the additions having a compliant setback of 1.5 m from the southern boundary. This proposal still achieved two bedrooms of 27.8m<sup>2</sup> each and an 81 m<sup>2</sup> Living and meals area.</p>
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	<p>The lot is also 1012 m<sup>2</sup> and the current dwelling has a 15.5 m front setback and 17 m rear setback to the patio. There is opportunity to design the additions with compliant side setbacks.</p> <p>Given the above, it is recommended the application is refused due to the parapet wall.</p>
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Issue: Northern Side Setback

Requirement	The acceptable development criteria of Clause 6.3.1 of the RCodes require the wall is setback 1.5 m.
Applicants Proposal	The additions propose a northern side setback of 1.0 m.
Performance Criteria	<p><i>Buildings setback from boundaries other than street boundaries so as to:</i></p> <ul style="list-style-type: none"> <li>• <i>Provide adequate direct sun and ventilation to the building;</i></li> <li>• <i>Ensure adequate direct sun and ventilation being available to adjoining properties;</i></li> <li>• <i>Provide adequate direct sun to the building and appurtenant open spaces;</i></li> <li>• <i>Assist with protection of access to direct sun for adjoining properties;</i></li> <li>• <i>Assist in ameliorating the impacts of building bulk on adjoining properties;</i></li> <li>• <i>Assist in protecting privacy between adjoining properties.</i></li> </ul>
Officer technical comment	<p>The proposed development is considered to comply with this performance criteria.</p> <p>As the wall is located on the northern boundary it will not affect direct sunlight or ventilation to the subject or neighbouring property.</p> <p>The wall consists of a 9.0 m portion of solid wall and a 2.0 m portion of verandah, which will assist in ameliorating the building bulk on adjoining properties.</p> <p>There is no major openings proposed on this elevation and will this assist in protecting privacy between properties.</p>

Issue: Overlooking from the Verandah

Requirement	A verandah raised 0.5 m above the natural ground level is required to provide a 7.5 m cone of vision setback.
Applicants Proposal	The cone of vision setback to the southern property is nil.
Performance Criteria	<p>Clause 6.8.1 states:</p> <p><i>Direct overlooking of active habitable spaces and outdoor living areas of other dwellings is minimized by building layout, location and design of major openings and outdoor active habitable spaces, screening devices and landscaping, or remoteness.</i></p> <p><i>Effective location of major openings and outdoor active habitable spaces to avoid overlooking is preferred to the use of screening devices or obscure glass.</i></p> <p><i>Where these are used, they should be integrated with the building design and have minimal impact on residents' or neighbours' amenity.</i></p> <p><i>Where opposite windows are offset from edge of one window to the edge of another, the distance of the offset should be sufficient to limit views into adjacent windows.</i></p>
Officer technical comment	<p>The overlooking from the verandah into the neighbouring property will predominately be into a non habitable area of the lot and therefore will meet the performance criteria.</p> <p>The verandah will overlook into the rear corner of the neighbouring property. This area is occupied by a garden shed and the edge of the outdoor deck. As a result the application is recommended from refusal. While the overlooking could be deemed to comply under the performance criteria of clause 6.8.1, the impact of this overlooking would be reduced if the verandah were to be setback in accordance with the 1.5 m setback regulations.</p>

## **Conclusion**


Due to the location, length and height of the southern parapet wall, the wall does not comply with the performance criteria of the Residential Design Codes and will have an adverse impact on the southern adjoining neighbour.

## **Attachments**

1. Locality Plan
2. Floor Plan
3. Elevation Plans
4. Contour Plan

<b>D05.11</b>	<b>No. 140 (Lot 127) Rochdale Road, Mt Claremont – Proposed Home Business – Tutoring</b>
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<b>Committee</b>	8 February 2011
<b>Council</b>	22 February 2011

<b>Applicant</b>	Diane Watson
<b>Owner</b>	Diane Watson
<b>Officer</b>	Elle O'Connor – Planning Officer
<b>Director</b>	Carlie Eldridge – Director Development Services
<b>Director Signature</b>	
<b>File ref</b>	DA10/458 : R03/140-02 : M10/01331
<b>Previous Item No's</b>	Nil
<b>Disclosure of Interest</b>	No officer involved in the preparation of this report had any interest which required it to be declared in accordance with the provisions of the <i>Local Government Act (1995)</i> .

**Purpose**

This application is referred to Council for determination as officers have no delegation to approve an application once objections have been received.

**Recommendation to Committee**

**Council approves the proposed Home Business at No. 140 (Lot 127) Rochdale Road, Mt Claremont in accordance with the application and plans dated 29 September 2010 subject to the following conditions:**

- 1) The number of children on the premises at any one time is limited to a maximum of six (6) children;
- 2) Parking and access for parents dropping off and picking up their children is limited to the property's front driveway and paved area facing Rochdale Road (as marked in red on the approved plans);
- 3) Operating times shall be restricted to:
  - a. 10:00 am - 11:30 am, Tuesday and Friday
  - b. 3:30 pm - 5:00 pm, Monday and Thursday
- 4) An area no greater than 50 m<sup>2</sup> within the residential dwelling is to be occupied for the home business use;

- 5) **No sign shall be displayed in connection with the home business at the property;**
- 6) **Approval is granted for a 12 month duration only, after this time a new application must be made to Council; and**
- 7) **Any additional development, which is not in accordance with the original application or conditions of approval, as outlined above, will require further approval by Council.**

### **Strategic Plan**

KFA 3: Built Environment

- 3.8 Facilitate appropriate development of existing residential housing to complement the surrounding residential amenity.

KFA 5: Governance

- 5.6 Ensure compliance with statutory requirements and guidelines.

### **Background**

Property Address: No. 140 Rochdale Road, Mt Claremont  
(Refer to Attachment 1 – Locality Plan)

Zoning MRS: Urban

Zoning TPS2: Residential R10/20

Lot Area: 1011 m<sup>2</sup>

Attachment 1 (Locality Plan) outlines the sites location and orientation.

### **Proposal Detail**

The application proposes to run a home business from 140 Rochdale Road, Mt Claremont. It will be a tutoring business which intends to teach young children how to speak, read and write Chinese. The business will occupy an area of approximately 30 m<sup>2</sup> and will have one (1) employee who is the owner and fulltime resident of the property. The proposed operating hours of the business are 10:00 am - 11:30 am, Tuesday and Friday; and 3:30 pm - 5:00 pm, Monday and Thursday. There will be no signage at the property, and no retail sale, display or hire of any goods.

### **Consultation**

Required by legislation: Yes  No

Required by City of Nedlands policy: Yes  No

Consultation type: Letter sent to adjoining owners allowing 21 days for comment to be received, as per Clause 6.3 (Special Procedures) of the City of Nedlands Town Planning Scheme No.2.

Dates: 19 October 2010 – 9 November 2010

Comments received: (1) Objection

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

Summary of comments received	Officers technical comment
<p>Issue: Noise</p> <p>Objector is concerned that the business will increase the noise and affect the residential amenity of their dwelling.</p>	<p><b>Dismiss</b></p> <p>The proposed home business is unlikely to increase noise. The business will be required to comply with the Environmental Health regulations (Noise), as with all residences in the City.</p> <p>The business proposes to tutor a maximum of six (6) children in a 30 m<sup>2</sup> classroom located approximately 15 m from the neighbouring property. Due to the minor scale of the business and the location of the classroom it is not considered that it will impact on the amenity of the area in terms of noise.</p> <p>It is also noted that the dwelling on the subject site is a large family home where a family with more than three (3) children could live.</p>
<p>Issue: Parking and Traffic</p> <p>The objector is concerned that the proposed home business will cause parking and traffic issues in the area.</p>	<p><b>Dismiss</b></p> <p>The applicant has outlined how they intend to manage parking. There is sufficient covered parking at the front of the site facing Rochdale Road that can cater for six (6) vehicles. There is also an additional double garage facing Olearia Lane at the rear. As the proposed business relies on a 'drop off - pick up' system, this is considered to be more than sufficient parking for the proposed business.</p>

	<p>As the business will only involve the drop off and pick up of six (6) children four (4) days a week it will only generate a maximum of 12 additional trips on these four (4) weekdays which will not adversely affect traffic flows.</p> <p>It is also recommended that the drop off and pick up of children is restricted to the driveway and paved area located along Rochdale Road instead of Olearia Lane, thereby reducing disturbance to the objectors property which abuts Olearia Lane.</p>
<p>Issue: Should not allow this land use in residential area</p> <p>The Objector feels that the business should relocate to a commercial zoned area.</p>	<p><b>Dismiss</b></p> <p>Home Businesses are provided for as 'AA' uses in the residential zone subject to meeting specific requirements.</p> <p>This business meets all the requirements and as such is considered to be an acceptable use in a residential zoned area.</p>

### Legislation

Town Planning Scheme No.2  
 Residential Design Codes 2010  
 Council Policy 6.1 Home Business  
 Council Policy 6.4 Neighbour Consultation

The application satisfies all the relevant criteria of the above legislation.

### Budget/financial implications

Nil

### Risk Management

Nil

### Discussion

A Home Business is an 'AA' use in a residential zone under the City of Nedlands Town Planning Scheme No.2. An 'AA' use is only permitted if

Council grants approval. A Home Business may be permitted if it is advertised in accordance with Clause 6.3 of the Scheme and meets all the requirements as outlined in Policy 6.1 – Home Business.

These requirements are set out below, together with the officer technical comments:

1. No injury to or prejudicial effect to the amenity of the locality occurs including injury or prejudicial effect due to the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, grit, oil, waste water, radioactive substances or waste products.

**Officer Comment**

The proposal will not cause injury to or adversely affect the amenity of the locality in which it occurs, as it is a small tutoring business. The effect on the amenity of the locality will be no greater than that of any other residential land use.

2. A maximum of two (2) persons, other than members of the occupier's household may be employed.

**Officer Comment**

The business only intends to employ one (1) person who is also the owner and a resident of the household. This complies with the scheme and policy's requirements.

3. No more than 50 m<sup>2</sup> of space within the residence or curtilage to such residence be used.

**Officer Comment**

The business area intended to be utilized by the proposal is 30 m<sup>2</sup>, this complies with the 50 m<sup>2</sup> permitted.

4. No essential services greater than that normally required in the area being provided.

**Officer Comment**

The proposal will not increasingly draw on essential services greater than that required in the zone as it is a tutoring business. The proposal will not increase the need for Council services such as rubbish collection etc.

5. No additional parking above that normally required in the zone being provided and such parking being provided in an orderly manner on the subject property.

**Officer Comment**

No additional parking will be required to facilitate the proposed Home Business. The applicant has identified the eight (8) parking



bays on site that will cater for the parking and traffic generated by the business.

6. No increase in traffic being generated by the activity which, in the opinion of Council, will detrimentally affect the amenity of the residential area.

**Officer Comment**

There will be a minimal increase to traffic in the area due to the parents picking up and dropping off their children four (4) days a week. However, this minor increase will not detrimentally affect the amenity of the residential area.

7. No vehicle of more than 3.5 tonnes tare weight to be parked or garaged on site.

**Officer Comment**

No heavy vehicles are intended to visit the site as part of the proposed Home Business.

8. No more than one sign being required or provided attached to the wall of the house or fence and not exceeding 0.2 m<sup>2</sup> in area.

**Officer Comment**

There will be no signage proposed as part of the home business.

9. No activities of a commercial nature or industrial nature will be approved by Council which entail the display, retail sale or wholesale of general servicing or manufacturing of goods or machinery within the residential zones as a home occupation.

**Officer Comment**

The proposal has no intention to operate as a retail or wholesale goods provider, nor does it intend to manufacture goods or machinery.

10. The zoning scheme provisions and other related Local Laws and Council Policies appropriate to the residential zone being adhered to without discretion being applied.

**Officer Comment**

All other zoning provisions, local laws and Council policies are met by this proposal.

11. The proposal being compatible with the purpose and intent of the residential zone, the amenity of the area, orderly and proper planning considerations and the future long term aims of Council for the locality.

**Officer Comment**

The proposal is compatible with the purpose of a residential zone. None of the intended operations of the proposed Home Business will affect the intended residential amenity of the area.

12. The proposal does not detract from the residential appearance of the dwelling house or domestic outbuilding.

**Officer Comment**

As there are no proposed changes to the residential dwelling as part of this application, the residential appearance of the dwelling is preserved.

13. The storage of any material or product or waste product associated with the use to be contained within domestic buildings.

**Officer Comment**

There will be no storage of waste materials proposed as part of this application.

14. In Council's opinion no adverse impact on existing or future office developments or use situated or proposed within other zones, which would normally service the locality occurring.

**Officer Comment**

The proposal is of a small nature and will not adversely affect the existing surrounding office uses. It is unlikely that such a small scale operation will set a precedent for commercial uses being allowed in the locality, and there should be no decrease in demand of commercial tenancies as a result of the intended home business.

15. Such applications will be for a 12 month duration after which time a fresh application must be made.

**Officer Comment**

The application will only be granted for 12 months. Following the 12 months, the applicant will be required to make a fresh application and at the time the City can review the activity and recommend any changes or refuse the application.

**Conclusion**

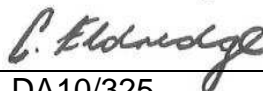
The application meets all the requirements for a Home Business under the Scheme and Policy 6.1. For this reason it is recommended that Council approves the application.

## **Attachments**

1. Locality Plan
2. Aerial Plan
3. Proposed Floor plan
4. Proposed Parking

<b>D06.11</b>	<b>No.81 (Tenancy 4 &amp; 5) Stirling Hwy Nedlands – Proposed Change of Use from Showroom to Office</b>
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<b>Committee</b>	8 February 2011
<b>Council</b>	22 February 2011

<b>Applicant</b>	SIA Architects Pty Ltd
<b>Owner</b>	Steve's and/Peppercorn Pty Ltd
<b>000000000000 00Officer</b>	Coralie Anderson – Senior Statutory Planning Officer
<b>Director</b>	Carlie Eldridge – Director Development Services
<b>Director Signature</b>	
<b>File ref</b>	DA10/325
<b>Previous Item No's</b>	Nil
<b>Disclosure of Interest</b>	No officer involved in the preparation of this report had any interest which required it to be declared in accordance with the provisions of the <i>Local Government Act (1995)</i> .

### Purpose

This application is referred to Council for determination as officers have no delegation to approve an application once objections have been received.

### Recommendation to Committee

**Council approve an application for the change of use from Showroom to Office located at No. 81 (Tenancy 4 & 5) Stirling Highway, Nedlands in accordance with the application dated 9 July 2010 and the plans dated 9 July 2010 amended plans dated 10 September 2010 and 4 January 2011 subject to the following conditions:**

- 1) **The car stackers are used only by employees;**
- 2) **Any additional development, which is not in accordance with the original application or conditions of approval, as outlined above, will require further approval by Council.**

### Advice Note

- a) **The location of all mechanical services must take into consideration the *Environmental Protection (Noise) Regulations 1997*. If the noise generated from the car stackers does not comply with these regulations further action will be required so the car stackers are brought into compliance.**

**Strategic Plan**

KFA 1: Infrastructure

- 1.2 Design and construct infrastructure in accordance with Australian standards and guidelines.

KFA 3: Built Environment

- 3.2 Encourage the development of diverse residential and commercial areas to meet the future needs of the whole City.

**Background**

Property Address: No.81 (Tenancy 4 & 5) Stirling Hwy, Nedlands  
(Refer to Attachment 1 – Locality Plan)

Zoning MRS: Urban

Zoning TPS2: Office/Showroom (Additional Use – Residential R60 Grouped or Multiple Dwellings)

Lot Area: Total Site – 1012 m<sup>2</sup>  
Tenancy 4 – 185 m<sup>2</sup>  
Tenancy 5 – 69 m<sup>2</sup>

Date	Action
14 March 2006	<p>Application for Mixed Use Development at subject site approved by Council. The mix of use of the development was for five (5) units of which two (2) units, on the top floor, are residential use the tenancy on the first floor office use and the two ground floor units (4 &amp; 5) showroom use. The showroom use was chosen by the developer at the time because it requires a lesser carparking ratio compared to the office use. The development includes 32 car bays and a one (1) bay shortfall.</p> <p>Tenancy 4 and 5 were approved with a Showroom Use</p>
11 April 2008	<p>Application for Change of Use of Tenancy 4 &amp; 5 from Showroom to Office and the expansion of tenancy 3.</p> <p>Application was refused by Council as a change of use to office would result in a carparking shortfall of another eight (8) bays. Plus the additional parking required for the extension of unit 3 resulting in an overall shortfall of 11 bays.</p>
3 March 2009	<p>Council decision was appealed to State Administrative Tribunal (SAT).</p> <p>The appeal (DR 274 2008) was dismissed. SAT upheld Council's decision to refuse the Change of Use application.</p>

	SAT determined that the reduction to the TPS2 parking requirements (at 27.5%) was too significant.  SAT agreed to tandem car bays.
10 June 2009	Application for Change of Use of Common Area to Office in Tenancy 3 and two tandem car bays was approved. Therefore site had a total 33 onsite car bays and a 1 bay shortfall remained.

**Proposal Detail**

The application is for the following:

1. Change of Use of the two ground floor tenancies from Showrooms to Offices;
2. Five (5) car stackers are proposed on existing car bays to provide five (5) additional car bays on site.

**Consultation**

Required by legislation: Yes  No

Advertising period 1 December 2010 – 15 December 2010

Comments received: Twelve (12) Objections  
Only three (3) objections were submitted to Council. Of these one objection was submitted by six (6) different residents and another objection was submitted by three (3) different residents.

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

Summary of comments received	Officers technical comment
<p><b>Issue: Parking</b></p> <p>Existing parking problem along Kinninmont Avenue generated from development.</p> <p>Office workers more likely to park along Kinninmont street all day.</p>	<p><b>Dismiss</b></p> <p>The car stackers will accommodate extra car parking bays on site to alleviate parking on the street.</p> <p>It is considered that office workers are more likely to park in the building's secure car park. Whereas showrooms would attract more visitors that would park on the street.</p> <p>Discussed further below.</p>

<p>Issue: Noise and vibrations from car stackers</p>	<p><b>Dismiss</b></p> <p>The car stackers are located within the existing building and are setback a minimum of 12 m from the northern adjoining lot.</p> <p>Discussed further below.</p>
<p>Issue: Loss of amenity</p> <p>Residents have suffered a significant loss of amenity as a result of the development and change would further impact</p>	<p><b>Dismiss</b></p> <p>The amenity of the area is expected to improve as more parking has been provided on site.</p> <p>Also the external appearance of the development has not been modified and therefore will not affect the amenity of the locality.</p>

### Legislation

- City of Nedlands Town Planning Scheme No.2 (TPS2)
- Policy 6.4 (Council Policy Manual)

The subject site is zoned “Office/Showroom” with Additional Use – Residential R60 Grouped and Multiple Dwellings under the TPS2. The proposed use of ‘Office’ is identified as a ‘P’ use under this zone. A ‘P’ use is a “*use that is permitted under this scheme*”.

The proposed change of use meets all the provisions of the TPS2 with exception of car parking requirements. Please refer to table below which indicates the number of parking bays required for Tenancy 4 & 5 as an office under Schedule III – Car parking requirement by use class of the Scheme:

	<b>Total Area</b>	<b>Car Parking Requirement</b>	<b>Required bays</b>
Tenancy 4 & 5	254 m <sup>2</sup>	Showroom: 2.2 bays per 100 m <sup>2</sup> of Gross Leasable Floor Area	6 bays
Tenancy 4 & 5	254 m <sup>2</sup>	Office: 4.75 bays per 100 m <sup>2</sup> of Gross Leasable Floor Area	13 bays (additional 7 bays)

Currently the site contains 33 car bays and has a one (1) car bay parking shortfall.

As depicted in the table above, seven (7) additional bays are required, making a total requirement of 41 bays. The car stackers provide five (5) additional bays, so the change of use results in an additional two (2) bay shortfall and therefore a total three (3) bay shortfall is proposed.

**Budget/financial implications**

Nil

**Risk Management**

Nil

**Discussion**

Issue: Parking

Requirement	Schedule III – Carparking Requirement by Use Class of TPS2 requires 41 car bays
Applicants Proposal	The applicant has proposed 38 car bays, which includes five (5) car stackers.
Performance Criteria	<p>Provision 5.4.1.4 of the TPS2 gives Council discretion to approve a car parking shortfall as follows:</p> <p><i>Without limiting the generality of paragraph 5.4.1.3 in the case of development for any purpose other than residential the Council may on application by a person seeking planning approval vary the parking requirements in Schedule 3 hereto, or impose conditions on the location and design of the car parking spaces, taking into account:</i></p> <ul style="list-style-type: none"> <li>• <i>The number to be roofed or covered and the manner of roofing or covering;</i></li> <li>• <i>The number to be below natural ground level;</i></li> <li>• <i>The means of access to each space and the adequacy of vehicular manoeuvring areas;</i></li> <li>• <i>The effect on the amenity of the adjoining premises, including potential effects if spaces should later be roofed or covered and the suitability or adequacy of proposed screening or natural planting;</i></li> <li>• <i>The provision of suitable pick up and setting down bays.</i></li> </ul>



<p>Applicant justification summary</p> <p>Note: A full copy of the applicant justification received by the City has been given to the City's Councillors prior to the meeting.</p>	<p><i>In proposing five (5) car stackers, we have proposed the maximum feasible additional bays utilizing stackers, as due to the allocation of bays to the various stratas, within the bays for the two ground floor showrooms, there are only the five (5) proposed bays which area suitable for the use of car stackers. Whilst this is a two (2) bay shortfall, the provision of the five (5) proposed car stackers will bring the number of bays to 38 compared to the 40 requirement. This represents a shortfall of 5% in the number of bays. We request you consideration for approval on this basis and ask that you consider the following factors when making your decision:</i></p> <p><i>The SAT judgment DR 274 2008 regarding this site refers to recognition of end of trip facilities provided in a development in conjunction with public transport of 17% as being appropriate in similar cases (item 90). In this proposal, the shortfall of 5% is less than a third of this figure.</i></p> <p><i>Three bays which have been constructed on the verge were initially written up as part of the total of bays on the site (TPS Amendment 161 Clause 6.2) and accepted as part of the allocation (Council Meeting March 14, 2006). This project parking design proceeded on this basis. We understand that SAT supported the subsequent exclusion of these bays, however as design had proceeded expecting continuing acceptance of verge parking bays it has been difficult to subsequently find a suitable alternative.</i></p> <p><i>Draft TPS3 at its current Final Draft stage sets the office parking requirement at 25 m<sup>2</sup> per bay. Should TPS3 be adopted in its current form, the two (2) bay shortfalls under the current scheme would become a surplus.</i></p>
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<p>Officer comment</p>	<p>technical</p>	<p>The car stackers have provided 5 additional on site car bays. However the proposal will still result in an additional two (2) car bay shortfall, creating a total shortfall of three (3) bays. It is considered this shortfall is acceptable and can be justified.</p> <p>As mentioned by the applicant, tenancy 4 and 5 were allocated a specific number of car bays under the strata title and the car stackers are proposed to occupy all these allocated bays. No more car bays can be provided on site.</p> <p>Objections received from the advertising relate to insufficient parking for the current development resulting in overflow parking along Kinninmont Street. Objectors claim the change of use will increase parking issues, particularly as office workers are more likely to park along the street all day.</p> <p>The applicant has claimed the parking along Kinninmont Street is predominately utilised by other businesses along Stirling Highway.</p> <p>Notwithstanding this, the car stackers provide additional onsite car bays which will be secured for office workers. It is considered that office workers are more likely to park onsite whereas showrooms would attract visitors which are more likely to park along the street.</p> <p>The previous SAT determination (DR 274 2008) was to refuse an 11 bay shortfall, which is a 27.5% reduction from the parking requirements of TPS2.</p> <p>The SAT decision stated:</p> <p><i>“In the view of the Tribunal, it is not convinced that this 27.5% reduction in reality be adequate compensation for by the motorcycle or bicycle bays and could, if granted, place at risk a further reduction on the amenity of the nearby residents in Kinninmont Avenue”.</i></p> <p>In the SAT decision it refers to other cases including one case in which a 32% reduction</p>
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	<p>in on-site parking provision was considered unacceptable. Whereas in another case an approximately 17% shortfall was considered appropriate due to end of trip facilities and proximity to public transport.</p> <p>The subject lot is located along Stirling Highway and therefore is within close proximity of bus stops and routes. The building also accommodates end of trip facilities.</p> <p>A three bay shortfall in this instance equates to a 9.5% parking shortfall under TPS2. Considering the previous SAT decisions, the availability of end of trip facilities and proximity to public transport this shortfall is acceptable.</p> <p>Further, the Stirling Highway Redevelopment Final Draft Special Control Area Provisions that was adopted by Council in 2009 to be included City of Nedlands Draft TPS3, has a the car parking requirement one (1) bay per 25 m<sup>2</sup> of gross leasable floor area. As noted by the applicant, the car parking provided would be compliant with this provision.</p> <p>The car stackers will be located in the basement and the ground floor level of the building and therefore will not be viewed from the public realm.</p> <p>Objections from the advertising also relate to car stackers, with complaints about the noise and vibrations from the stackers.</p> <p>It is not expected noise and vibrations will be issues given the car stackers are located within the building and setback a minimum of 12 m from the adjoining property. Further, the car stackers will only be used by employees or the offices and therefore only used a few times daily.</p>
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## **Conclusion**


The change of use from Showroom to Office for the ground floor tenancies is supported on the basis that the car stackers are provided. The change of use will result in a total car parking shortfall of three (3) bays and this shortfall is considered acceptable and the application is recommended for approval.

## **Attachments**

1. Locality Plan
2. Ground Floor Plan
3. Basement Floor Plan
4. Section of Car Stackers
5. Section of Car Stackers

<b>D07.11</b>	<b>Unit 19, No.69 (Lot 25) Melvista Avenue, Nedlands - Retrospective Single Storey Alterations</b>
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Committee	8 February 2011
Council	22 February 2011

Applicant	Steven Ballard
Owner	Lisle Lodge Aged Peoples Home
Officer	Joseph Ravi – Planning Officer
Director	Carlie Eldridge – Director Development Services
Director Signature	
File ref	ME2/69U19 : DA10/523 : M11/1024
Previous Item No's	Nil
Disclosure of Interest	No officer involved in the preparation of this report had any interest which required it to be declared in accordance with the provisions of the <i>Local Government Act (1995)</i> .

**Purpose**

The application is referred to Council as officers do not have delegation to refuse an application where discretion exists for Council to approve the application.

**Recommendation to Committee**

**Council refuses an application for retrospective single storey alterations at Unit 19, No. 69 Melvista Ave, Nedlands in accordance with the application and plans dated 25 October 2010 for the following reasons:**

- 1) It is contrary to the acceptable development criteria of Clause 6.4.1 of the RCodes which requires 50 percent open space;
- 2) It does not meet the performance criteria of Clause 6.4.1 of the R Codes as the development does not allow sufficient open space around the buildings:
  - to compliment the building; or
  - suit the future needs of residents, having regard to the type and density of the dwelling;
- 3) It will increase the existing non-compliance of open space on the site, adversely affecting the amenity of the existing aged card facility.

## Strategic Plan

KFA 3: Built Environment  
 3.8 Facilitate appropriate development of existing residential housing to complement the surrounding residential amenity.

KFA 5: Governance  
 5.6 Ensure compliance with statutory requirements and guidelines.

## Background

Property Address: Unit 19 No.69 (Lot 25) Melvista Ave, Nedlands  
 (Refer Locality Plan Attachment 1)  
 Zoning MRS: Urban  
 Zoning TPS2: R12.5  
 Lot Area: 4397 m<sup>2</sup>

The works at Unit 19 have commenced without Council approval. A complaint was made to the Strata Management who requested that the applicant lodge an application for planning approval to the City. The application was lodged on 25 October 2010. The strata board was contacted on 26 November 2010 by the City and confirmed that this was the case. The strata board is yet to give their consent to the development (in accordance with the Strata Titles Act 1985). They will wait for a council resolution before they decide.

## Proposal Detail

The applicant has begun work to convert an outdoor area into a habitable Activity Room. He has currently placed an aluminium framed window over his existing southern masonry fence, has placed clear polycarbonate strip above the western Boundary wall to enclose this section and has placed a PVC gutter above the southern wall (Refer Photos in Appendix 3).

The applicant has requested to enclose the rest of the room by placing screen doors and aluminium framed windows on the eastern side of the existing pergola, and placing lightweight polycarbonate sheeting above the existing pergola to roof the room. The applicant also proposes to increase the height of the boundary fence by placing additional slat screening above the existing masonry wall east of the new room.

The development does not comply with setback requirements of the R Codes or site cover requirements of the R Codes.

## Consultation

Required by legislation: Yes  No

Required by City of Nedlands policy: Yes  No

Advertised variations 6 December 2010 - 20 December 2010

Comments received: 2 Objections

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

Summary of comments received	Officers technical comment
<p><b>Aesthetics</b></p> <p>Object to the building as it is ugly and if it is approved then others in the complex will start doing anything they want.</p>	<p><b>Support</b></p> <p>Although the visual appeal of the structure may be arguable, the fact that the structure will further remove open space which is already non compliant means that the overall aesthetics and openness of the site will be further reduced.</p>
<p><b>Precedent</b></p> <p>Approval could set a precedent whereby alterations can be done without relevant permission from council and the Board of Management.</p>	<p><b>Support</b></p> <p>As discussed below, if Council approves a further non compliance in this instance, it will likely lead to additional applications for similar developments. As the approved developments on the site are already non compliant further, and potentially ongoing, non compliance is not supported.</p>

### Legislation

City of Nedlands Town Planning Scheme No.2  
 Residential Design Codes 2008  
 Council Policy 6.4 Neighbour Consultation

Budget/financial implications:

Nil

Risk Management:

Nil

### Discussion

It is recommended that the application be refused as it does not comply with the Residential Design Codes site cover or setback requirements.

### Clause 6.3.1 Non Compliance (setback variation)

Clause 6.3.1 of the Codes states separate single, multiple or grouped dwelling buildings on the same site, or facing portions of the same multiple dwelling building, setback from each other as though there were a boundary between them.

The same Clause states that buildings shall be setback from boundaries in accordance with table 1, table 2a and table 2b. These tables state the structure should be setback 1 m to the north in lieu of the nil proposed. This non compliance is of a more minor nature than the site covers non compliance, as the development will comply the with performance criteria of the abovementioned Clause and because the application was advertised and no objection to this specific variation was received.

#### **Clause 6.4.1 Non Compliance – (Open Space Provisions)**

Clause 6.4.1 states that open space shall be provided in accordance with table 1 and design elements 6.2 and 6.3. The site of the grouped dwelling, for the purpose of calculating open space requirement, shall include the area allocated for the exclusive use of that dwelling and the proportionate share of any associated common property.

In this instance, table 1 requires a minimum of 55 % of the site to be open space. As the site area is 4397 m<sup>2</sup> the overall required open space should be 2418 m<sup>2</sup>. Without including this structure or the retrospective structure at Unit 7 (the subject of another current planning application referred to this council meeting) the provided open space is approximately 1658 m<sup>2</sup> or 37.7 %. The additions are approximately 9 m<sup>2</sup> which would decrease the site cover to 1667 m<sup>2</sup> or 37.5 %.

The performance criteria states that sufficient open space should be provided around buildings:

- to complement the building;
- to allow attractive streetscapes; and
- to suit the future needs of residents, having regard to the type and density of the dwelling.

This application is not considered to comply with the performance criteria as it does not suit the future needs of residents in that the continual decline in open space will deteriorate over time the amenity of the overall aged care development. As the developments density is already non compliant, by permitting further non compliance Council may set a development precedent on this site.



## **Conclusion**

The decrease in open space on this site will detrimentally affect the future use and enjoyment of this site by eroding the existing amenity of the site.

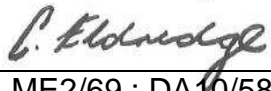
The approval of the development will also likely lead to pressure to approve similar applications in the future, further compromising the site and eroding the open space around buildings on the site.

### Attachments:

1. Locality Plan
2. Aerial of site
3. Photos of Works Carried Out
4. Site Plan
5. Northern Elevation
6. West Elevation and 3D drawing from North West

<b>D08.11</b>	<b>Unit 7, No.69 (Lot 25) Melvista Avenue, Nedlands - Retrospective Single Storey Alterations</b>
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Committee	8 February 2011
Council	22 February 2011

Applicant	J Collett
Owner	Lisle Lodge Aged Peoples Home
Officer	Joseph Ravi – Planning Officer
Director	Carlie Eldridge – Director Development Services
Director Signature	
File ref	ME2/69 : DA10/585 : M11/1221
Previous Item No's	Nil
Disclosure of Interest	No officer involved in the preparation of this report had any interest which required it to be declared in accordance with the provisions of the <i>Local Government Act (1995)</i> .

**Purpose**

The application is referred to Council as officers do not have delegation to refuse an application where discretion exists for Council to approve the application.

**Recommendation to Committee**

**Council refuses an application for retrospective single storey alterations at Unit 7, No. 69 Melvista Ave, Nedlands in accordance with the application and plans dated 25 November 2010 for the following reasons:**

- 1) **It is contrary to the acceptable development criteria of Clause 6.4.1 of the RCodes which requires 50 percent open space;**
- 2) **It does not meet the performance criteria of Clause 6.4.1 of the RCodes as the development does not allow sufficient open space around the buildings:**
  - **to compliment the building; or**
  - **suit the future needs of residents, having regard to the type and density of the dwelling;**
- 3) **It will increase the existing non-compliance of open space on the site, adversely affecting the amenity of the existing aged card facility.**

Strategic Plan:

- KFA 3: Built Environment
  - 3.8 Facilitate appropriate development of existing residential housing to complement the surrounding residential amenity.
  
- KFA 5: Governance
  - 5.6 Ensure compliance with statutory requirements and guidelines.

**Background**

Property Address: Unit 7 No.69 (Lot 25) Melvista Ave, Nedlands  
 (Refer Locality Plan Attachment 1)

Zoning MRS: Urban  
 Zoning TPS2: R12.5  
 Lot Area: 4397 m<sup>2</sup>

The works at Unit 7 have been completed without Council approval. A complaint regarding these retrospective works was made to the City. Following a ranger’s inspection of the site, the applicant was contacted by the City. The City requested that the applicant either remove the works or apply for a retrospective planning approval. The application was lodged on 25 November 2010.

**Proposal Detail**

The applicant has completed the alterations to their property, by adding an additional sun room and storage room. The rooms are attached to the southern wall of Unit 7. The units outdoor living area has been reduced in order to accommodate for the unauthorized additions. The sun room runs 5 m from east to west, 3.5 m north to south and is 2.4 m high. The store room is 2 m by 1.1 m it is attached to the house and sun room also at a height of 2.4 m. The proposed rooms are made of predominantly painted wood. The sun room has south facing sliding doors (glazed) and highlighted windows facing west. (Refer Attachment, Photographs of Works)

The development does not comply with site cover requirements of the R Codes.

**Consultation**

Required by legislation: Yes  No

Required by City of Nedlands policy: Yes  No

Advertised variations 6 December 2010 - 20 December 2010

Comments received: 2 Objections

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

Summary of comments received	Officers technical comment:
<p>Aesthetics</p> <p>Object to the building as it is ugly and if it is approved then others in the complex will start doing anything they want.</p>	<p>Support</p> <p>Although the visual appeal of the structure may be arguable, the fact that the structure will further remove open space which is already non compliant means that the overall aesthetics and openness of the site will be further reduced.</p>
<p>Precedent</p> <p>Approval could set a precedent whereby alterations can be done without relevant permission from council and the Board of Management.</p>	<p>Support</p> <p>As discussed below, if Council approves a further non compliance in this instance, it will likely lead to additional applications for similar developments. As the approved developments on the site are already non compliant further, and potentially ongoing, non compliance is not supported.</p>

### Legislation

City of Nedlands Town Planning Scheme No.2  
 Residential Design Codes 2008  
 Council Policy 6.4 Neighbour Consultation

Budget/financial implications

Nil

Risk Management

Nil

### Discussion

It is recommended that the application be refused as it does not comply with the Residential Design Codes site cover.

#### **Clause 6.4.1 Non Compliance – (Open Space Provisions)**

Clause 6.4.1 states that open space shall be provided in accordance with table 1 and design elements 6.2 and 6.3. The site of the grouped dwelling, for the purpose of calculating open space requirement, shall include the area allocated for the exclusive use of that dwelling and the proportionate share of any associated common property.

In this instance, table 1 requires a minimum of 55 % of the site to be open space. As the site area is 4397 m<sup>2</sup> the overall required open space should be 2418 m<sup>2</sup>. Without including this structure or the retrospective structure at Unit 7 (the subject of another current planning application referred to this council meeting) the provided open space is approximately 1658 m<sup>2</sup> or 37.7 %. The additions are approximately 20 m<sup>2</sup> which would decrease the open space to 1638 m<sup>2</sup> or 37.4 %.

The performance criteria states that sufficient open space should be provided around buildings:

- to complement the building;
- to allow attractive streetscapes; and
- to suit the future needs of residents, having regard to the type and density of the dwelling.

This application is not considered to comply with the performance criteria as it does not suit the future needs of residents in that the continual decline in open space will deteriorate over time the amenity of the overall aged care development. As the developments density is already non compliant, by permitting further non compliance Council may set a development precedent on this site.

### **Conclusion**

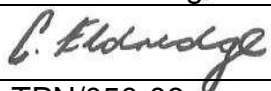
The decrease in open space on this site will detrimentally affect the future use and enjoyment of this site by eroding the existing amenity of the site.

The approval of the development will also likely lead to pressure to approve similar applications in the future, further compromising the site and eroding the open space around buildings on the site.

### **Attachments**

1. Locality Plan
2. Aerial of site
3. Photo's of Works Carried Out
4. Floor plan and Elevation Plan

<b><i>D09.11</i></b> <i>Item Removed</i>
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<b>D10.11</b>	<b>Karrakatta Underpass Road Name</b>
<b>Committee</b>	8 February 2011
<b>Council</b>	22 February 2011
<b>Applicant</b>	N/A
<b>Owner</b>	City of Nedlands
<b>Officer</b>	Jason Moore – Planning Officer
<b>Director</b>	Carlie Eldridge – Director Development Services
<b>Director Signature</b>	
<b>File ref</b>	TPN/050-06
<b>Previous Item No's</b>	Nil
<b>Disclosure of Interest</b>	No officer involved in the preparation of this report had any interest which required it to be declared in accordance with the provisions of the <i>Local Government Act (1995)</i> .

### Purpose

The City has been requested by the Geographic Naming Committee to approve a name for the Karrakatta Underpass between Railway Parade and Stubbs Terrace. Council Officers do not have delegated authority to provide comments in this regard and therefore the item is referred to Council. Once a name is selected it is to be forwarded to the Geographic Naming Committee.

### Recommendation to Committee

**That Council approves the name Nagal Pass as the proposed name for the underpass connecting Stubbs Terrace and Railway Parade and advises the Geographic Naming Committee of the above decision.**

### Strategic Plan

- KFA 3: Built Environment  
 3.8 Facilitate appropriate development of existing residential housing to complement the surrounding residential amenity.

### Background

The underpass which connects Stubbs Terrace and Railway Parade, was approved by Council at the Ordinary Council meeting 14 February 2006.

This underpass was constructed in conjunction with the City of Claremont and the City of Subiaco. Funding was also granted from the Public Transport Association and Main Roads.

The underpass opened in June 2010 after some difficulties.

As the underpass is now in use, the Geographic Naming Committee requested that the road be named so that it can be identified in emergency situations. The Geographic Naming Committee also requests that a short name be allocated for mapping purposes.

### Proposal Detail

The Geographic Naming Committee has advised that the following names are the City's reserve register of road names:

Butia	Australian palm taken from "PALMS IN AUSTRALIA" by David Jones.
Chalcot	London street name.
Cleome	Annual garden flower.
Gulamwin	Gulamwin is an Aboriginal word which is local to the Perth area and was used by traditional Aboriginal people. The English meaning is (sea breeze) blows on-shore west during the late morning/ afternoon in the summer months. Just as people in contemporary society like to live near the coast, especially in summer, so too did the Nyungars, who similarly welcomed the cooling effect of the gulamwin on a hot summers day.
Harrowby	London street name.
Lamont	London street name.
Leinster	London street name.
Miga	Miga is an Aboriginal word which is local to the Perth area and was used by traditional Aboriginal people. The English meaning of Miga (or Mika) means moon. The term can be extended, by adding "ang" to mikang which means moonlight.
Nagal	Nagal is an Aboriginal word which is local to the Perth area and was used by traditional Aboriginal people. The English meaning of nagal is "friendly, peaceful, quiet and amicable". The term "nagal" invokes a sense of harmony and friendship.
Nenga	Australian Palm from "Palms in Australia" by David Jones.
Nypa	Australian Palm from "Palms in Australia" by David Jones.
Penton	London street name.
Raphia	Australian palm taken from "PALMS IN AUSTRALIA" by David Jones.
Teesdale	London street name.



Of these names the following are considered short enough to meet Geographic Naming Committee's request:

- Butia
- Miga
- Nagal
- Nypa
- Penton

The Geographic Naming Committee has advised the City that it is preferred that the street be named a 'pass' as opposed to a road, street or way.

### **Consultation**

No public consultation is required

### **Legislation**

Local Planning Policy 6.22 Naming of Streets and Public facilities

### **Budget/financial implications**

Nil

### **Risk Management**

Nil

### **Discussion**

Naming is done in accordance with the *Land Administration Act 1977* once a road name has been proposed and a road name has been approved by the local government, they are to forward the proposal to the Minister. The Minister may then either approve the proposed name, direct the local government to reconsider the proposed name or refuse the proposed name.

The name Nagal Pass is considered the most appropriate name on the City's reserve register of road names and has not been used in the immediate area.

The word Nagal is an aboriginal word local to Perth. The English meaning is "friendly, peaceful, quiet and amicable". The term 'nagal' invokes a sense of harmony. It symbolises the friendship between the

City of Nedlands, the City of Subiaco and The Town of Claremont that jointly built the underpass and seeks to bring peace and greater harmony to the traffic flow between Railway Parade and Stubbs Terrace,

### **Conclusion**

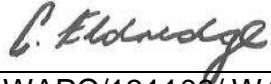
It is recommended that Council supports the name Nagal Pass and accordingly advises the Geographic Names Committee.

### **Attachments**

1. Locality plan

<b>D11.11</b>	<b>Old Swanbourne Hospital Road Names</b>
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<b>Committee</b>	8 February 2011
<b>Council</b>	22 February 2011

<b>Applicant</b>	Whelans
<b>Owner</b>	Swanbourne Estate Development Pty Ltd
<b>Officer</b>	Jason Moore – Planning Officer
<b>Director</b>	Carlie Eldridge – Director Development Services
<b>Director Signature</b>	
<b>File ref</b>	WAPC/131108/ WAPC/131109
<b>Previous Item No's</b>	D70.10 21 July 2009 13.1 13 February 2007 1.1
<b>Disclosure of Interest</b>	No officer involved in the preparation of this report had any interest which required it to be declared in accordance with the provisions of the <i>Local Government Act (1995)</i> .

### Purpose

The City has been requested to approve proposed names for the roads created as a part of the subdivision at the Old Swanbourne Hospital. Administration does not have delegated authority to provide comments in this regard and therefore the item is referred to Council. Council considered this matter at Ordinary Council Meeting on 28 October 2010. However the names recommended by Council were not accepted by the Geographic Naming Committee.

### Recommendation to Committee

**The Council approves the following and advises the Geographic Naming Committee of their request as follows.**

- 1) **The name 'Charles Lane' as the road name for the extension of the existing Charles Lane.**
- 2) **The name 'Barrow Court' as the road name to be used for the laneway between the proposed lots in the northern subdivision wing.**
- 3) **The name 'Dorset Cove' for the proposed road between the lots of the southern subdivision wing.**

### Strategic Plan

- KFA 3: Built Environment  
 3.8 Facilitate appropriate development of existing residential housing to complement the surrounding residential amenity.

## Background

Property Address: Lot 12040 Heritage Lane  
Zoning MRS: 'Urban'  
Zoning TPS2: 'Development'  
Lot Area: 24806 m<sup>2</sup>

On 24 February 2010 The West Australian Planning Commission approved the residential subdivisions at the Old Swanbourne Hospital Site as follows:

- Northern wing: six lots one road
- Southern wing: eight lots and two roads

At its meeting on 26 October 2010 Council approved the following names for the proposed roads:

- Eva Walk
- Hills Mews
- Johnston Rest

These names were forwarded to the Geographic Naming Committee. However the Geographic Naming Committee did not support these names for the following reasons stated during correspondence with the Geographic Naming Committee.

“Unfortunately, Eva, although not duplicated within a 10km radius, is unsuitable as it is a first name and both "Hills" and "Johnston" are unsuitable due to similar sounding names being used more than five times in the metropolitan area eg Hill, Johnson, and Johnston.”

As part of the information given to the Geographic Naming Committee following the last Council meeting the Geographic Naming Committee were also advised of the road names proposed by the applicant. The Geographic Naming Committee advised that the applicants proposed names would be acceptable.

## Proposal Detail

It is proposed that the names given by the applicant apply to the roads in the:

Southern Wing: Barrow Court and Charles Lane (extension for the lane along the western property boundary).

Northern Wing: Dorset Cove

Origins of the names discussed in the attached work sheet.

## **Consultation**

No public consultation is required

## **Legislation**

Local Planning Policy 6.22 Naming of Streets and Public facilities

## **Budget/financial implications**

Nil

## **Risk Management**

Nil

## **Discussion**

Naming of streets is done in accordance with the *Land Administration Act 1977*. Once the applicant has proposed a road name and the local government approves a name, they are forwarded to the Minister. The Minister may then either approve the proposed name, direct the local government to reconsider the proposed name or refuse the proposed name.

The proposed names of the northern and southern wing subdivisions follow the theme of St. Johns Wood in the United Kingdom and have not been used in the immediate area and are therefore considered appropriate in this instance.

Although the original proposed names were not supported by Council the names that Council put forth were not seen to be appropriate by the Geographic Naming Committee, while the names put forth by the applicant are seen to be acceptable. As they have not been duplicated in the surrounding area,

## **Conclusion**


It is therefore recommended that given the Geographic Naming Committee is supportive of the names proposed by the applicant it is recommended that council adopts 'Charles Lane' and 'Barrow Court' for the southern subdivision wing. The northern subdivision wing road be named 'Dorset Cove' and accordingly advise the Geographic Names Committee.

## **Attachments**

1. Locality plan
2. Street Name Work sheet
3. Map showing street names

<b>D12.11</b>	<b><i>Point Walter Family Concert and Fireworks, Sunday 6 March 2011 – Point Walter Reserve, Bicton</i></b>
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<b>Committee</b>	8 February 2011
<b>Council</b>	22 February 2011

<b>Applicant</b>	Dr Shayne Silcox, Chief Executive Officer, City of Melville
<b>Owner</b>	City of Melville
<b>Officer</b>	Chris Hammond – Environmental Health Coordinator
<b>Director</b>	Carlie Eldridge – Director Development Services
<b>Director Signature</b>	
<b>File ref</b>	ENV/017-04
<b>Previous Item No's</b>	Nil
<b>Disclosure of Interest</b>	No officer involved in the preparation of this report had any interest which required it to be declared in accordance with the provisions of the <i>Local Government Act (1995)</i> .

### **Purpose**

This report is coming before Council because the City of Melville sent correspondence to the City advising that the City of Melville's Chief Executive Officer has approved the Point Walter Family Concert and Fireworks to be held at Point Walter Reserve, Bicton on Sunday 6 March 2011. This approval is pursuant to Regulation 18(3) of the *Environmental Protection (Noise) Regulations 1997*.

Council's role is to determine whether it agrees with the City of Melville proposed conditions applicable to the approval, pursuant to Regulations 18(12) of the Regulations which states:

- (12) *An approval must not be granted unless the local government of each district in which noise emissions received from the event are likely to fail to comply with the standard prescribed under regulation 7 agrees to the proposed conditions applicable to the approval.*

### **Recommendation to Committee**

**Council, pursuant to Regulation 18 (12) of the *Environmental Protection (Noise) Regulations 1997*, agrees to the City of Melville's proposed conditions, (outlined in the attachment 1) for the Point Walter Family Concert and Fireworks to be held at Point Walter Reserve, Bicton on Sunday 6 March 2011, subject to;**

- 1) **the Notice of the event being publicised in the Nedlands 'Post' and 'Western Suburbs Weekly' newspapers on the week commencing 28 February 2011; and**
- 2) **the notification to City of Nedlands being distributed to residences along Jutland Pde and Victoria Ave, Dalkeith by way of letter drop at least seven (7) days prior to the event**

## **Strategic Plan**

### Strategic Plan Implications

In agreeing with the conditions imposed by the City of Melville for the Point Walter Family Concert and Fireworks to be held at Point Walter Reserve on 6 March 2011, this supports the City's Strategic Plan in the following areas.

#### Vision

The City of Nedlands is an attractive City with residential amenity and a strong sense of community and place.

#### KFA 5: Governance

- 5.6 Ensure compliance with statutory requirements and guidelines.
- 5.8 Establish and actively manage a range of partnerships with government, private and not-for-profit sectors.

In agreeing to the conditions imposed by the City of Melville for the Point Walter Family Concert and Fireworks, the City of Nedlands is fulfilling a statutory requirement under Regulation 18 of the *Environmental Protection (Noise) Regulations 1997*. This is supported by KFAs 5.6 and 5.8.

## **Background**

Since 2005, Point Walter Reserve, Bicton has been host to an annual family concert with fireworks in February or March. The City's records do not indicate any noise complaints from past events. Council has previously agreed to the conditions imposed by the City of Melville for the Point Walter Family Concert and Fireworks, which was last held on 28 February 2010. This was subject to the event being publicised in the local newspapers and notification given to residents along Jutland Pde and Victoria Ave, Dalkeith.

Point Walter Reserve is located in Bicton, and is west of Point Resolution Reserve, Dalkeith. Prevailing weather conditions can facilitate sound transmission across the Swan River to Dalkeith.

## **Proposal Detail**

Point Walter Family Concert and Fireworks, Sunday 6 March 2011 will include:

- A range of dancers
- Children's activities
- Band - Peace Love & All That Stuff
- Fire n' Motion fire twirlers
- Fireworks

The City of Melville seeks agreement from the City of Nedlands, to the conditions applicable to the approval pursuant to sub Regulation 18 (12) of the Environmental Protection (Noise) Regulations 1997 which states:

“an approval must not be granted unless the local government of each district in which noise emissions received from the event are likely to fail to comply with the standard prescribed under regulation 7, agrees to the proposed conditions applicable to approval.”

Council needs to consider the City of Melville's conditions applicable to approval and decide whether it agrees to them. Refer to attachment 1 for the conditions applicable to approval.

## **Consultation**

Not applicable.

## **Legislation**

- Environmental Protection (Noise) Regulations 1997.
- City of Nedlands is the determining authority for conditions applicable to approval.
- City of Melville is the determining authority for the approval.

## **Budget/financial implications**

Budget:

Nil

Financial:

Nil



## Risk Management

Conditions applicable to approval are considered by Council and agreed to as required by the Environmental Protection (Noise) Regulations 1997. The conditions applicable to approval are adequate in minimising the possibility of the City receiving noise complaints from its residents.

## Discussion

Sound levels associated with the Point Walter Family Concert and Fireworks are likely to affect those residences along Jutland Pde and Victoria Ave, Dalkeith. Starting and finishing times and other conditions imposed by the City of Melville are outlined in attachment 1. The night will culminate with a 15 minute firework display from the sand spit at Point Walter commencing at 8:25 pm.

The reason why the City of Melville seeks Council to agree to the conditions applicable to approval is because the event would lose its character or usefulness if it were required to comply with the normal neighbourhood sound levels prescribed in the *Environmental Protection (Noise) Regulations 1997*.

It is not expected that noise generated by this year's event will be an issue given the City of Melville's noise control measures contained in the conditions applicable to approval, outlined in attachment 1.

Issue: Noise likely to be heard at some residences in Dalkeith

<p>Requirement</p> <p>That Council agrees to conditions applicable to approval for the Point Walter Family Concert and Fireworks, Sunday 6 March 2011</p>	<p>In order for the City of Melville to comply with the <i>Environmental Protection (Noise) Regulations 1997</i>, the City agree to the Conditions of Approval as described in attachment 1</p>	<p>The City is satisfied that the Conditions stipulated in attachment 1 will minimise any adverse impact on residents</p>
<p>Applicants Proposal</p>	<p>To seek agreement from Council of the conditions applicable to approval.</p>	
<p>Applicant justification summary</p> <p>Note: A full copy of all relevant consultation feedback received by the City has been given to the City's Councillors prior to the meeting.</p>	<p>The City of Melville is required to have agreement from the City of Nedlands Council for the conditions relevant to the approval.</p>	

<p>Officer comment</p> <p>technical</p>	<p>The City of Melville's application to seek agreement from the City of Nedlands Council over conditions applicable to approval is in accordance with the requirement to do so under the <i>Environmental Protection (Noise) Regulations 1997</i>.</p> <p>The noise control measures which form the conditions applicable to approval should:</p> <p>include the Notice of the event being publicised in the Nedlands 'Post' and 'Western Suburbs Weekly' newspapers on the week commencing 28 February 2011</p> <p>include the notification to City of Nedlands being distributed to residences along Jutland Pde and Victoria Ave, Dalkeith by way of letter drop at least seven (7) days prior to the event</p>
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### Conclusion

The City of Melville has sought agreement of its conditions applicable to the approval of the Point Walter Family Concert and Fireworks, Sunday 6 March 2011. It is required to *Environmental Protection (Noise) Regulations 1997* do so in accordance with the.

Sound levels from the event are likely to exceed the normal neighbourhood sound levels prescribed in the regulations for Jutland Pde and Victoria Ave, Dalkeith. If noise from the event were required to comply with these levels, the event would lose its character and usefulness.

It is anticipated that any impact on City of Nedlands residents will be low, given the City of Melville's proposed conditions applicable to approval. Council's role is to agree, or not to agree, as to whether the event conditions imposed by the City of Melville are reasonable. In view of the above and the fact that notification is a condition of approval, there seems to be little justification for Council not to agree with the conditions the City of Melville will impose.

### Attachments

1. Conditions applicable to approval – Schedule - noise control Point Walter Family Concert 2009

<b>D13.11</b>	<b>Soundwave Festival, Monday 7 March 2011 – Claremont Showground, Claremont</b>
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<b>Committee:</b>	8 February 2011
<b>Council:</b>	22 February 2011

<b>Applicant:</b>	Soundwave Pty Ltd – Chris Knight
<b>Owner:</b>	Town of Claremont
<b>Officer:</b>	Chris Hammond – Environmental Health Coordinator
<b>Director:</b>	Carlie Eldridge – Director Development Services
<b>Director Signature:</b>	
<b>File ref:</b>	ENV/017-04
<b>Previous Item No's:</b>	Nil
<b>Disclosure of Interest:</b>	No officer involved in the preparation of this report had any interest which required it to be declared in accordance with the provisions of the <i>Local Government Act (1995)</i> .

**Purpose**

This report is coming before Council because the Town of Claremont sent correspondence to the City advising that the Town of Claremont's Chief Executive Officer has approved an application from Chris Knight of Soundwave Festival Pty Ltd to host the Soundwave Festival at the Claremont Showground on Monday 7 March 2011 (i.e. Labour Day public holiday). This approval is pursuant to Regulation 18(3) of the *Environmental Protection (Noise) Regulations 1997*.

Council's role is to determine whether it agrees with the Town of Claremont's proposed conditions applicable to the approval, pursuant to Regulations 18(12) of the Regulations which states:

- (12) *An approval must not be granted unless the local government of each district in which noise emissions received from the event are likely to fail to comply with the standard prescribed under regulation 7 agrees to the proposed conditions applicable to the approval.*

**Recommendation to Committee**

**Council, pursuant to Regulation 18 (12) of the *Environmental Protection (Noise) Regulations 1997*, agrees to the Town of Claremont's proposed conditions, (outlined in the attachment 1) for the Soundwave Festival to be held at the Claremont Showground on Monday 7 March 2011, subject to;**

- 1) the Town of Claremont's "Advice to Residents" leaflet being distributed to the residential notification area in the City of Nedlands identified in the attachment 2, at least seven (7) days prior to the event; and
- 2) the Town of Claremont notifying the City of Nedlands Manager Sustainable Nedlands of any noise complaints received from residents in the City of Nedlands, within ten (10) days after the event.

## **Strategic Plan**

### Strategic Plan Implications

In agreeing with the conditions imposed by the Town of Claremont for the Soundwave Festival to be held at the Claremont Showground on 7 March 2011, this supports the City's Strategic Plan in the following areas.

### Vision

The City of Nedlands is an attractive City with residential amenity and a strong sense of community and place.

#### KFA 4: Community Wellbeing

- 4.4 Continue to develop a sense of community through the promotion of cultural events and programs.

The Soundwave Festival is supported by KFA 4.4 above in that it provides an opportunity for young adults in the community to enjoy music from a variety of their favourite artists without having to travel far and incur additional expense. They are able to interact socially and enjoy the festival with those who have a similar musical taste.

#### KFA 5: Governance

- 5.6 Ensure compliance with statutory requirements and guidelines.
- 5.8 Establish and actively manage a range of partnerships with government, private and not-for-profit sectors.

In agreeing to the conditions imposed by the Town of Claremont for the Soundwave Festival, the City is fulfilling a statutory requirement under Regulation 18 of the *Environmental Protection (Noise) Regulations 1997*.

## **Background**

Claremont Showground venue is traditionally associated with the annual Royal Show. However in more recent years, it has been utilised for a variety of regular music events / festivals like the Big Day Out, City Muster, Stereosonic and V Festival. For these large events, the Town seeks agreement from the City of Nedlands regarding the acceptability of

conditions it will impose on the event. This enables the Town to fulfil the regulatory requirement in granting approval for such events.

The Soundwave Festival originated in Perth and is now a national touring music event which hosts a number of rock, metal and punk acts. The last Soundwave Festival held at the Showground was in 2007, from which the City received a single noise complaint from one of its Mount Claremont residents. The City was not notified of the 2007 festival by the Town of Claremont and hence, Nedlands Council did not have the opportunity to agree to any conditions imposed by the Town of Claremont. From 2008 to 2010, Soundwave was held at Steel Blue Oval, Bassendean.

Council has already agreed to conditions which the Town of Claremont has set for other concerts to be held at the Showground in early 2011. These concerts include Big Day Out and Good Vibrations to be held on 6 February 2011 and 20 February 2011 respectively.

### **Proposal Detail**

Soundwave Festival 2011 is scheduled to be held at Claremont Showground on Monday 7 March 2011 (Labour Day public holiday) from 11:00 am to 10:30 pm. Sound system checks are confined to a period of two hours between 12:00 pm and 6:00 pm on Sunday 6 March 2011 and one half hour between 10:00 am and 11:00 am on Monday 7 March 2011.

The Town of Claremont seeks Council agreement to the conditions the Town will impose on Soundwave 2011, in relation to noise. The Town of Claremont seeks agreement to the conditions because it is required to do so for this type of event under sub regulation 18(12) the *Environmental Protection (Noise) Regulations 1997* which states:

*“an approval must not be granted unless the local government of each district in which noise emissions received from the event are likely to fail to comply with the standard prescribed under regulation 7, agrees to the proposed conditions applicable to approval.”*

Council needs to consider the Town of Claremont's conditions applicable to approval and decide whether it agrees to them. Refer to attachment 1 for the conditions applicable to approval.

### **Consultation**

Not applicable.

## Legislation

- *Environmental Protection (Noise) Regulations 1997.*
- City of Nedlands is the determining authority for conditions applicable to approval.
- Town of Claremont is the determining authority for the approval.

## Budget/financial implications

Budget:

Nil

Financial:

Nil

## Risk Management

Conditions applicable to approval are considered by Council and agreed to as required in accordance with the *Environmental Protection (Noise) Regulations 1997*. The conditions applicable to approval are adequate in minimising the possibility of the City receiving noise complaints from its residents.

## Discussion

Soundwave Festival is similar to other music events hosted at the Claremont Showground, where due to the likelihood of noise levels being exceeded, requires an exemption from the relevant provisions of the *Environmental Protection (Noise) Regulations 1997* (the Regulations) prior to the event going ahead. Under the relevant provisions in the Regulations, Regulation 18 (12) states:

*“an approval must not be granted unless the local government of each district in which the noise emissions received from the event are likely to fail to comply with the standard prescribed under Regulation 7 agrees to the proposed conditions applicable to the approval.”*

The purpose of a Regulation 18 approval is to cater for an event, which would otherwise lose its character or usefulness if it were required to comply with prescribed noise levels. Regulation 7 stipulates prescribed noise levels normally applied to assess the impact of noise within neighbourhoods.

Noise from the event will be of a punk, metal, rock music genre incorporating amplifiers and public address systems. There is likelihood that noise levels will exceed the requirements of the Regulations in some areas of the City of Nedlands, most particularly those located in Mount Claremont. The Town has imposed conditions on the event to facilitate

noise control (refer to attachment 1, Schedule – Conditions of Approval). The Town of Claremont is applying both ‘A’ weighted and ‘C’ weighted sound level limits to control noise impact. ‘C’ weighted sound level limits were introduced by the Town of Claremont in early 2010 to help further control noise from concerts.

Attachment 1, Condition 1.9 of the Schedule – Conditions of Approval states:

*1.9 The applicant to deliver the ‘Advice to Residents’ leaflet to all residences specified by the Town of Claremont, no sooner than 7 days prior to the event and no later than the Thursday prior to the event;*

The City’s Administration recommends that this ‘Advice to Residents’ leaflet be distributed to the City’s residential notification area identified as per Attachment 2, at least seven (7) days prior to the event. Details of the event and a complaint response service are proposed to be publicised no later than Friday 4 March 2011 in the ‘The Post’ and ‘Western Suburbs Weekly’ newspapers.

Issue: Noise likely to be heard at some residences in the City of Nedlands

Requirement	That Council agrees to conditions applicable to approval for the Soundwave Festival at Claremont Showground, Monday 7 March 2011	Acceptable development and performance criteria
Applicants Proposal	To seek agreement from Council of the conditions applicable to approval.	
Applicant justification summary  Note: A full copy of all relevant consultation feedback received by the City has been given to the City’s Councillors prior to the meeting.	The Town of Claremont is required to have agreement from the City of Nedlands Council for the conditions relevant to the approval.	
Officer technical comment	The Town of Claremont’s application to seek agreement from the City of Nedlands Council over conditions applicable to approval is in accordance with the requirement to do so under the <i>Environmental Protection (Noise)</i>	

	<p><i>Regulations 1997.</i></p> <p>The noise control measures which form the conditions applicable to approval should:</p> <p>include the Town of Claremont’s “Advice to Residents” leaflet being distributed to the residential notification area in the City of Nedlands identified in the attachment 2 at least seven (7) days prior to the event; and include the Town of Claremont notifying the City of Nedlands Manager Sustainable Nedlands of any noise complaints received from residents in the City of Nedlands, within ten (10) days after the event.</p>
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### **Conclusion**

It is important to note that Council’s role in the Town of Claremont’s approval process for Soundwave Festival 2011 is to agree, or not to agree, as to whether the event conditions imposed by the Town of Claremont are reasonable. Council’s role does not extend to deciding whether it approves of the event or not. The *Environmental Protection (Noise) Regulations 1997* recognises the likelihood that noise levels from such an event will be above the normal neighbourhood levels. It is anticipated that the impact on City of Nedlands residents will be tolerable given the proposed conditions of approval.

In view of the above and the fact that notification is a condition of approval, there seems to be little justification for Council not to agree with the conditions the Town of Claremont will impose.

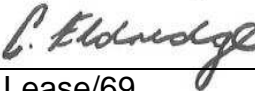
### **Attachments**

1. Soundwave Festival Schedule - Conditions of Approval
2. Residential notification area City of Nedlands



**D14.11**      **Part Lot 13423 on DP 194320 Monash Avenue,  
Nedlands – Reserve 20838**

<b>Committee</b>	8 February 2011
<b>Council</b>	22 February 2011

<b>Applicant</b>	
<b>Owner</b>	City of Nedlands
<b>Officer</b>	Matthew Deal – Manager Property Services
<b>Director</b>	Carlie Eldridge – Director Development Services
<b>Director Signature</b>	
<b>File ref</b>	Lease/69
<b>Previous Item No's</b>	Nil
<b>Disclosure of Interest</b>	No officer involved in the preparation of this report had any interest which required it to be declared in accordance with the provisions of the <i>Local Government Act (1995)</i> .

**Purpose**

This report recommends that Council approve the demolition of the former Hollywood After School Activity Centre (YMCA building).

**Recommendation to Committee**

**Council;**

- 1) **Approves the demolition of the former Hollywood After School Activity Centre on Part Lot 13423 on Deposited Plan 194320, Reserve 20838 Monash Avenue, Nedlands.**
- 2) **Agrees to allocate funds of \$14,135 for the demolition of the building from the 2010/11 Budget review process.**

**Strategic Plan**

KFA 1: Infrastructure

To provide functional infrastructure in order to enable:

- Safe, efficient and effective transport systems; and
- Passive and active recreational opportunities.

1.3 Provide and maintain quality passive and active recreational and leisure facilities and open space to meet community needs.

#### KFA 4: Community Wellbeing

To provide a Community where people have an opportunity to interact and enjoy a sense of belonging in order to promote:

- Healthy lifestyles;
- A safe and secure community; and
- Quality of life.

4.1 Provide and facilitate access to services and facilities required by the broader community, clubs and community groups.

#### KFA 5: Governance

To ensure that the processes of Local Government are delivered responsibly and in a transparent, consistent and accountable manner.

5.1 Manage the City's resources in a sustainable and responsible manner.

### **Background**

Property Address: Part Lot 13423 on Deposited Plan 194320, Reserve 20838 Monash Avenue, Nedlands  
Zoning MRS: Parks & Recreation  
Zoning TPS2:  
Lot Area: Approximately 11 000 m<sup>2</sup>

The building was originally constructed in 1942 as a clubhouse building by the City for the Hollywood Croquet Club. The Hollywood Croquet club used the building up until it ceased operating in approximately 1981.

The building is a timber framed, timber lap and asbestos clad. There has been minimum maintenance completed to the building during the last twenty years. The building contains a hall, an area that includes a sink and oven, as well as an entry room. All fixtures and fittings are outdated and in poor condition. There are no sanitary facilities located in the building.

Following the cessation by the Hollywood Croquet Club, the City commenced the operation of after school care from the building. The City operated after school care from approximately 1983 to 2001. In 2001 the City assigned the responsibility of providing after school care to the YMCA, who consequently signed a lease for the building. The lease was due to expire in 2016.

The YMCA advised the City on the 25 October 2010 that they no longer required the use of the building, and wished to surrender the lease.

In 2010 the Council adopted the Built Facility Asset Management policy which clearly outlines Councils long term approach to managing Council built facilities, outlining that in the long term some buildings are to be rationalised and key facilities be upgraded or rebuilt in key locations in accordance with Councils Strategic Recreation Plan.

The City's Built Facility Asset Management Policy and Strategy adopted by Council in June 2010 recommends that the building be demolished with the users relocated due to the low usage rate and the poor condition of the building. The building was scheduled to be demolished in 2014/2015 with an estimated cost of \$40,000.

The building was identified in the Built Facilities Rating document adopted by Council in February 2009, as a high priority rating due to the poor condition of the building, its functionality and non compliance with current legislation.

In 2008/2009 the City undertook with the community and stakeholders the development of a Masterplan for future of Highview Park in accordance with the requirements of the Strategic Recreation Plan. The Masterplan recommends that the YMCA building be demolished, and to incorporate the use within the existing Girl Guides building, as it is a compatible use, and compatible time usage.

The City's Strategic Recreation Plan identifies five major recreation locations to centralise recreational activities on within the City. The five strategic recreational areas are:

- College Park
- Highview Park
- Allen Park
- DC Cruickshank Reserve
- Charles Court Reserve.

The following is an excerpt from the City's draft Strategic Recreation Plan 2010 for Highview Park.

*In 2015 the City of Nedlands Sport and Recreation will be:*

- *Centralised around five major sporting/recreation venues as follows:*
  - **Hollywood-Subiaco Bowling Club/Highview Park** catering for Hockey, Bowls, Gridiron, Volleyball and a range of unstructured community activities. A vibrant Sporting Association has ownership and management of centralised social clubrooms with all users working together to ensure the financial viability of their sport and facilities.

### Key Relevant Previous Decisions

Council approved a lease with the YMCA in June 2001 for the use of the building and the transfer of after school care services.

### Proposal Detail

To demolish the building in accordance with the City's adopted Built Facilities Asset Management policy.

### Consultation

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

### Legislation

*Building Code of Australia*  
*Occupation Health and Safety Act 2004*  
*Child Care Services Act 2007*

### Budget/financial implications

Budget:

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

Financial

The City obtained quotes for the proposed demolition in December 2010. Quotes were received from the following companies:

Brajkovich Demolition and Salvage	\$16,775
AZ Clear	\$25,080
Civil and Demo	\$14,135

### Risk Management

Risk	Likelihood	Consequence	Level of risk	Risk acceptance
Risk of injury	Unlikely	Medium	6	Moderate
Risk of structural component failure	Possible	Major	12	High
Risk of unbudgeted building maintenance	Likely	Major	16	Extreme
Risk of vandalism	Likely	Major	16	Extreme
Issue not being resolved promptly, further depleting City resources	Likely	Major	16	Extreme
Community dissatisfaction at building being demolished	Possible	Minor	6	Moderate

## **Discussion**

Each of Councils long term strategic documents relating to the management and structure of the City's main recreational areas recommend that buildings that have low usage, significant legislative compliance issues and users are able to be incorporated into another building are to be rationalised.

The building is now no longer required by the lessee due to its own operational and service level policies as well as the condition and facilities of the building.

To upgrade the building to comply with today's requirements would be cost prohibitive to match the intended use. Any commercial entity seeking to utilise the building would require a portion of land to be excised from the certificate of title, and rezoned by the Minister for State Land Services which takes many years.

The State Government would command a rental return for the use of their land. There would be an Expression of Interest processes as well as a lease negotiation process required to be completed for the building, prior to any occupation and modification to the building which are lengthy and costly.

It would generally be financially unviable for a community group to modify the building to comply with today's requirements, as they have access to less funds than commercial operators, and the City would not support funding a community group to refurbish the building as it is in conflict with all of our strategic documents.

## **Conclusion**

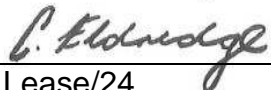
It is recommended that Council accepts the approve the demolition of the building in accordance with its long term approach to asset management.

## **Attachments**

1. Built Facilities Rating
2. Asset Management Plan
3. Plan of the building
4. Highview Park Master Plan

<b>D15.11</b>	<b><i>Perth Flying Squadron Yacht Club Inc – Reserve 17391 (Lot 254 on Deposited Plan 37070), 254 Birdwood Parade, Dalkeith. - Surrender of Lease and Deed of Variation of Lease and proposed new 21 year Lease.</i></b>
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<b>Committee</b>	8 February 2011
<b>Council</b>	22 February 2011

<b>Applicant</b>	Perth Flying Squadron Yacht Club Inc
<b>Owner</b>	State of WA – Vested to City of Nedlands
<b>Officer</b>	Neil Scanes – Property Management Officer
<b>Director</b>	Carlie Eldridge – Director Development Services
<b>Director Signature</b>	
<b>File ref</b>	Lease/24
<b>Previous Item No's</b>	Item 13.2, 9 June 2009 Item CM28.07, 11 September 2007 Item CM19.06, 9 May 2006
<b>Disclosure of Interest</b>	No officer involved in the preparation of this report had any interest which required it to be declared in accordance with the provisions of the <i>Local Government Act (1995)</i> .

**Purpose**

This report recommends that Council approve the surrender of the existing Lease and Deed of Variation of Lease between the City and Perth Flying Squadron Yacht Club Inc and subsequently grant a new Lease for a period of twenty-one (21) years between both entities.

**Recommendation to Committee**

**Council**

- 1) Approve the surrender of the existing Lease and Deed of Variation of Lease between the City and Perth Flying Squadron Yacht Club Inc; and
- 2) Approve and endorse a new exclusive use Lease, for a 21 year term between the City and Perth Flying Squadron Yacht Club Inc as per attachment 1.

## **Strategic Plan**

This application is in accordance with the City of Nedlands Strategic Plan 2008-2013. In particular, the following objectives are addressed:

KFA 3: Built Environment

- 3.4 Plan and develop the sustainable provision of community infrastructure and facilities with a focus on flexible and multiple uses.

KFA 4: Community Wellbeing

- 4.1 Provide and facilitate access to services and facilities required by the broader community, clubs and community groups.
- 4.2 Encourage, support and provide for a range of recreation and leisure opportunities, both active and passive.

## **Background**

Perth Flying Squadron Yacht Club Inc is located on the northern shore of the Swan River in Dalkeith. Clubhouse facilities provide pen, hard standing and undercover storage for every class of boat.

The land on which the facility resides is legally described as Lot 254 on Deposited Plan 37070, Birdwood Parade, Dalkeith being the whole of the land comprised in Crown Land Title Volume LR3131 Folio 762.

Lot 254 is part of Category "A" Crown Reserve (Reserve 17391) and has been vested to the City since 18 July 1947 for the purpose of Recreation by way of Management Order. This grants the City the power to lease Reserve 17391 for any term not exceeding 21 years subject to the consent of the Minister for Lands.

The facility has previously been leased to the club for a 21 year period between 27 September 1984 and 26 September 2005. At the expiration of this lease, the City permitted the club ongoing tenancy whilst negotiations took place to finalise a new lease agreement.

Council resolved an exclusive use ten (10) year lease with the option of a further five (5) year term between the City and club on 9 May 2006, Item CM19.06. This lease, dated 20 June 2006 commenced on 28 September 2005. Under the terms of this lease, the Club is responsible to pay all associated maintenance, cleaning, insurance and utility costs at no cost to the City. Currently an annual peppercorn rental is charged by the City.

Council resolved to endorse a Deed of Variation of lease on 11 September 2007, Item CM28.07. This was in order to rectify clause 24.7 of the original 2006 lease between the City and the club that stated that the club must not mortgage or charge the premises. At that time, the club sought to borrow funds to pay out a loan taken out in 1985 that the City went Guarantor for in order to provide the club with the necessary funds to engage professional consultants to prepare planning documents

associated with the upgrade of the clubs ageing infrastructure. In order to finalise this matter, a Deed of Variation of Lease was required that allowed the club to mortgage the premises subject to the written consent of the City. The Deed also amended the wording of the original 2006 lease, replacing the incorrect name of "Perth Flying Squadron Inc" (which was stated on pages 1,5 and 50 of the original lease document) with the correct name of "Perth Flying Squadron Yacht Club Inc". As security against default, the City by way of Bill of Sale enabled the City to call upon the clubs fixtures in the event of default.

Perth Flying Squadron Yacht Club Inc has recently completed a master plan to redevelop the clubs water and land based assets to comply not only with statutory environmental obligations but also the expectations of current members and local residents. The club has received Ministerial approval from the Minister for Environment to proceed with the major redevelopment of the clubs land and river based infrastructure. The club first wrote to the City on 28 January 2010 regarding the possibility of surrendering the current lease and Deed and Variation of lease in order to negotiate a new lease of greater tenure. This would provide comfort for a financial institution to advance the necessary funding to undertake the major capital works projected.

A condition of the Minister for Environments approval stipulates that the lease be amended as follows:

*"Condition 36. The applicant is to enter into an agreement with the City for the ongoing maintenance of the public footpath and other infrastructure, including safety barriers and signage, within the public foreshore reserve located between the Perth Flying Squadron Yacht Club's land lease and river bed areas. The agreement shall be prepared by the City's solicitors to the satisfactions of the City and the Swan River Trust. The applicant shall be responsible for paying all costs associated with the City's solicitors' costs of and incidental to the preparation (including all drafts) of the agreement".*

The full terms of the Development Approval approved by the Swan River Trust is shown in Annexure 2.

The City and club have agreed upon a 21 year tenure for the proposed new lease. This is the maximum tenure that the City can apply under its power to lease Management Order.

The club have been made aware that the current lease and deed of variation of lease are required to be surrendered in order for a new lease of greater tenure to be put in place subject to Council and Ministerial approval.

Administration received in principal consent to the draft lease from the Minister for Lands pursuant to Section 18 of the *Land Administration Act 1997* on 3 September 2010.



The proposed new exclusive use lease between the City and Perth Flying Squadron Yacht Club Inc would deem the lessee responsible to pay all associated maintenance, cleaning, insurance and utility costs at no cost to the City. The club in turn will only be charged an annual peppercorn rental. Further club specific clauses relating to the proposed redevelopment and future infrastructure maintenance obligations have been made to the lease document based on Council's recommendation of 9 June 2009, Item 13.2 (Annexure 3) and the Swan River Trust Development Approval (Annexure 2).

Council Policy 10.5 – "Use of Council Facilities for Community Purposes" has been taken into consideration. This policy provides all guidelines regarding tenancy for exclusive use groups. It provides the tenant with exclusive use of the facility expressed in a lease "at no cost to Council", meaning the tenant maintains the facility to the City's requirement.

#### Key Relevant Previous Decisions

Item 13.2, 9 June 2009 – Considered the proposed future land-based infrastructure component of Perth Flying Squadron Yacht Club Inc.

Item CM28.07, 11 September 2007 – Deed of Variation of lease.

Item CM19.06, 9 May 2006 – Ten (10) year lease with the option of a further five (5) year term

#### Consultation

Required by legislation: Yes  No

Required by City of Nedlands policy: Yes  No

The proposed lease has been prepared in consultation with the club.

Swan River Trust has previously conducted community consultation.

Administration has received in principal consent to the draft lease from the Minister for Lands pursuant to Section 18 of the *Land Administration Act 1997*.

#### Legislation

*Section 18 of the Land Administration Act 1997*

#### Budget/financial implications

Budget:

Within current approved budget: Yes  No

Requires further budget consideration: Yes  No

#### Financial:

The proposed lease specifies that Perth Flying Squadron Yacht Club Inc will be responsible for all maintenance, cleaning, utility fees and insurance for all of the buildings, pens, hard standing and undercover boat storage. The club in turn will pay an annual peppercorn rent.

In addition, the club will be responsible to upgrade the car park across from the Esplanade and construct a shared public access path within the public foreshore area at no cost to the City. The club will be liable to maintain this infrastructure along with maintaining parking bays, driveways and safety barriers and signage for the term of this lease. The club will also remove the existing footpath along the Esplanade at no cost to the City.

McLeod's Barristers and Solicitors have advised the City that Landgate states that an extension of lease constituted at law, a surrender of lease and grant of a new lease. Consequently, both legal documents will be required to be registered at Landgate. If the proposed mortgage is to be registered on the title for the full new term, then it will be necessary for the City to comply with Landgate's requirements and surrender the existing lease and register the new lease on title.

The club will be responsible for all costs in relation to the surrender of lease and preparation of the proposed new lease including the survey quality sketch depicting the leased area in order to satisfy Landgate requirements.

#### **Risk Management**

The City's standard lease will only be entered into with sporting groups and community organisations that agree to the insurance, maintenance and liability conditions stipulated in the City's standard lease template adopted by Council on 28 April 2009, Item D27.09.

#### **Discussion**

Perth Flying Squadron Yacht Club Inc was formed in 1897 and is located on the northern shore of the Swan River in Dalkeith. The club provides a base for both sail and power boat owners and organises a wide range of regattas, racing and social events. In addition, the club provides extensive sail training for children in the summer. Clubhouse facilities provide pen, hard standing and undercover storage for every class of boat. The current lease boundary for the club includes the existing clubroom building, car park, boat pen, hard standing and under cover storage facility. The foreshore area immediately in front of the club is for public access. The lease area is clearly delineated in a plan attached to the lease (Annexure 1).

The club has received Ministerial approval from the Minister for Environment to proceed with the major redevelopment of the clubs land and river based infrastructure. The club has written to the City on 28 January 2010 regarding the possibility of surrendering the current lease and Deed and Variation of lease in order to negotiate a new lease of greater tenure. This would provide comfort for a financial institution to advance the necessary funding to undertake the major capital works projected.

Landgate have advised that an extension of lease constituted at law, a surrender of lease and grant of a new lease. Consequently, both legal documents will be required to be registered at Landgate. If the proposed mortgage is to be registered on the title for the full new term, then it will be necessary for the City to comply with Landgate's requirements and surrender the existing lease and register the new lease on title.

The club will be responsible for all costs in relation to the surrender of lease and preparation of the proposed new lease including the survey quality sketch depicting the leased area in order to satisfy Landgate requirements.

The City and Perth Flying Squadron Yacht Club Inc have negotiated a provisional 21 year lease commencing 1 January 2011. This proposal is subject to Council agreeing to the surrender of the current lease and deed of variation of lease. The club have requested that the following changes be made to the lease based on the City's standard lease template that was provided to the club to review:

- The standard "Right to Terminate" clause was removed due to the clubs future site development aspirations. From a "commercial" viewpoint, it would be extremely difficult for the club to obtain funding for the club's proposed redevelopment of the facility where security of tenure is not guaranteed; and
- Clause 23.7 was amended to allow the Club to mortgage or charge the land subject to the consent of the City and the Minister for Lands;

The City in turn, has requested that the following clauses are inserted into the City's standard lease template to protect the City's interests:

- Clause 21.1(b) of the lease states that the club is to remove all structures and improvements at the termination of the lease;
- Clause 43 in relation to Public Access has been inserted. This relates to the Lessee's obligation to maintain public access. This clause is consistent with the clause contained in the existing lease;
- Clause 45, obliges the lessee to strictly comply, implement and maintain the land in accordance with their Environmental Management Plan;

- Clause 44.1 Re-development obligations have been added to deal with redevelopment of the premises. The Lessee is required to comply strictly with the terms of the Development Approval as per Annexure 2.
- Clause 44.2 stipulates that the car parking area across from than Esplanade (which is not contained within the leased area) is to be upgraded and continually maintained to the satisfaction of the City. The club is also required to remove the existing footpath along The Esplanade from the lease area; and
- To satisfy condition 36 of the Development Approval, Clause 44.8 requires the club to maintain at its own expense all additions, structures and improvements (including without limitation the public footpath and all safety barriers and signage constructed on or erected by the lessee in good, safe order, repair and condition). In addition, the club will be responsible for the continued maintenance of the parking bays, driveways and points of ingress.

A final draft lease was agreed between the City and Perth Flying Squadron Yacht Club Inc on 6 January 2011.

The draft lease as per attachment 1 reflects agreement between the City and Perth Flying Squadron Yacht Club Inc for an exclusive use 21 year lease between the two entities.

### **Conclusion**

It is recommended that Council approve the surrender of the existing lease and deed of variation of lease between the City and Perth Flying Squadron Yacht Club Inc and subsequently grant a new lease for a period of 21 years between the two entities. This will provide the club with security of tenure whilst they continue to develop their plan to construct new land and river based infrastructure at the current location. The removal of the City's standard lease "Right to Terminate" clause will enable the club to finance their intended development. This enforces the commitment that the club has for the future development of the site and demonstrates their willingness to improve the infrastructure on site.

A peppercorn fee will be charged by the City for tenancy. The club will pay all associated maintenance, insurance, cleaning and utility costs including the required survey quality sketch depicting the leased area which is required to satisfy Landgate regulations. Any subsequent Landgate fees applicable to the surrender of the existing lease and the registration of the new lease on title will be incurred by the lessee.

In addition, the club will be responsible for solicitor costs in relation to the preparation of the new lease.

In accordance with the City's Strategic Plan, the proposed lease will ensure that the local community will continue to have access to an

established sporting club and facilities, promoting community interaction, health and wellbeing.

It is recommended that the proposed new lease be approved.

**Attachments**

1. Proposed lease between the City and Perth Flying Squadron Yacht Club Inc.