



City of Nedlands

# Planning and Development Reports

**Committee Consideration – 11 October 2016**  
**Council Resolution – 25 October 2016**

## Table of Contents

| Item No. |  | Page No. |
|----------|--|----------|
| PD49.16  | Metropolitan Region Scheme Amendment 1311/57 – Lots 12830, 12829, 11329, 10024 and 9722 Bedbrook Place, and Lot 11605 Lemnos Street, Shenton Park – Request for Comment..... | 2        |

**Council: 25 October 2016**

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| <b>PD49.16</b> | <b>Metropolitan Region Scheme Amendment 1311/57 – Lots 12830, 12829, 11329, 10024 and 9722 Bedbrook Place, and Lot 11605 Lemnos Street, Shenton Park – Request for Comment</b> |
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| <b>Committee</b>          | 11 October 2016  |
| <b>Council</b>            | 25 October 2016  |
| <b>Applicant</b>          | Western Australian Planning Commission   |
| <b>Owner</b>              | Various  |
| <b>Officer</b>            | Andrew Bratley – Coordinator Statutory Planning  |
| <b>Director</b>           | Peter Mickleson – Director Planning & Development Services                               |
| <b>Director Signature</b> |         |
| <b>File Reference</b>     | PLAN-IRC-00031   |
| <b>Previous Item</b>      | Item PD33.15 – July 2015<br>Item PD24.16 – May 2016                                      |
| <b>Attachments</b>        | 1. Existing Zonings Maps Under the MRS and TPS 2<br>2. Proposed Zoning Map under the MRS |

## 1.0 Executive Summary

The subject lots are owned by the Alzheimer's Australia WA Ltd, the Arthritis Foundation of WA and Westcare Inc.

In July 2015, Council resolved to **support** an omnibus MRS Amendment (MRS Amendment 1275/57) which proposed to transfer the subject lots, amongst others, to the Public Purpose (Special Use) reservation. This omnibus amendment was recently approved by the Minister for Planning but without the inclusion of the subject lots.

Also in May 2016, Council resolved to **not** adopt a request from TPG Planning to amend Town Planning Scheme No. 2 (TPS 2) to rezone the subject lots to Special Use and amend Schedule V (Special Use Zone), due to the need for more comprehensive planning for the area.

Following this, TPG Planning requested the Western Australian Planning Commission (WAPC) to rezone the subject lots to Urban. This request has been initiated by the WAPC and the WAPC is now seeking comment on Metropolitan Region Scheme (MRS) Amendment 1311/57 to rezone the subject lots to Urban.

In principle Administration has no concerns with the subject lots being zoned Urban under the MRS, however if it is approved by the Minister for Planning at this stage it would result in the subject lots having no zoning under TPS 2. Having no zoning means that no guidance would exist if development applications are received for the subject lots. It is therefore recommended that Council **supports** the MRS Amendment but also requests the WAPC concurrently amends TPS 2 to zone the subject lots Development to support orderly and proper planning.

## 2.0 Recommendation to Committee

Council advises the Western Australian Planning Commission that it:

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

## 3.0 Strategic Community Plan

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

This report addresses the Key Focus Areas of Natural and Built Environment and Governance.

## 4.0 Legislation

- *Planning and Development Act 2005 (Act).*
- Metropolitan Region Scheme (**MRS**).
- *Planning and Development (Local Planning Schemes) Regulations 2015 (Regulations)*
- City of Nedlands Town Planning Scheme No. 2 (**TPS2**).
- Perth and Peel @ 3.5 Million - Western Australian Planning Commission

## 5.0 Budget / Financial Implications

Within current approved budget: Yes  No  N/A  
Requires further budget consideration: Yes  No

The proposal is to rezone private lots, and therefore has no immediate budget or financial implications for the City.

## 6.0 Risk management

The proposal is to rezone private lots, and therefore has no immediate risks for the City.

## 7.0 Background

By way of background information the following decisions involving the subject lots have been made to date:

| Date      | Proposal  | Council Decision   |
|-----------|---|--|
| July 2015 | <p><u>MRS Omnibus Amendment 1275/57</u></p> <p>Transfer the subject lots, amongst others, from the Public Purpose Water Authority WA (WSD) reservation to the Public Purpose (Special Use) reservation.</p> | <p>Support subject to further designation to clarify the permitted use of each of the sites.</p> <p>This has recently been approved by the Minister for Planning without the inclusion of the subject lots.</p>  |
| May 2016  | <p><u>Request to amend TPS 2</u></p> <p>Rezone the subject lots to Special Use; and amend Schedule V (Special Use Zone) under TPS 2.</p>  | <p>Did not adopt due to:</p> <p>a) Council resolving at its May 2015 Ordinary Meeting not to initiate further amendments to TPS 2 due to the preparation of Local Planning Scheme No. 3.</p> <p>b) The need for more comprehensive planning for the area taking into consideration the potential redevelopment of all the lots along Bedbrook Place and those lots immediately to the north.</p> |

The subject lots are owned by the Alzheimer's Australia WA Ltd, the Arthritis Foundation of WA and Westcare Inc. Lots 11329, 11605, 12829 and 12830 on the western side of Bedbrook Place fall within the Subiaco Wastewater Treatment Plant odour buffer. The lots immediately to the north of the property currently owned by Alzheimer's Australia WA Ltd are already zoned Urban under the MRS.

Refer to the locality plan on the following page.



## 8.0 Application Details

The WAPC has recently initiated MRS Amendment 1311/57 for various properties along Bedbrook Place and is currently advertising for comment. It is proposed to rezone Lots 9722, 10024, 11329, 11605, 12829 and 12830 Bedbrook Place and Lot 11605 Lemnos Street, Shenton Park, from Public Purpose (Hospital/Water Authority) to Urban. Refer to Attachments 1 and 2.

The WAPC initiated MRS Amendment 1311/57 follows a request received from TPG Planning to rezone the subject lots from Public Purpose – Hospital/Water Authority to Urban.

The WAPC initiated the MRS Amendment on the basis that *“the subsequent Local Planning Scheme amendment for the site, will not include “sensitive” land uses (e.g. residential) within the Subiaco Wastewater Treatment Plant buffer area”*.

It should be noted that a request for this Local Planning Scheme amendment was refused by Council in May 2016.

These lots are currently reserved Public Purpose but have not historically been identified correctly in relation to the actual use of each site. For example, the Arthritis Foundation and Alzheimer’s to the southwest of Bedbrook Place, all have Water Corporation reservation status. These appear to have all been incorrectly mapped by not having a specific delineation from the adjoining sites, with a specific relevant designation assigned for each site.

The subject lots have been identified in the Perth & Peel @3.5 million document as future urban corridors for redevelopment.

## **10.0 Statutory and Strategic Provisions**

### **10.1 Draft Local Planning Strategy**

Shenton Park is identified in the Draft Local Planning Strategy (Draft LPS) as an area where comprehensive planning is necessary, particularly within proximity to the Subiaco Wastewater Treatment Plant odour buffer and the Shenton Park Hospital Redevelopment Area.

#### **“5.9.5 Shenton Park**

##### **Strategies:**

- *Prevent the encroachment of sensitive land uses and residential development within the Subiaco WWTP odour buffer area.*
- *As a priority, comprehensively plan for the precinct to resolve land use within and surrounding the Subiaco WWTP odour buffer.*
  - *With urgency, comprehensively plan for land in proximity to the Shenton Park Hospital Redevelopment site and Lot 4 Underwood Avenue, and Bedbrook Place to resolve land use, desired built form and reservations.”*

Comprehensive planning for the subject lots is being considered during the current preparation of Local Planning Scheme No. 3 (LPS 3).

## **11.0 Discussion**

### **11.1 Options**

The following options are available to Council with regard to the MRS Amendment:

- a) Do not support the subject lots being zoned Urban under the MRS as there would be no zone under TPS 2 for the subject lots; or

- b) Support and accept that there would be no zone under TPS 2 for the subject lots, and designate an appropriate zone in LPS 3; or
- c) Support and request a concurrent amendment to TPS 2, zoning the subject lots ‘Development’; or
- d) Support and initiate any other amendment to TPS 2 Council considers appropriate.

In principle Administration has no concerns regarding the subject lots being zoned Urban. The current MRS designation of Public Purpose – Hospital/Water Authority does not reflect the current or anticipated future use of the subject lots. It is considered appropriate that the subject lots be zoned Urban under the MRS, therefore option a) is not recommended.

Whilst in principle Administration has no concerns regarding the subject lots being zoned Urban, if it is approved by the Minister for Planning it would result in the subject lots having no zoning under TPS 2. Having no zoning would mean that no guidance would exist if development applications were received for the subject lots, potentially resulting in undesirable forms of development, including “sensitive” land uses (e.g. residential in the odour buffer area), on the subject lots.

It should be noted that in some cases development applications could be determined by the Joint Development Assessment Panel (JDAP), meaning that potentially any form of building and/or use it deems appropriate could be approved if appropriate guidance is not available.

The subject lots would be given an appropriate zone in LPS 3, however there is likely to be a substantial lag period between gazettal of this MRS amendment and the gazettal of LPS 3. This would leave the subject lots with no zoning for an unacceptable period of time. Therefore, option b) is not recommended.

It is considered to be poor planning to accept a situation with land having no zone under a local planning scheme, particularly when there is an existing mechanism to avoid this. The Act allows a concurrent amendment to TPS 2 to occur at the same time as an MRS amendment. This type of amendment can only occur if changes are only required to be made to the Scheme map, not the Scheme Text.

WAPC Planning Bulletin 105/2010 discusses this type of amendment and notes: *“...in practice, the relevant area will usually be rezoned as ‘Urban Development’ or an equivalent zone (taking account of different nomenclature), as set out in the local planning scheme’s zoning table.”*

Supporting the proposed MRS amendment and requesting a concurrent amendment designating the subject lots ‘Development’ under TPS 2 (if approved) means there would be the need for affected landowners to have a structure plan or local development plan prepared prior to any development application being considered. The preparation of a structure plan(s) would involve identifying suitable zonings and land uses. Assessments would also be undertaken in terms of vegetation and infrastructure (including traffic). Ultimately, these planning mechanisms coordinate and assist in achieving better land use and built form outcomes.

Initiating any other amendment to TPS 2 would almost certainly require changes to the Scheme text and would not occur as an automatic amendment. This would require substantial resources to progress and is in conflict with Council's resolution of May 2015 not to initiate further amendments to TPS 2 due to the preparation of LPS 3. For the reasons discussed, option d) is not supported.

Considering the above, option c), 'Support and request a concurrent amendment to TPS 2, zoning the subject lots Development' is recommended to Council.

## **11.2 Coordinating region and local scheme amendments**

In the WAPC amendment report it is noted that the City has the option of requesting the WAPC to concurrently rezone the subject lots to 'Development' or similar. The report then notes that scheme text changes would be required to prevent sensitive land uses in the odour buffer area.

The suggestion that scheme text changes are required is considered incorrect. If the subject land is zoned 'Development', the TPS 2 Use Class Table applies. There are no land uses that are outright permitted in the 'Development' zone. Any of the land uses that are generally considered 'sensitive' would be required to have approval granted by Council. This requirement for Council approval will effectively prevent sensitive land uses establishing on land within the odour buffer area.

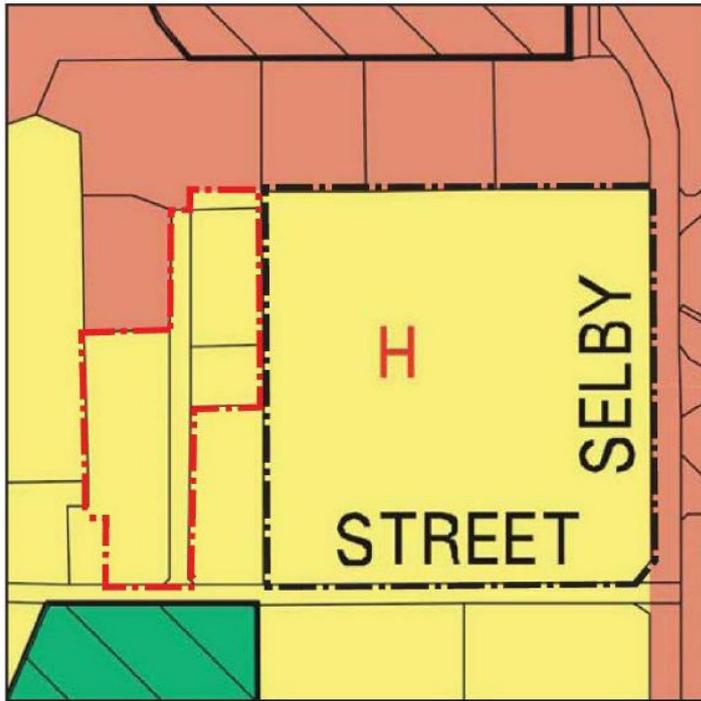
The 'Development' zone is far more robust in preventing sensitive land uses than the alternative that leaves the subject lots with no zone.

## **12.0 Conclusion**

It is considered appropriate to rezone the subject lots Urban under the MRS, however if the MRS amendment is approved the subject lots would have no zone under TPS 2. This lack of guidance would potentially result in undesirable forms of development, including uses, on the subject lots. It is therefore recommended that Council supports the MRS Amendment and also requests a concurrent amendment to TPS 2 to zone the subject lots 'Development'.

### METROPOLITAN REGION SCHEME

Existing Zoning



#### RESERVED LANDS

- PARKS AND RECREATION
- PUBLIC PURPOSES - DENOTED AS FOLLOWS:
  - H HOSPITAL
  - WSD WATER AUTHORITY OF WA

#### ZONES

- URBAN

#### NOTICE OF DELEGATION

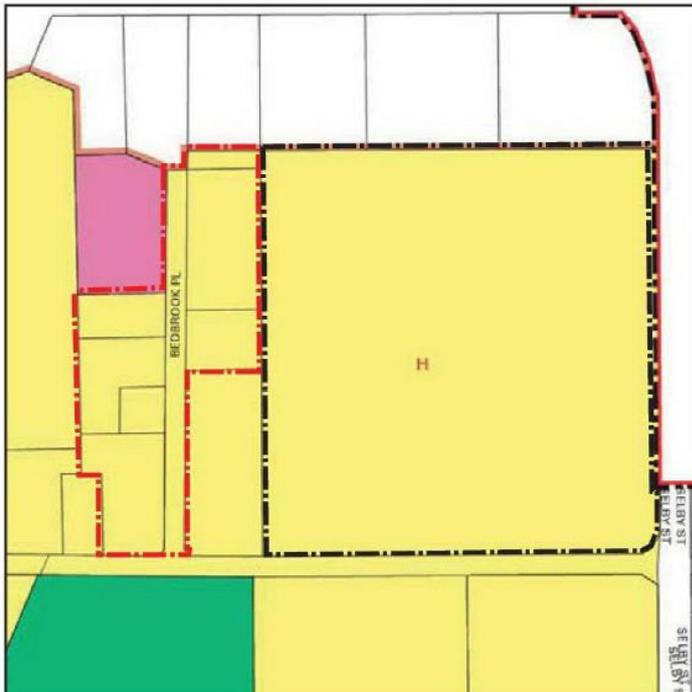
- BUSH FOREVER AREA

#### OTHER

- SUBJECT LAND
- PROPOSED MRS AMENDMENT (SHENTON PARK HOSPITAL REDEVELOPMENT)

### CITY OF NEDLANDS TOWN PLANNING SCHEME NO. 2

Existing Zoning



#### METROPOLITAN REGION SCHEME RESERVES

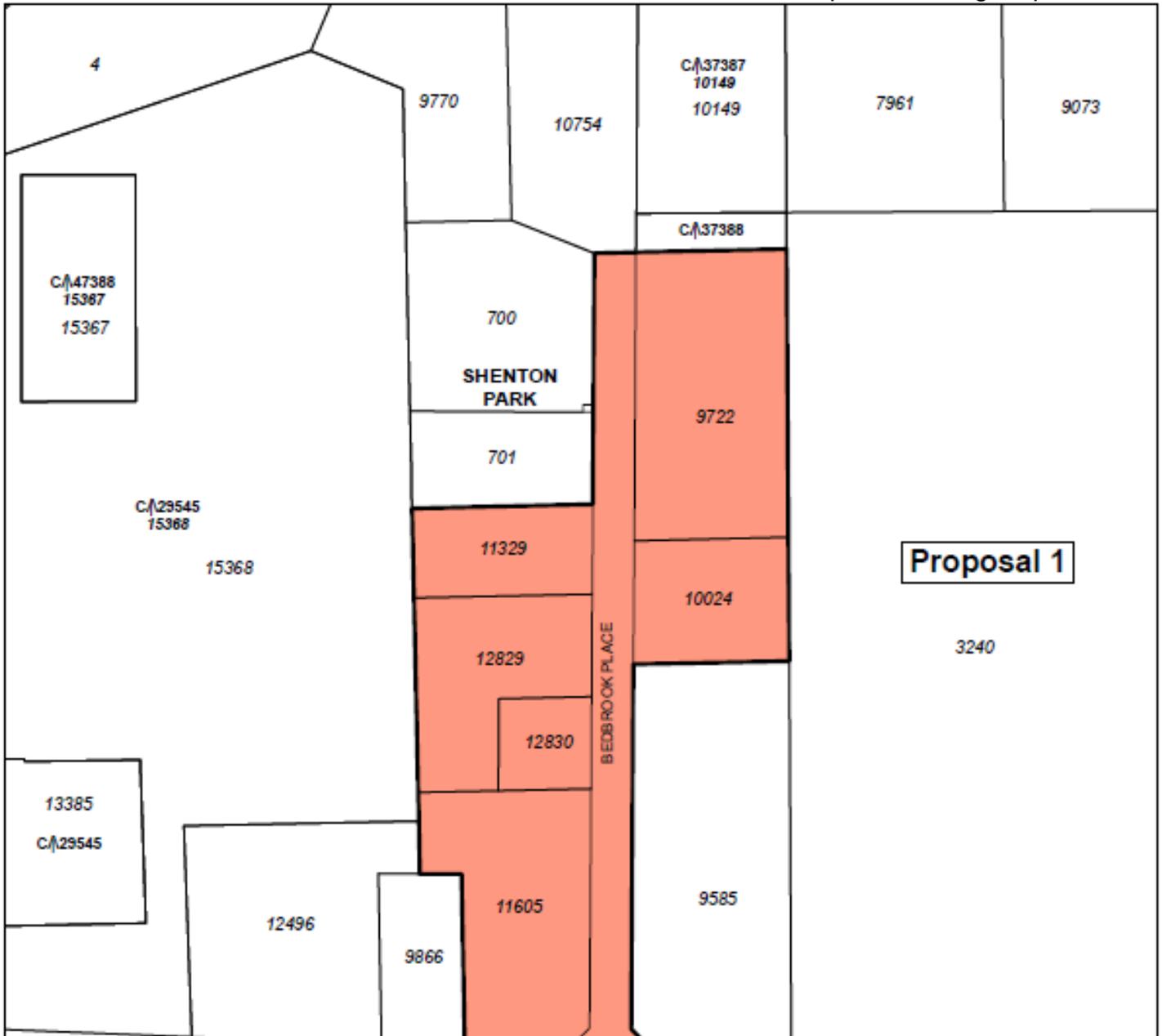
- PARKS AND RECREATION
- PUBLIC PURPOSES - DENOTED AS FOLLOWS:
  - H HOSPITAL
  - WSD WATER AUTHORITY OF WA

#### ZONES

- DEVELOPMENT
- LIGHT INDUSTRY

#### OTHER

- NO ZONE
- SUBJECT LAND
- PROPOSED MRS AMENDMENT (SHENTON PARK HOSPITAL REDEVELOPMENT)



**Proposal 1**

LEMNOS STREET

**BEDBROOK PLACE, SHENTON PARK**  
proposed minor amendment  
as advertised

28 June 2016

Proposal 1

Proposed Amendment:

 Urban zone

Oracle reference no: 2853  
File number: 833/02/08/0014P V  
Version number: 2



Department of  
Planning



Western  
Australian  
Planning  
Commission

