

TOWN OF CLAREMONT SCHEME AMENDMENT

TOWN PLANNING SCHEME NO. 3 – SCHEME AMENDMENT NO. 135

AMENDING ZONING OF LOT 90 FERN STREET, SWANBOURNE

JULY 2017



Planning and Development Act 2005

Resolution Deciding to Amend a Town Planning Scheme

Town of Claremont

Town Planning Scheme 3

Amendment 135

Resolved that Council, in accordance with Section 75 of the *Planning and Development Act 2005*, amend Town Planning Scheme No. 3 as follows:

1. Amend the 'Residential' zoning of Lot 90 Fern Street, Claremont to 'Local Reserves- Recreation',
2. Amend the Scheme map accordingly, and
3. Authorise the amendment documentation to be finalised and signed by CEO and Mayor.

Dated this 27th day of June 2017.

L Ledger

Chief Executive Officer

Scheme Amendment Report

Proposal to Amend a Town Planning Scheme

Local authority:	Town of Claremont
Description of Town Planning Scheme:	Town Planning Scheme No.3
Type of scheme:	Local Planning Scheme
Serial number of amendment:	Amendment No.135
Proposal:	Amend the zoning of Lot 90 Fern Street from Residential with an R20 coding to Local Reserves – Recreation
Report By:	Town of Claremont

Introduction

The Town of Claremont proposes to amend its Town Planning Scheme No. 3 (TPS3) by amending the zoning of Lot 90 Fern Street, Claremont from 'Residential' with an 'R20' coding to 'Local Reserves – Recreation'

The purpose of this amendment is to reserve the land as parkland and prevent its future development as part of surrounding residential development.

Site Details

Lot 90 Fern Street is owned by the Town of Claremont in freehold. It is zoned 'Residential' with an 'R20' coding under TPS3 and is currently undeveloped vacant land.

Lot 90 comprises a total area of 685m². The land abuts Lot 89 to the east (developed as a single dwelling) and adjoins McKenzie Park to the north. The McKenzie Park is approximately 11,318m² (1.1318 ha).

Background

The future of Lot 90 Fern Street has been a matter of debate since about 2009 when a strategic asset review identified the Town's ownership of the land, its zoning and potential value at sale. In particular the residents in the immediate locality have strongly advocated that the land should be changed from residential to reserved parkland.

When Council considered the future of Lot 90 at its meeting of 20 April 2010 it resolved:

That

- 1. The Officer Recommendation not be adopted.*
- 2. Having considered the minutes of the Special Elector's Meeting of 30 March 2010, Council receive and acknowledge the resolution of the meeting.*
- 3. Taking into account Council's duty to represent the interests of the electors, ratepayers and residents of the district, Council maintain Lot 90 Fern Street on the Register of Assets as a freehold block zoned residential R20.*

Reason:

To allow the current amenity to remain while also protecting the interests of future ratepayers throughout the whole municipality by retaining flexibility in use of the land.

Most recently the land was discussed in the report presenting Scheme Amendment No. 134 for final adoption to the Council meeting of 16 May 2017:

Lot 90 Fern Street

One of the submissions raised the question of Lot 90 Fern Street. Lot 90 is currently zoned 'Residential R20' and is owned in freehold by the Town. While no rezoning of this lot is currently proposed, it was considered in the initial report to Council, as follows:

"Lot 90 Fern Street is owned by the Town in freehold. It appears that the land was acquired for the purpose of allowing a road connection through to Mitford Street however was ultimately not required for this, and the road was constructed under its present alignment to the immediate west. The land has been treated as public open space by local residents and contains a number of mature trees. The site is valued by members of the local community, many of whom have successfully sought to retain the site as vacant land when Council previously considered its sale.

The lot is 685m² in area and has a likely value of in the order of \$1m if sold on the open market (a formal valuation has not been sought).

Reserving this lot as 'Local Reserves - Recreation' would mean the lot will remain as parkland in the future. In determining whether to include this lot into the amendment, Council should consider the relative benefits to the

community of retaining the land as is or selling it and using the proceeds to improve other facilities in the Town.

There may however be some potential for this land to be swapped with other State owned land. This would require detailed investigation and could be considered in the future should Council wish to pursue the application of a Local Open Space reservation on the land at another time. "

Rezoning of Lot 90 could be incorporated into Amendment No. 134 as a modification (although readvertising would be required), however this is not recommended as the property has a significant role to play in the Town's long term financial management (as detailed above). If Council wishes to consider rezoning of this lot it should be done separately, fully taking into account these matters in a strategic manner.

Council did not incorporate rezoning of Lot 90 into the scheme amendment but at the same meeting did support a motion to review this matter.

Planning Framework

Local Planning Strategy – Clearly Claremont

The Local Planning Strategy does not deal directly with the proposed site or changes however they are supported by the following key outcome contained within the Strategy:

E5 The Town supports protecting and increasing trees in streets, parks and public spaces.

Discussion

The issues to be considered by Council are:

- Local community
- Traffic safety
- Environmental
- Wider community and financial

Local community

The local community has advocated for the reservation of Lot 90 Fern Street since becoming aware it is not parkland and may be sold for its zoned purpose. There is no doubt that the local residents have an attachment to the land in its present undeveloped state. Community representations have been on the basis that the land has been treated as parkland for a long time, is valued as such by the local residents and should be added to the adjacent McKenzie Bushland. It has been stated that some properties have been aligned or realigned to address Lot 90 (on the assumption it was and would remain parkland) and others advise that they use the land for passive recreation purposes.

The residents also submit that the development of the land would create issues for traffic safety and parking.

A Special Meeting of Electors was held on Tuesday 30 March 2010 at the Creswell Park Pavilion with discussion focused around two points:

- The sale of Lot 90 Fern Street
- A proposal to convert Lot 90 Fern Street to parkland.

Fifty five members of the public attended the meeting together with all (then) members of the Council. The meeting passed the following motion without dissent:

That Lot 90 Fern Street, Claremont be incorporated into the existing reserve commonly known as McKenzie Bush.

Traffic safety

In 2010 the Town engaged Klyne Consultants Pty Ltd to conduct a Road Safety Review to address the concerns that had been raised, in particular to identify any existing road environment features of the section of road that could be removed, or modified to improve the safety of the road.

No traffic safety issues were identified which would be created or worsened by residential development of Lot 90.

A recent review of traffic numbers showed that there are no apparent issues with Fern Street compared to other similar local streets.

Adding one dwelling to the street is very unlikely to change the traffic situation in Fern Street.

Environmental

Ecoscape environmental consultants were engaged (as part of the work for the April 2010 report) to undertake a survey and assessment of the existing environmental values that are present at the McKenzie Bushland and Lot 90 Fern Street. The survey was especially to determine any environmental values present on Lot 90 Fern Street that may be lost if the land was no longer left as bush land.

The report found no substantive environmental values for the land which would be better described as parkland than bushland. The lack of under storey vegetation and the high visitation by local pets does not allow opportunity for the establishment of ground dwelling vertebrate fauna species. The report recognised the value provided through the existing tree species providing shelter and some feeding resources for bird species. Considered in the context of the adjoining bush land the report found that the loss of the trees on Lot 90 would not significantly reduce the environmental value of the McKenzie Bushland.

Wider community and financial

It is noted that the land has been allowed to be used by the general public in the same way as the adjacent parks and reserves. This would be true to a greater or lesser extent for all privately owned land which remains undeveloped for any period of time. In itself that does not change the status of the land (i.e. the zoning

and potential development is not changed or reduced by custom and practice where members of the public get used to having access to the land), however it is accepted that the use and preservation of the land for open space purposes has become an expectation of the adjacent local residents.

The Town did not actively consider the assets it owned or how they should best be utilised and/or used as a community asset until about 2009. While recognizing the strong local community desire that the lot not be sold and should be set aside as a park, in its role as custodian of the community's assets, the Council is required to consider the issue in the context of the wider community, that is, to represent the interests of electors, ratepayers and residents of the district. While recognising the social value placed on the lot by the local community, Council should also take into consideration what the wider community may gain if the asset was sold and the funds were available to benefit the district.

The Town obtained two valuations (April 2009 and September 2009) ranging from \$975,000 to \$1,100,000 for Lot 90 Fern Street. No updated valuation has been commissioned but it appears reasonable to anticipate a sale price in the order of \$1million. Putting this into context:

- \$1million would increase the future fund by 15%
- Save \$83,000pa for the life of a loan of \$1million over 20 years
- Provide a substantial contribution to capital works projects like the Underground Power initiative or aquatic centre project, or
- Make a decent reduction from the Town's debt.

Options considered by Council

Given the potentially contentious nature of the proposal, Council was presented with a range of options as follows to determine whether or not to proceed with this scheme amendment.

Option 1 Town Planning Scheme Amendment

That Council, in accordance with Section 75 of the *Planning and Development Act 2005*, amend Town Planning Scheme No. 3 as follows:

1. Amend the 'Residential' zoning of Lot 90 Fern Street, Claremont to 'Local Reserves- Recreation',
2. Amend the Scheme map accordingly, and
3. Authorise the amendment documentation to be finalised and signed by CEO and Mayor.

Option 2 Community consultation and poll

That:

1. Council authorise a community awareness and consultation process in the lead up to the 2017 local government elections to explain the proposal for reserve of Lot 90 as Local Reserves – Recreation and the alternative of selling the land as a community asset.

2. A poll of all electors be arranged to be held in conjunction with the annual elections, and
3. The Council decision whether to reserve the lot or dispose of it as a residential block will be made on the basis of the majority vote in the poll.

Option 3 Status quo

Taking into account Council's duty to represent the interests of the electors, ratepayers and residents of the district, Council maintain Lot 90 Fern Street on the Register of Assets as a freehold block zoned Residential with an R20 density coding.

Council consideration

Council considered the above matters and resolved to proceed with Option 1 to formalise the current use expectations of the land for the local residents and community.

Conclusion

The proposed scheme amendment to amend the Residential zoning of Lot 90 Fern Street will reserve the land as parkland and prevent its future development as part of surrounding residential development.

Planning and Development Act 2005

Town of Claremont Town Planning Scheme No. 3

Amendment No. 135

The Town of Claremont under and by virtue of the powers conferred upon it in that behalf by the *Planning and Development Act 2005* hereby amends the above local planning scheme by:

xxxxxxxxxx



EXISTING SCHEME MAP

Legend

Cadastre with Lot number

R Codes

LPS Zones

Residential

LPS Reserves

Local reserves - recreation

Existing Region Scheme Reserves

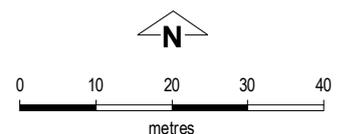
Parks and recreation



Department of Planning,
Lands and Heritage

Town of Claremont
Town Planning Scheme No. 3
Amendment No. 135

Produced by Geospatial Research and Modelling,
Department of Planning, Lands and Heritage, Perth WA
Base Information supplied by Western Australian
Land Information Authority LI 862-2016-1





PROPOSED SCHEME AMENDMENT MAP

Legend

 Cadastre with Lot number

LPS Zones and Reserves Amendments

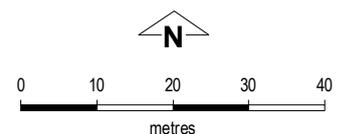
 Local reserves - recreation



Department of Planning,
Lands and Heritage

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Town of Claremont
Town Planning Scheme No. 3
Amendment No. 135



Adoption

Adopted by resolution of the Council of the Town of Claremont at the Ordinary Meeting of Council held on 27 June 2017.

J Barker

Mayor

L Ledger

Chief Executive Officer

Final Approval

Amendment supported by resolution of the Town of Claremont at the Ordinary Meeting of Council held on _____. The seal of the Town of Claremont was hereunto affixed by the authority of a resolution of the Council in the presence of:

J Barker

Mayor

L Ledger

Chief Executive Officer

[Town of Claremont Seal]

Recommended/submitted for final approval

The Western Australian Planning Commission (Delegated under s.16 of the *Planning and Development Act 2005*).

Final Approval Granted