



City of Nedlands

# ***Agenda***

## ***Council Meeting***

***23 August 2011***

Dear Council member

The next ordinary meeting of the City of Nedlands will be held on Tuesday 23 August 2011 in the Council chambers at 71 Stirling Highway Nedlands commencing at 7 pm.

Graham Foster  
Chief Executive Officer  
16 August 2011

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## City of Nedlands

**Notice of an ordinary meeting of Council to be held in the Council chambers, Nedlands on Tuesday 23 August 2011 at 7 pm.**

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### Council Agenda

#### Declaration of Opening

The Presiding Member will declare the meeting open at 7 pm and will draw attention to the disclaimer below.

(NOTE: Council at its meeting on 24 August 2004 resolved that should the meeting time reach 11.00 p.m. the meeting is to consider an adjournment motion to reconvene the next day).

#### Declaration of Opening

The Presiding Member will declare the meeting open at 7 pm and will draw attention to the disclaimer below.

(NOTE: Council at its meeting on 24 August 2004 resolved that should the meeting time reach 11.00 p.m. the meeting is to consider an adjournment motion to reconvene the next day).

#### Present and Apologies and Leave Of Absence (Previously Approved)

**Leave of Absence**                      Councillor N B J Horley                      Coastal Districts Ward  
**(Previously Approved)**

**Apologies**                      Councillor I S Argyle                      Dalkeith Ward

#### Disclaimer

No responsibility whatsoever is implied or accepted by the City of Nedlands for any act, omission or statement or intimation occurring during Council or Committee meetings. City of Nedlands disclaims any liability for any loss whatsoever and howsoever caused arising out of reliance by any person or legal entity on any such act, omission or statement or intimation occurring during Council or Committee meetings. Any person or legal entity who acts or fails to act in reliance upon any statement, act or omission made in a Council or Committee meeting does so at that person's or legal entity's own risk.

In particular and without derogating in any way from the broad disclaimer above, in any discussion regarding any planning application or application for a licence, any statement or intimation of approval made by a member or officer of the City of Nedlands during the course of any meeting is not intended to be and is not to be taken as notice of approval from the City of Nedlands. The City of Nedlands warns that anyone who has any application lodged with the City of Nedlands must obtain

and should only rely on written confirmation of the outcome of the application, and any conditions attaching to the decision made by the City of Nedlands in respect of the application.

The City of Nedlands wishes to advise that any plans or documents contained within this agenda may be subject to copyright law provisions (*Copyright Act 1968, as amended*) and that the express permission of the copyright owner(s) should be sought prior to their reproduction.

It should be noted that Copyright owners are entitled to take legal action against any persons who infringe their copyright. A reproduction of material that is protected by copyright may represent a copyright infringement.

**1. Public Question Time**

A member of the public wishing to ask a question should register that interest by notification in writing to the CEO in advance, setting out the text or substance of the question.

The order in which the CEO receives registrations of interest shall determine the order of questions unless the Mayor determines otherwise. Questions must relate to a matter affecting the City of Nedlands.

**2. Addresses by Members of the Public**

Addresses by members of the public who have completed Public Address Session Forms to be made at this point.

**3. Requests for Leave of Absence**

Any requests from Councillors for leave of absence to be made at this point.

**4. Petitions**

Petitions to be tabled at this point.

**5. Disclosures of Financial Interest**

The Presiding Member to remind Councillors and Staff of the requirements of Section 5.65 of the *Local Government Act* to disclose any interest during the meeting when the matter is discussed.

A declaration under this section requires that the nature of the interest must be disclosed. Consequently a member who has made a declaration must not

preside, participate in, or be present during any discussion or decision making procedure relating to the matter the subject of the declaration.

However, other members may allow participation of the declarant if the member further discloses the extent of the interest. Any such declarant who wishes to participate in the meeting on the matter, shall leave the meeting, after making their declaration and request to participate, while other members consider and decide upon whether the interest is trivial or insignificant or is common to a significant number of electors or ratepayers.

## **6. Disclosures of Interests Affecting Impartiality**

The Presiding Member to remind Councillors and Staff of the requirements of Council's Code of Conduct in accordance with Section 5.103 of the *Local Government Act*.

Councillors and staff are required, in addition to declaring any financial interests to declare any interest that may affect their impartiality in considering a matter. This declaration does not restrict any right to participate in or be present during the decision-making procedure.

The following pro forma declaration is provided to assist in making the disclosure.

"With regard to ..... the matter in item x..... I disclose that I have an association with the applicant (or person seeking a decision). As a consequence, there may be a perception that my impartiality on the matter may be affected. I declare that I will consider this matter on its merits and vote accordingly."

The member or employee is encouraged to disclose the nature of the association.

## **7. Declarations by Members That They Have Not Given Due Consideration to Papers**

Members who have not read the business papers to make declarations at this point.

## **8. Confirmation of Minutes**

### **8.1 Ordinary Council meeting 26 July 2011**

The minutes of the ordinary Council meeting held 26 July 2011 are to be confirmed subject to: correction to item 10.7 Councillor Argyle – Broadway Parking, Dalkeith Primary School and Post Newspaper as follows: delete the sentence "He also said that the owners of 91 Circe Circle had applied for the city to provide sprinklers so the trees don't die." and replace with "Councillor Argyle requested could the City

provide sprinklers to the trees along the boundary facing Circe Circle so the trees die.”

**9. Announcements of the Presiding Member without discussion**

Any written or verbal announcements by the Presiding Member to be tabled at this point.

**10. Members announcements without discussion**

Written announcements by Councillors to be tabled at this point.

Councillors may wish to make verbal announcements at their discretion.

**11. Matters for Which the Meeting May Be Closed**

In accordance with Standing Orders and for the convenience of the public, the Presiding Member is to notify the members of the public that the meeting will be closed for item 17.1 No. 10 (Lot 51) Knutsford Street Swanbourne – Proposed Additions to an Existing Carport and item 17.2 38 (Lot 51) & 40 (Proposed Lot 61 & 62) Jutland Parade, Dalkeith – Outcome of State Administrative Tribunal (SAT) review and Appeal rights, in accordance with Section 5.23(2)(d) of the Local Government Act 1995.

**12. Divisional reports and minutes of Council committees and administrative liaison working groups**

**12.1 Minutes of Council Committees**

This is an information item only to receive the minutes of the various meetings held by the Council appointed Committees (N.B. This should not be confused with Council resolving to accept the recommendations of a particular Committee. Committee recommendations that require Council’s approval should be presented to Council for resolution via the relevant departmental reports).

**The Minutes of the following Committee meetings (in date order) are to be received:**

<b>CEO Performance Review Committee</b>	<b>18 July 2011</b>
Un-confirmed, to be circulated to Councillors on 9 August 2011	
<b>Traffic Management Committee</b>	<b>2 August 2011</b>
Circulated to Councillors on 9 August 2011	
<b>Council Committee</b>	<b>9 August 2011</b>
Circulated to Councillors on 16 August 2011	

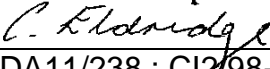
**Note: As far as possible all the following reports under items 12.2, 12.3, 12.4 and 12.5 will be moved en-bloc and only the exceptions (items which Councillors wish to amend) will be discussed.**

**12.2 Development Services Report No's D44.11 to D52.11 (copy attached)**

Note: Regulation 11(da) of the *Local Government (Administration) Regulations 1996* requires written reasons for each decision made at the meeting that is significantly different from the relevant written recommendation of a committee or an employee as defined in section 5.70, but not a decision to only note the matter or to return the recommendation for further consideration.

<b>D44.11</b>	<b>No. 98 (Lot 604) Circe Circle, Dalkeith – Overheight Secondary Street Fence</b>
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<b>Committee</b>	9 August 2011
<b>Council</b>	23 August 2011

<b>Applicant</b>	Lawrence Scanlan Architects
<b>Owner</b>	Mario & Natalie De Felice
<b>Officer</b>	Elle O'Connor – Planning Officer
<b>Director</b>	Carlie Eldridge – Director Development Services
<b>Director Signature</b>	
<b>File ref</b>	DA11/238 : C12/98-02 : M11/14184
<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> .

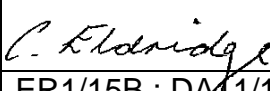
**Committee Recommendation**

**Council approves the application for an over height secondary street fence at No. 98 (Lot 604) Circe Circle, Dalkeith in accordance with the application and plans dated 10 November 2010.**



<b>D45.11</b>	<b>No.15b (Lot 50) Erica Avenue, Mt Claremont - Proposed Two Storey Dwelling</b>
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<b>Committee</b>	9 August 2011
<b>Council</b>	23 August 2011

<b>Applicant</b>	Residential Building WA
<b>Owner</b>	Arthur & Jeanette Marshall
<b>Officer</b>	Elle O'Connor – Planning Officer
<b>Director</b>	Carlie Eldridge – Director Development Services
<b>Director Signature</b>	
<b>File ref</b>	ER1/15B : DA/11/161 : M11/14177
<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> .

**Committee Recommendation / Recommendation to Committee**

**Council approves an application for a two storey dwelling located at No.15b (Lot 50) Erica Avenue, Mt Claremont in accordance with the application and plans dated 5 May 2011 and the amended plans dated 27 May 2011 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 10 year recurrent storm event and the capacity of soakwells shall be a minimum of 1 cubic meter 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. 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 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; and**

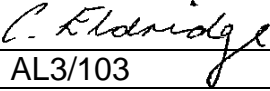
- 5. any additional development, which is not in accordance with the original application or conditions of approval, as outlined above, will require further approval by Council.**

**Advice Notes specific to this approval**

- a) All verge development must comply with the Council's Verge Development Policy where verge developments other than lawn require a landscaping plan submitted for approval before commencement and verge developments not complying with this policy shall be modified at the owner's cost.**
- 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) Ensure that airconditioner unit(s) comply with relevant Australian Standards and that noise emissions comply with the *Environmental Protection (Noise) Regulations 1997*. Additionally, ensure that any unit is positioned so as to not create unreasonable noise to neighbours or directly emit exhaust air into openings of neighbouring premises.**

<b>D46.11</b>	<b>No.103 (Lot 23616) Alfred Road Mount Claremont - Retrospective Approval for Mt Claremont Primary School Farmers Market</b>
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<b>Committee</b>	9 August 2011
<b>Council</b>	23 August 2011

<b>Applicant</b>	Mount Claremont Primary School P & C
<b>Owner</b>	Mount Claremont Primary School
<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>	AL3/103
<b>Previous Item No's</b>	D46.08
<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> .

**Committee Recommendation / Recommendation to Committee**

**Council approves the permanent operation of the Farmers Market at the Mount Claremont Primary School in accordance with the application and plans dated 25 March 2011 subject to the following conditions:**

- 1. The operating hours for the Market shall be:**
  - a) Saturday between the hours of 7:30 am to 1:00 pm; and**
  - b) one evening market held in the week prior to Christmas, between the hours of 5:30 pm and 9:00 pm;**
- 2. the stallholders shall be permitted to be on the site for the purposes of setting up and taking down of the stalls, up to a maximum of 1.5 hours before and after operating hours;**
- 3. the traffic and parking generated by the use shall be managed by the Mount Claremont P & C to the satisfaction of the City and shall include, but not be limited to, the following:**
  - a) providing onsite parking during markets hours in accordance with the approved plans;**
  - b) providing a minimum of four (4) parking attendants;**

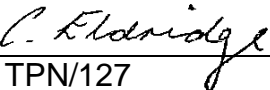
- c) **signage which directs traffic to designated parking;**
  - d) **parking attendants shall be directing traffic and signs shall be erected, for the full duration of the operating hours and all signs shall be removed by 1:00 pm; and**
  - e) **the control and prevention of parking on the verges of all streets surrounding the school.**
- 4. **a maximum of 55 stalls shall operate at any one time;**
  - 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; and**
  - 6. **sufficient waste disposal infrastructure in place to the satisfaction of the City.**

**Advice Notes**

- a) **The applicants will be required to comply with the City of Nedlands minimum criteria for the operation of temporary food stalls, and the Health Act 1911, and will be subject to applicable fees in this regard.**

<b>D47.11</b>	<b>Hampden Broadway North Hollywood Precincts Study – Project Plan 2.0</b>
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<b>Committee</b>	9 August 2011
<b>Council</b>	23 August 2011

<b>Applicant</b>	City of Nedlands
<b>Owner</b>	Various
<b>Officer</b>	Gabriela Poczyn – Manager Strategic Planning
<b>Director</b>	Carlie Eldridge – Director Development Services
<b>Director Signature</b>	
<b>File ref</b>	TPN/127
<b>Previous Item No's</b>	D45.10 - 27 July 2011
<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> .

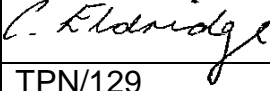
Recommendation to Committee

Council:

1. endorses that the Project Plan 1.0 for the Hampden Broadway North Hollywood Precincts Study is concluded; and
2. adopts Project Plan 2.0 for the Hampden Broadway North Hollywood Precincts Study.

<b>D48.11</b>	<b>Draft Bedbrook Place Biodiversity Local Planning Policy</b>
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<b>Committee</b>	9 August 2011
<b>Council</b>	23 August 2011

<b>Applicant</b>	Nil
<b>Owner</b>	Various property owners affected
<b>Officer</b>	Gabriela Poezyn – Manager Strategic Planning
<b>Director</b>	Carlie Eldridge – Director Development Services
<b>Director Signature</b>	
<b>File ref</b>	TPN/129
<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> .

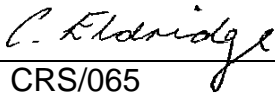
**Committee Recommendation / Recommendation to Committee**

**Council:**

1. approves for public consultation the proposed draft Local Planning Policy – Biodiversity Corridors in the Bedbrook Place locality (BCBP-LPP);and
2. instructs Administration to initiate discussions with:
  - a) the Para Quad Association of WA in regards to Reserve 37387, with the view to making a subsequent request to the State government to grant a management order over the land in favour of the City; and
  - b) the Department of Health to investigate methods to protect the existing area of remnant bushland located along the western boundary of Reserve 2290 (No 6) Selby Street.

<b>D49.11</b>	<b>Draft Local Planning Policy – Setback and Buildings on the Boundary in Low Density Zoning (R10 and R12.5)</b>
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<b>Committee</b>	9 August 2011
<b>Council</b>	23 August 2011

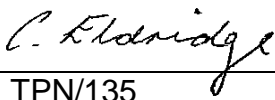
<b>Applicant</b>	City of Nedlands
<b>Owner</b>	City of Nedlands
<b>Officer</b>	Coralie Anderson – Senior Planning Officer
<b>Director</b>	Carlie Eldridge – Director Development Services
<b>Director Signature</b>	
<b>File ref</b>	CRS/065
<b>Previous Item No's</b>	Nil
<b>Disclosure of Interest</b>	No officer 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> .

**Committee Recommendation / Recommendation to Committee**

**Council approves for the purpose of public consultation the proposed Draft Local Planning Policy – Setback and Buildings on the Boundary in Low Density Zoning (R10 and R12.5).**

<b>D50.11</b>	<b>Draft Capital City Planning Framework - Public Comment</b>
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<b>Committee</b>	9 August 2011
<b>Council</b>	23 August 2011

<b>Applicant</b>	N/A
<b>Owner</b>	N/A
<b>Officer</b>	Gabriela Poezyn – Manager Strategic Planning
<b>Director</b>	Carlie Eldridge – Director Development Services
<b>Director Signature</b>	
<b>File ref.</b>	TPN/135
<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> .

**Committee Recommendation**

**Council:**

1. supports the draft Capital City Planning Framework in principle as a coordinated approach to Capital City Planning;
2. identifies the following issues and requests that these issues are addressed and/or corrected in the final document:
  - a) the final proposal needs to provide for commuter cyclists and take the local cycle network into account;
  - b) a connection needs to be created between the proposed ferry terminal at JoJo's and the high frequency/high capacity road public transport route which terminates at the intersection of Princess Road and Fairway;
  - c) the Subiaco Waste Water Treatment Plant Odour Buffer be shown in the framework as a non-residential area noting the proposed residential area on Lot 4 (corner Selby Street and Underwood Avenue) is required to be reduced to the boundary

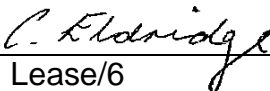


**of the odour buffer from the existing of the Subiaco Waste Water Treatment Plant;**

- d) the proposed high density housing in Carrington Street is not acceptable as it will result in the City being deprived of one of only two service industrial areas which are considered vital to future sustainability;**
  - e) the proposed high density housing along the Esplanade is not acceptable to the City and should remain earmarked for lower intensity residential development;**
  - f) it is not appropriate that the Hollywood Aged Care site (Monash Street) is earmarked for medium intensity residential development because this could compromise its current purpose which is to provide for the aged persons accommodation which is vital for future sustainability;**
  - g) a green link is required through the QEII site to create a connection between the proposed greened Verdun Street road reserve and Kings Park; and**
  - h) the boundary of Capital Cites Planning Framework being considered for refinement to reflect planning considerations and geography.**
- 3. works closely with the City on finalising the framework to ensure integration if the City's Strategic Town Planning.**

<b>D51.11</b>	<b>Cottesloe Golf Club Inc –Surrender of Lease and proposed new twenty-one year Lease with the option of a further twenty-one year term.</b>
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<b>Committee</b>	09 August 2011
<b>Council</b>	23 August 2011

<b>Applicant</b>	Cottesloe Golf 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/6
<b>Previous Item No's</b>	Item C04.03, 11 February 2003
<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> .

**Committee Recommendation**

1. approves the surrender of the existing lease between the City and Cottesloe Golf Club Inc; and
2. approves and endorses the attached exclusive use lease for a twenty-one year term with the option of a further twenty-one year term between the City and the Cottesloe Golf Club Inc. subject to the inclusion of a clause that does not preclude the creation of a safe recreational pathway in the vicinity of the eastern boundary at sometime in the future to the agreement of both parties.

<b>D52.11</b>	<b>Construction of the refurbishment, additions and alterations to the John Leckie Pavilion</b>
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<b>Committee</b>	9 August 2011
<b>Council</b>	23 August 2011

<b>Applicant</b>	City of Nedlands
<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>	TEN/328
<b>Previous Item No's</b>	<i>C. Eldridge</i>
<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> .

**Committee Recommendation / Recommendation to Committee**

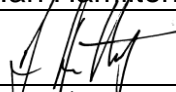
**Council accepts the tender from Gavin Construction for the construction of the refurbishment, alterations and additions to the John Leckie Pavilion at a cost of \$2,551,041.90.**

**12.3 Technical Services Report No T05.11 (copy attached)**

Note: Regulation 11(da) of the *Local Government (Administration) Regulations 1996* requires written reasons for each decision made at the meeting that is significantly different from the relevant written recommendation of a committee or an employee as defined in section 5.70, but not a decision to only note the matter or to return the recommendation for further consideration.

<b>T05.11</b>	<b>Tender No. 2010/11.13 – Weed Control For Hard Landscape Areas</b>
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<b>Committee</b>	9 August 2011
<b>Council</b>	23 August 2011

<b>Applicant</b>	City of Nedlands
<b>Owner</b>	City of Nedlands
<b>Officer</b>	Andrew Dickson – A/Manager Parks Services
<b>Director</b>	Ian Hamilton – Director Technical Services
<b>Director Signature</b>	
<b>File ref.</b>	TEN/312
<b>Previous Item No's</b>	Item T6.08 – Council Minutes – 9 September 2008
<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> .

**Committee Recommendation / Recommendation to Committee****Council:**


1. accepts the tender submitted by Steamwand International trading as Weedtechnics for the supply of thermal and mechanical weed control services for the 2011/12 financial year at a cost of \$82,566.00 excluding GST; and
2. accepts the option to extend the contract for two (2), twelve month periods at the end of the initial period ending 30 June 2012, at the principal's discretion.

**12.4 Community & Strategy Report No CM07.11 (copy attached)**

Note: Regulation 11(da) of the *Local Government (Administration) Regulations 1996* requires written reasons for each decision made at the meeting that is significantly different from the relevant written recommendation of a committee or an employee as defined in section 5.70, but not a decision to only note the matter or to return the recommendation for further consideration.

<b>CM07.11</b>	<b>Policy Review</b>
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<b>Committee</b>	9 August 2011
<b>Council</b>	23 August 2011

<b>Applicant</b>	City of Nedlands
<b>Owner</b>	City of Nedlands
<b>Director</b>	Carlie Eldridge - Director Development Services Mike Cole – Director Corporate Services
<b>Director</b>	Darla Blake - Director Community and Strategy
<b>Director Signature</b>	
<b>File ref.</b>	CRS/065
<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> .

**Committee Recommendation / Recommendation to Committee**

**Council approves the following policies:**

1. **Home Business replacing policy 6.1; and**
2. **Records Management (revised)**

**12.5 Corporate Services Report No's CP28.11 to CP30.11 (copy attached)**

Note: Regulation 11(da) of the *Local Government (Administration) Regulations 1996* requires written reasons for each decision made at the meeting that is significantly different from the relevant written recommendation of a committee or an employee as defined in section 5.70, but not a decision to only note the matter or to return the recommendation for further consideration.

<b>CP28.11</b>	<b>Monthly Financial Report – June 2011</b>
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<b>Committee</b>	9 August 2011
<b>Council</b>	23 August 2011


<b>Applicant</b>	City of Nedlands
<b>Owner</b>	City of Nedlands
<b>Officer</b>	Rajah Senathirajah – Manager Finance
<b>Director</b>	Michael Cole – Director Corporate Service
<b>Director Signature</b>	
<b>File ref.</b>	Fin/072-16
<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 Local Government Act (1995).

**Committee Recommendation / Recommendation to Committee**

**Council receives the preliminary Monthly Financial Report for June 2011.**

<b>CP29.11</b>	<b>Investment Report – June 2011</b>
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<b>Committee</b>	9 August 2011
<b>Council</b>	23 August 2011

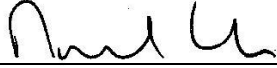
<b>Applicant</b>	City of Nedlands
<b>Owner</b>	City of Nedlands
<b>Officer</b>	Rajah Senathirajah – Manager Finance
<b>Director</b>	Michael Cole – Director Corporate Service
<b>Director Signature</b>	
<b>File ref.</b>	Fin/071-06
<b>Previous Item No's</b>	Nil
<b>Disclosure of Interest</b>	No officer involved in the preparation of this report had any interest which required it to be declared in accordance with the provisions of the Local Government Act (1995).

**Committee Recommendation / Recommendation to Committee**

**Council receives the Investment Report for the period ended 30 June 2011**

<b>CP30.11</b>	<b>List of Accounts Paid – June 2011</b>
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<b>Committee</b>	9 August 2011
<b>Council</b>	23 August 2011

<b>Applicant</b>	City of Nedlands
<b>Owner</b>	City of Nedlands
<b>Officer</b>	Rajah Senathirajah – Manager Finance
<b>Director</b>	Michael Cole – Director Corporate Service
<b>Director Signature</b>	
<b>File ref:</b>	Fin/072-16
<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 Local Government Act (1995).

**Committee Recommendation / Recommendation to Committee**

**Council receives the List of Accounts Paid for the month of June 2011.**

**13. Reports by the Chief Executive Officer**

**13.1 Common Seal Register Report – July 2011**

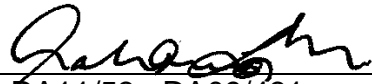
The attached Common Seal Register Report for the month of July 2011 is to be received.

**13.2 List of Delegated Authorities – July 2011**

The attached List of Delegated Authorities for the month of July 2011 is to be received.



**13.3 No. 9 (Lot 54) Iris Avenue, Dalkeith – Proposed Retrospective Amendments to previously Approved Two Storey Dwelling.**

<b>Applicant</b>	David Reynolds
<b>Owner</b>	Lasair Property Trust
<b>Officer</b>	Nick Bakker – Planning Officer
<b>Director</b>	Carlie Eldridge – Director Development Services
<b>CEO</b>	Graham Foster – Chief Executive Officer
<b>CEOs Signature</b>	
<b>File ref</b>	DA11/53 : DA09/431
<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**

Council originally considered this application for proposed retrospective works and No. 9 Iris Avenue, Dalkeith at the meeting on 28 June 2011, where it was resolved that the application be referred back to administration for additional information.

**Recommendation to Committee**

**Council approves an application for Retrospective Amendments to a previously approved Two Storey Dwelling at No. 9 (Lot 54) Iris Avenue, Dalkeith in accordance with the application dated 15 February 2011 and the amended plans dated 2 March 2011 and 3 August 2011 subject to the following conditions:**

- 1. The applicant is to render the northern boundary wall on the side facing the neighbouring property, to the satisfaction of the City;**
- 2. Within 30 days of Councils decision the overheight solid portion of the northern boundary fence located in the 9 m primary setback area is to be reduced to:**
  - i. have a maximum pillar height of 2.1 m (including capping) above natural ground level (ngl);**
  - ii. have a maximum height of 1.8 m for the remainder of the fence'; and**

- iii. to be visually permeable above 1.2 m from ngl in accordance with the Residential Design Codes (RCodes).
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 retaining walls and boundary fencing and footings shall be constructed wholly inside the allotment.
5. 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 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.
6. 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.
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.

**Advice Notes specific to this approval**

1. 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.
2. Property owners are required by law to ensure that mechanical devices located on their property such as air conditioners do not create unreasonable noise to neighbouring properties. It is strongly advised that consultation be undertaken with the air conditioner installer and adjoining neighbour(s) prior to installation of any airconditioner equipment.
3. 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 air conditioner may be prohibited from being used. It is recommended that applicants refer to the City’s Visual and Acoustic Privacy Information document and also the online fairair noise calculator online at. Further advice can be sought from Acoustic Engineers who are listed in the Yellow Pages under “Acoustical Consultants”.

4. Prior to the commencement of works, any consents or approvals required under the *Strata Titles Act 1985* will need to be obtained.

**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. 9 (Lot 54) Iris Avenue, Dalkeith  
 Zoning MRS: Urban  
 Zoning TPS2: Residential – R10  
 Lot Area: 810 m<sup>2</sup>

The City has previously issued two planning approvals and building licenses for this property, as detailed below:

Date	Action/Comments
January 2008	The City approved a development application (DA07/210) for a proposed two storey dwelling, with basement garage and swimming pool. The plans were approved with a family room and patio with a rear setback of 2.82 m.
March 2009	The above development did not proceed and a new application (DA09/83) for a completely new design was submitted in March 2009.
July 2009	The City approved the second development application (DA09/83) for a two storey dwelling and swimming pool. The application was approved with a condition that the rear setback be a minimum of 6 m.
September 2009	The applicant submitted another application (DA09/431), proposing the following amendments to the previous approval: <ul style="list-style-type: none"> <li>• 1.8 m brick screen walls on the side and rear boundaries of the property;</li> <li>• Increasing the size of the rear alfresco area, this would reduce the rear setback from the required 6 m to 4.26 m;</li> </ul>

	<ul style="list-style-type: none"> <li>• Amendments to the front screen wall;</li> <li>• Retaining walls along the driveway;</li> <li>• Slight changes to the roof design and front elevations.</li> </ul>
October 2009	The above application was assessed and additional information was requested.
August 2010	The City sent out a cancelation letter dated 6 August 2010 notifying of cancelation by 19 August 2010 after no information was received.
September 2010	A phone conversation with the applicant was recorded, where he applicant informed the planning officer that the dwelling had already been constructed with these unapproved amendments and requested the application be cancelled and they will resubmit for retrospective approval.
February 2011	This retrospective application for the unapproved amendments was submitted.
June 2011	The application was considered at Council where it was resolved that the application be referred back to Administration for additional information.

Following Councils request for the application to be referred back the applicant has submitted more accurate information which explains a number of details not originally clear when the application was considered at the June Council Meeting. The assessing officer has also inspected the site and noted that there were a number of inaccuracies with the original plans.

The following list outlines the key issues which have now been clarified with the additional information:

1. The original plans submitted with this application showed the front fence and pillars stepping down with the slope of the land resulting in a maximum height of 2.1 m above ngl in accordance with the City's requirements.

It has become apparent the front fence does not step down with the slope of the land and has been constructed with a maximum top of wall height (including capping) of 2.55 m above ngl. The applicant has now provided accurate plans showing the fence (as built) in comparison to what was originally approved (refer to attachment 1).

2. It is also apparent that a solid boundary wall has been built within the 9 m setback area along the northern boundary. As this fence is solid above the 1.2 m required under the RCodes it is recommended the applicant reduce the fence to comply, as per Condition 2.

3. Initially the City received two objections in relation to the reduced rear setback. Following a number of discussions with the concerned neighbours both of these objections were withdrawn.
4. In the original administration report to Council it was recommended that a number of ground floor north facing windows be screened to remove overlooking issues. It has become apparent that the finished ground floor level (ffl) of 10.00RL is a maximum of 260 mm above the natural ground level (not over 500 mm as originally thought) and therefore complies with the privacy/overlooking requirement of the RCodes.

### **Proposal Detail**

This application is for the following retrospective amendments to DA09/413:

- 1.8 m brick screen walls on top of 500 mm of fill along the north side boundary of the property;
- Increasing the size of the rear alfresco area, resulting in a reduced the rear setback from the required 6 m to 4.26 m;
- Amendments to the front boundary wall;
- A gate house located on the front boundary;
- Retaining walls along the driveway;
- Changes to the roof design and minor changed to the front elevation.

All of the above changes are highlighted on the attached plans.

### **Consultation**

Required by legislation: Yes  No

Required by City of Nedlands policy: Yes  No

Advertising Period 22 March 2011 – 5 April 2011

Comments received: Two letters of 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.

Since the July Council Meeting separate meetings were held with the objecting neighbours, to gain a better understanding of their concerns.

Following discussions with the neighbours, a meeting was held at the City's office with the applicant to discuss the City's and the neighbours' concerns.

In this meeting the applicant agreed to:

1. Render the side of the northern boundary wall facing the neighbouring property at No. 7 Iris Avenue as per the neighbours request;
2. Reduce the solid wall on northern boundary located within the 9 m setback area, in order to comply with the RCode requirements (refer condition 2 and 3).

Summary of comments received	Officers technical comment
<p>Issue:</p> <p>The rear setback variation negatively affects neighbouring households.</p>	<p><b>Dismiss</b></p> <p>Following the last Council meeting the assessing officer met with the objecting neighbours, who stated they now have no objection to the reduced rear setback.</p> <p>Furthermore; the proposed rear setback is not considered to impact on the neighbouring properties. See discussion below for more detail.</p>
<p>Issue:</p> <p>The over height front fence negatively affects the streetscape and amenity.</p>	<p><b>Condition</b></p> <p>In the original administration report to Council it was recommended that the front fence be reduced to a maximum height of 2.1 m (including capping) above natural ground level.</p> <p>Since the application was referred back, the affected neighbour agreed that they will support the height of the overheight from wall, provided the applicant renders the new dividing fence on the side facing the neighbour's property. The applicant agreed to render the wall to the satisfaction of the affected owner.</p>

	It is therefore recommended condition 1 be included in the approval.
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**Legislation**

- City of Nedlands Town Planning Scheme No. 2 (TPS2)
- Residential Design Codes (RCodes)
- Council Policy Manual
- Fill and Fencing Policy

**Discussion**

The variations to the legislation are discussed as follows:

Issue: Rear Setback

RCodes Requirement Acceptable Development	The Alfresco requires a 6 m setback from the rear boundary.  (Refer to the marked up plan in attachment 8 for details regarding the rear setback requirements).
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 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;</li> <li>• Assist in protecting privacy between adjoining properties.</li> </ul>
Applicants Proposal	The Alfresco is proposed to be setback 4.26 m from the rear boundary, which intrudes 1.74 m into the 6 m rear setback area.
Applicant justification summary	<i>Approval was initially granted with a 2.82 m setback to the rear boundary. This was granted due in part to the neighbour to the rear of us having a setback of 1.5 m.</i>

<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 resubmitting the plans for approval the applicant amended the alfresco setback to 4.26 m as this would mean more rear yard and still allow for a useable alfresco. Approval was granted with the condition that the rear setback be increased to 6 m in accordance with the RCodes.</i></p> <p><i>Given approval was originally granted for a 2.82 m set back to the rear, which extended almost the full width of the site, the applicant assumed that seeking approval for a increased 4.26 m set back where only a portion of flat roof and two columns extended into this area would not be a problem.</i></p>
<p>Officer technical comment</p>	<p>The setback of the alfresco is further setback than that of the adjoining property to the rear, which has a rear setback of 1.5 m.</p> <p>Furthermore, no submissions from the neighbouring owners to the rear of the property were received.</p> <p>The rear setback in relation to the side neighbours' original submissions is considered below.</p> <ol style="list-style-type: none"> <li>1. Southern adjoining property The proposed portion of alfresco located in the 6 m rear setback area has a south side setback in accordance with the RCodes. As the length of the alfresco wall located in the rear setback area is only 1.74 m and is setback from the side boundary in accordance with the RCodes, the impact on this adjoining property is therefore considered minimal.</li> <li>2. Northern adjoining property The alfresco is setback 8.5 m from the northern property boundary. The finished ground levels of the northern property at No. 7 Iris Avenue are approximately 500 mm below that of No. 9 Iris Avenue and the properties are separated by a 1.8 m high dividing fence.</li> </ol> <p>Given the information above and that the length of the alfresco wall located in the rear setback area is only 1.74 m it is considered the rear setback complies with the relevant Performance Criteria of the RCodes, as discussed below:</p>



- *Provide adequate direct sun and ventilation to the building;*
- *Provide adequate direct sun to the building and appurtenant open spaces;*

The proposed reduced rear setback has minimal impact on the access to direct sun and ventilation of the building as the proposed portion of the alfresco with the reduced setback is located towards the southern side of the property leaving adequate open areas with access to northern sun.

- *Ensure adequate direct sun and ventilation being available to adjoining properties;*
- *Assist with protection of access to direct sun for adjoining properties;*

The proposed rear portion of the dwelling is not considered to have any impact on the provision of sun and ventilation to adjoining properties as it is single storey, is setback from the side properties in accordance with the RCodes and has a maximum wall height of 3 m with a flat roof.

Furthermore, the 1.74 m portion of dwelling located in the 6 m rear setback area is setback 8.5 m from the northern boundary and is not considered to have any impact on the property to the north.

- *Assist in ameliorating the impacts of building bulk on adjoining properties;*
- *Assist in protecting privacy between adjoining properties.*

Given the size, location and proposed floor levels for the dwelling at No. 9 Iris Avenue it is not considered to have an adverse impact in terms of bulk and privacy on any of the surrounding properties.

Following Council's request to refer this application back to a later meeting for more information, the assessing officer has met with both adjoining owners to discuss the application and proposed variations in detail. Both adjoining land owners to the north and south confirmed that they are no longer concerned with the rear

	setback variation.
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Issue: Front and Side Boundary Fencing

RCodes/ Town Planning Scheme Requirement	<p>Front and side walls and fences in the 9 m primary street setback area shall be a maximum height of 1.8 m above natural ground level at the base of the wall and visually permeable in accordance with the residential design codes.</p> <p>The City has a working practice relating to fences located within the front setback area, which allows for capping on top of a 1.8 m fence pillar to be a maximum height of 2.1 m.</p>
Performance Criteria	<i>Front walls and fences to enable surveillance and enhance streetscape.</i>

Applicants Proposal	<p><i>“The fence along the front boundary has a maximum height of 2.55 m (including pier capping) above natural ground level, in the north western corner of the site.</i></p> <p><i>The portion of fence located within the 9m front setback area on the northern boundary is solid to a height of 1.8 m above ngl.”</i></p>
<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>When on site it was discovered that the undulation of the land meant that the front screen wall did not follow the lay of the land and as such would mean that on completion it would look as though an error had been made.</p> <p>Further it was apparent that the track for the open screen gate would be visible from the street and as such unsightly. Therefore we made the change to ensure it looked balanced.</p>
Officer technical comment	<p>As a result of the natural slope of land along the front of the property, the proposed front fence located in the 9 m front setback area is overheight in some portions.</p> <p>Although the front fence pillars (specifically in the north west corner) have a maximum height 450 mm above the maximum requirement, the slope of the land should be taken into consideration when assessing the impact of the overheight portion of fence. As the site slopes down approximately 1.75 m from south to north along the front boundary it is accepted</p>

	<p>that any resulting front fence will be over height at some points.</p> <p>Given the proposed front fence provides adequate visual permeability (in accordance with the RCodes) and still maintains a relatively open streetscape it is considered that the front boundary fence meets intent of the RCodes and City's Policy.</p> <p>The portion of fence located within the 9 m front setback area on the northern boundary is solid to a height of 1.8 m above ngl and does not comply with the acceptable development criteria of the RCodes.</p> <p>Although the fence along the front boundary provides adequate visual permeability (in accordance with the RCodes), it is considered the height of the northern portion of fence within the 9 m front setback area is not in keeping with open streetscape of Iris Avenue. In order to complement the design of the front fence and maintain the open streetscape along Iris Avenue, it is recommended this portion of fence be reduced to a maximum height of 2.1 m (to the pillar capping) and be visually permeable above 1.2 m from ngl (as per condition 2 and 3).</p>
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**Conclusion**

Given the information above, it is considered the proposed rear setback complies with the relevant performance criteria of the RCodes and is recommended for approval.

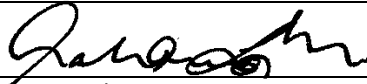
In relation to the front and side boundary fencing located within the 9 m setback area it is recommended the approval be conditioned to reduce the maximum height of the pillars along the northern boundary to 2.1 m above natural ground level with a maximum solid height of 1.2 m in accordance with Clause 6.2.5 of the RCodes. It is also suggested that this be carried out within 30 days of Council's approval.

Given the substantial slope of the land along the front boundary and that the portion of over height fence is relatively minor; it is recommended Council approve the front fence as shown in attachment 8, with the condition that the northern boundary wall is rendered to the satisfaction of the City.

**Attachments**

1. Locality Plan
2. Existing Site Survey Plan
3. Site and Setout Plan
4. Ground Floor Plan
5. Internal Dimensions and Front Fence Plan
6. Upper Floor Plan
7. Elevation Plans
8. Additional Plan showing the Front Fence as Constructed

**13.4 Café Located at Mt Claremont Community Centre – Part Lot 6987 on Deposited Plan 16726, House Number 19, Haldane Street, Mt Claremont. Proposed three (3) year lease with the option of a further two, one (1) year lease term between the City and R2R Services.**

<b>Applicant</b>	R2R Services
<b>Owner</b>	State of WA – Crown Grant to City of Nedlands
<b>Officer</b>	Neil Scanes – Property Management Officer
<b>Director</b>	Carlie Eldridge – Director Development Services
<b>CEO</b>	Graham Foster – Chief Executive Officer
<b>CEOs Signature</b>	
<b>File ref</b>	Lease/52
<b>Previous Item No's</b>	Item CM14.07, 12 June 2007; Item CM18.06, 9 May 2006; and Item C24.05, 26 April 2005
<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 approves and endorses an exclusive three (3) year lease with the option of a further two, one (1) year terms between the City and R2R Services for the provision of Café services at the Café located at Mt Claremont Community Centre, Mt Claremont as per the tender evaluation undertaken by WALGA.

It is presented as a CEO's report with an aim to reduce the time this community facility is vacant.

### **Recommendation to Committee**

#### **Council:**

- 1. accepts the tender from R2R Services for the provision of Café services at the Café located at Mt Claremont Community Centre as per attachment 1; and**
- 2. approves and endorses an exclusive three (3) year lease with the option of a further two, one (1) year terms between the City and R2R Services as per attachment 2.**

### **Strategic Plan**

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

- KFA 4: Community Wellbeing
  - 4.1 Provide and facilitate access to services and facilities required by the broader community, clubs and community groups.
  - 4.3 Provide services that meet community needs.
- KFA 5: Governance
  - 5.1 Manage the City's resources in a sustainable and responsible manner.
  - 5.6 Ensure compliance with statutory requirements and guidelines.

## **Background**

Mt Claremont Café is located within the Mt Claremont Community Centre situated off of Montgomery Avenue, Mt Claremont. The building was constructed in 2004 and incorporates the Café, Mt Claremont Library and Mt Claremont Playgroup.

The land on which the facility resides is legally described as a portion of Lot 6987 on Deposited Plan 167276, House Number 19 Haldane Street, Mt Claremont being part of the land contained in Certificate of Title Volume 2115 Folio 135.

Lot 6987 was transferred to the City in fee simple by way of Crown Grant in Trust in 1992 for the specific use of Community Purposes. However, when this land is no longer required for its stated purpose it may be sold and the value of the land returned to the State Government. With the introduction of the Land Administration Act in 1997, Crown Grants are no longer created and registered at Landgate. For all intent and purposes, this land is vested to the City for "Community Purposes".

The non-staffed Community Centre opened in December 2004 and operates on a rooms-for-hire basis. Rooms are booked through the City's Administration Office located at 71 Stirling Highway, Nedlands. This led to separate groups using the facility with little interaction between the entities.

On 26 April 2005, Item C24.05, Council endorsed the Terms and Reference for the Mt Claremont Community Centre Administrative Liaison Working Group, the purpose of which was to, "*investigate and make recommendations on options for improving the usage and functioning of the Mt Claremont Community Centre, aimed at achieving a vital, vibrant and viable Centre*".

The Working Group identified that by attracting a Café operator to the Mt Claremont Community Centre, it would assist significantly with turning the facility into a vibrant community centre as opposed to a building that simply provided a number of rooms for hire. Essentially, a Café would provide a focal point, a meeting place, a place to sit and a

reason to attend the centre even if not enrolled or engaged in a specific activity or course.

Considering the findings of the Mt Claremont Community Centre Administrative Liaison Working Group, Council resolved on 9 May 2006, Item C18.06, to *“call for Expressions of Interest to provide a Café service at the Mt Claremont Community Centre”*.

On 12 June 2007, Item CM14.07, Council resolved to *“enter into a lease between the City and Minaret Investments Pty Ltd trading as Gallery Oasis for the purposes of providing Café services at Mt Claremont Community Centre, rent free, for a term of 5 years and all capital development and on-going costs to be met by the tenant”*

The Commercial Tenancy (Retail Shops) Agreement Act 1985 states that a minimum five 5 year lease has to be entered into to allow the lessee to establish and develop a business. This can be a combination of term and option to extend the lease to the required 5 year period.

The Lessee was granted a three (3) year lease term with two options to renew for one (1) year.

The lease commenced on 15 October 2007. This lease was then varied by way of a Deed of Variation of Lease due to initial fit out and operational delays. The executed Deed of Variation of Lease amended the commencement date of the original lease to 18 May 2008.

The tenant, Minaret Investments Pty Ltd failed to exercise their lease renewal option as required by the terms of the lease. The Lessee was required to issue the City a notice prior to 18 February 2011 if it wished to renew the lease for the first initial one (1) year term. The law provides that when an option must be exercised within a specified period, the time condition is an essential term and failure to exercise it within the required time will result in loss of the option entitlement. Therefore, as the Lessee did not serve the required notice of exercise, the Lease expired on 17 May 2011.

As a consequence, the City notified Minaret Investments Pty Ltd to cease operations on or prior to 17 May 2011. The Café has been vacant since that time. However, the previous lessee has been allowed to store their equipment and non perishable stock on-site until a new tenant is chosen. This would allow any new tenant the opportunity to negotiate the purchase of Minaret’s equipment should a price be agreed between both parties.

Key Relevant Previous Decisions:

- Item CM14.07, 12 June 2007: Council resolved to approve a five (5) year lease between the City and Minaret Investments Pty Ltd;

- Item CM18.06, 9 May 2006: Council resolved to call for Expressions of Interest to provide a Café service at Mt Claremont Community Centre; and
- 
- Item C24.05, 26 April 2005: Council resolved to establish to Mt Claremont Community Centre Administrative Liaison Working Group to investigate and make recommendations on options for improving the usage and functioning of the Community Centre, aimed at achieving a vital, vibrant and viable Centre.

### Consultation

Required by legislation: Yes  No

Required by City of Nedlands policy: Yes  No

Under Section 3.58 of the Local Government Act 1995, a disposition of land includes to sell, lease or otherwise dispose of local government property. If a local government does not dispose of property via a public auction or the public tender method, the proposal must be advertised for public comments by way of public notice.

Section 1.7 of the Local Government Act 1995 states that local public notices be published in a district newspaper, exhibited on a notice board at the local government's offices and exhibited on a notice board at every local government library.

In order to meet the required legislative criteria, the City prepared a Request for Tender document, RFT 2010/11.18 and advertised for submissions from interested parties looking to provide Café services from the Mt Claremont Community Centre.

Notices appeared in the following publications:

- Western Suburbs Weekly (17 May 2011).
- The Post (21 May 2011); and
- West Australian Newspaper (21-22 May 2011)

Public notices detailing the Request for Tender requirements were displayed at the City's administration buildings notice board along with the notice boards located within the Mt Claremont Library and Nedlands Library to correspond with the publication of the newspaper adverts.

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



## Legislation

- Local Government Act 1995;
- Local Government (Functions & General) Regulations 1996;
- The Commercial Tenancy (Retail Shops) Agreements Act 1985; and
- 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:

In relation to the proposed draft lease, it is not viable for the City to charge a commercial lease rental to the successful tenderer. The land on which the Café resides is a "Crown Grant in Trust". The trust specifies that the land is to be used for "Community Purposes". The Minister for Lands would more than likely request a portion of any annual lease fee charged by the City if a commercial lease fee was sought.

The City will instead charge a peppercorn annual rental to the successful tenderer as it is assumed that in the short term, profitability for a Café on site may be limited. Limited parking at the Centre, along with the fact that the facility is located in a residential area with limited visual impact and passing vehicle traffic, indicates that significant level of trade will not be attained in the short term until a reputation is built up by the proposed proprietor.

The City will be responsible for all costs in relation to the preparation of the lease by McLeod's Barristers and Solicitors. To date, fees of \$2,941.33 has been settled by the City, some of which pertained to communication with the previous tenant's default in relation to the previous lease.

The cost of publishing the Tender notification in the media was \$3,182.85.

It is intended that there will be a positive impact on the City's budget by increasing patronage and attracting more users to the Community Centre over the long term that will offset the stated newspaper and lease preparation costs.

The City has also recently installed a water meter and gas sub-meter onto the premises to delineate the services used by the Café. It was

thought that separate service accountability is prudent so that specific utilities can be directly apportioned to the Café as opposed to estimating a split between Café and non-Café utility usage at the Mt Claremont Community Centre as has previously been the case. Total cost of installation amounted to \$1,628.

The successful tenderer will be responsible to pay a \$6,000 tenancy bank guarantee bond on commencement of the lease. This is to be held to enable the City to draw on the guaranteed monies should any amounts payable remain unpaid for 7 days after becoming due and/or to recover the cost of rectifying any breach of the lessee's covenants 14 days after being notified of any breach.

The proposed lease specifies that the successful tenderer will be responsible for all maintenance, cleaning, utility fees and insurance of the leased area. In addition, the tenant will be responsible for all set up and any approved fit-out works prior to any new Café operation commencing.

### **Risk Management**

The City has complied with all relevant legislation.

The Minister for Lands has granted in principle consent to the lease. The City has complied with Section 3.58 of the Local Government Act in regards leasing of local government property. The Request for Tender method has been undertaken and the proposal has been advertised accordingly. The Tenders received by the City have been evaluated by WALGA in accordance with the criteria documented in the tender invitation document.

The City has adhered to The Commercial Tenancy (Retail Shops) Agreements Act 1985 and set the lease term for a period of five (5) years. However, by installing a combination of term (three (3) years) and option (two, one (1) year options), this provides the City with an exit point after three (3) years should the lessee fail to exercise their option after the initial three (3) year term. In addition, the City is unable to set specific hours of operation under this act so has no input into the hours of operation. The successful tenderer has the discretion to open or close the business at times of their choice. However, City Administration is satisfied that the proposed lessee's opening hours will be of a regular and predictable nature as per their tender submission.

The proposed tenderer has been vetted by WALGA and reference checks conducted. As a result of these checks, a positive outcome was ascertained with verification of experience, competency, personnel and equipments clarified.

The proposed tenderer is aware that the premise is suitable for a Café with a Medium Food Classification. Catering would push up any

business to a High Food Classification which the premises is not suitable for and does not meet Councils intention for a Café - to provide a meeting place and central “hub” for Centre users. Provision has been made in the proposed draft lease, Clause 9.6 that prevents such an occurrence happening.

The following Risk Management currently applies to the vacant Café premises:

Risk	Likelihood	Consequence	Level of risk	Risk acceptance	Criteria for Management of Risk
Cost of reactive maintenance increases	Almost certain	Medium	15	High	Unacceptable
Loss of City reputation	Likely	Major	16		Unacceptable
Not complying with Strategic Plan	Almost certain	Medium	15	High	Unacceptable
Risk of vandalism to vacant Café	Possible	Medium	9	Moderate	Management Control Required
Risk of break-in	Possible	Medium	9	Moderate	Management Control Required
Negative media coverage	Likely	Major	16		Unacceptable
Community complaints relating to loss of Café amenity	Almost certain	Medium	15	High	Unacceptable

### Discussion

The tender for the provision of Café Services at the Mt Claremont Community Centre was advertised in both the West Australian and local newspapers. Deadline for submissions was 22 June 2011 at 12:00 pm.

The City received two tenders at the conclusion of the tender advertising period from:

- 1) La Mousse, French Patisserie and Café
- 2) R2R Services

Both of the tenders were assessed, scored and complied with the relevant tender criteria by WALGA. WALGA were chosen to review the tender as one of the submission applicants is an associate of a City

councillor. As this could potentially be perceived as a conflict of interest, the City appointed WALGA to undertake the tender submission review on behalf of the City in order to achieve a transparent, independent review of the two submissions.

Page 10 of the Tender recommendation report compiled by WALGA (Attachment 1) details some information from the R2R Services submission that refers to certain information that was not detailed in the City's tender documentation, namely that the City will provide:

- the kitchen, fitted out to an acceptable standard;
- food storage, preparation and refrigeration and other equipment, fixtures, fittings, furniture and furnishings to the kitchen and dining room complex;
- Telecommunications equipment, installation and connection; and
- Provision of computers and IT connection.

R2R Services has since been notified by City Administration that as per the City's tender document, the successful tenderer is responsible to fit out the premises at its cost.

The only fixtures and fittings provided by the City is the exhaust fan, stove, pantry cupboards, work top surfaces and fire extinguishers and fire blanket as detailed in the draft lease annexure.

All equipment within the Café inclusive of office furniture is the property of the previous tenant who is willing to negotiate a price on those items.

All installation for telephone /internet connection would be the responsibility of the Café tenant.

The City will not provide computers or IT connection to the facility.

R2R Services were contacted to clarify the above points. R2R Services stated that they were aware of the stated facts in the tender documents and draft lease.

R2R Services stated that their submission intended to document what is and what isn't provided or what could and what could not be provided as part of an overall service offering and therefore a matter for discussion should they be appointed as the preferred supplier.

R2R Services re-confirmed that they are aware of the stated facts in the City's tender document and draft lease and based on these facts are interested in proceeding with their submission.

The premise is suitable for a Café or delicatessen style food business activity, which includes some food preparation, reheating of food and refrigerated food storage. There is no grease trap and so any food preparation must be suitable to not require the provision of a grease

trap. Patron seating capacity is limited to forty (40) persons total for both the inside and alfresco areas.

The aim of the Café is to provide a meeting place and central “hub” for Centre users, where users can meet and interact socially. This will assist with the centre’s intended role of bringing together local residents in order to foster local relationships and community connection, thereby creating a sense of local community.

Café operations are located in the kitchen area of the Centre, the Zamia room located directly off of the kitchen area as well as the alfresco area outside that room. The key idea is to attract people in order to contribute to a greater usage, viability and vibrancy of the centre as a whole.

The Café has the potential to increase usage of the Centre and also to generate additional income in terms of increased Centre usage. This would increase Centre viability without imposing any additional costs on the City.

**Tender**

The tenders were evaluated in accordance with the criteria documented in the tender invitation. The following tables set out the criteria used for the evaluation:

<b>(A) Type of business and how it contributes to a vibrant Community Centre.</b>	<b>Weighting 25%</b>	
<p>Describe the nature and scope of the business you intend to provide, including the main goods and services to be provided. At minimum, refer to the following:</p> <p>(a) The nature of the business that the respondent intends to provide. (Note the business must comply with the requirements of The Food Act 2008 (the Act), Food Regulations 2009, Food Safety Standards (Australia) and maintain current Food Business Registration as defined in section 1.7, Policies that May Affect Selection);</p> <p>(b) List the main types of goods and services that will be provided by the business;</p> <p>(c) Provide a sample daily Café menu and list of main goods for sale (with prices);</p>	<p><b>“Type of Business”</b></p>	<p><b>Tick if attached</b></p> <p><input type="checkbox"/></p>

<p>(d) Any other incidental items to be sold from the Café;</p> <p>(e) State whether the business agrees to be available to cater for at least “most” of the community functions held at the Centre. If so, provide a sample catering menu (with prices). Note: there is no obligation on the part of the City or Centre users to provide catering business to the Café tenant. However, the Café tenant will be the only catering business on site.</p> <p>(f) State the intended opening hours of the business, including days and times;</p> <p>(g) Explain how the proposed goods and services will complement existing users of the Community Centre and provide an opportunity for interaction between these users.</p> <p>(h) Supply details and provide an outline of the type of business you propose to provide in an attachment titled “<b>Type of Business</b>”.</p>		
<p><b>B) Skills, Experience and Training of Key Personnel</b></p> <p>Tenders should provide information that demonstrates that the respondent and their key personnel possess the necessary experience, skills and training to provide the proposed business effectively. Provide as a minimum the following information:</p> <p>(a) Provide specific details of your previous experience in supplying similar goods and services;</p> <p>(b) Specify the results and outcomes achieved in your experience of providing similar goods and services;</p> <p>(c) Demonstrate competency and a proven track record of achieving these outcomes;</p> <p>(d) Curriculum vitae of respondent;</p> <p>(e) List of key personnel to be providing services, including the role, skills, experience and any relevant</p>	<p style="text-align: center;"><b>Weighting 25%</b></p> <p style="text-align: center;"><b>Skills, Experience and Training</b></p>	<p style="text-align: center;"><b>Tick if attached</b></p> <p style="text-align: center;"><input type="checkbox"/></p>

<p>qualifications of each person;</p> <p>(f) Respondent’s membership to any relevant professional or business association; and</p> <p>(g) List any relevant training undertaken by the respondent and/or key personnel and provide any certificates held.</p> <p>Supply details and provide an outline of your own and your personnel’s skills, experience and training in an attachment titled <b>“Skills, Experience &amp; Training”</b></p>		
<p><b>C) Resources &amp; Financial Capacity</b> Tenderers should provide and submit information on the following:</p> <p>(a) A Business Plan;</p> <p>(b) Demonstrate Business competence;</p> <p>(c) Capacity to run a successful business;</p> <p>(d) Demonstrate financial capacity and sustainability;</p> <p>(e) Attach a financial profile inclusive of a profit and loss statement and latest financial return;</p> <p>(f) Provide two financial referees;</p> <p>(g) Demonstrate ability to supply and sustain the necessary Plant, equipment and materials; and</p> <p>(h) Full and complete details of any fit-out works proposed to be undertaken;</p> <p>Supply details as requested pertaining to financial and business acumen. In addition, provide a plant/equipment/fit-out schedule in an attachment. Label responses under <b>“Resources &amp; Financial Capacity”</b>.</p>	<p><b>Weighting 50%</b></p> <p><b>Resources &amp; Financial Capacity</b></p>	<p><b>Tick if attached</b> <input type="checkbox"/></p>

**Conclusion**

After considering WALGA’s assessment of the tenders submitted and R2R’s comments in relation to the stated points above, it is proposed that the submission received from R2R Services is accepted, as per WALGA’s recommendation. R2R Services submission attained the best score in the evaluation process undertaken by three WALGA officers. The total average score was 55.83%.

## **Attachments**

1. Proposed lease between the City and R2R Services
  
- 14. Elected Members Notices of Motions of Which Previous Notice Has Been Given**

Disclaimer: Where administration has provided any assistance with the framing and/or wording of any motion/amendment to a Councillor who has advised their intention to move it, the assistance has been provided on an impartial basis. The principle and intention expressed in any motion/amendment is solely that of the intended mover and not that of the officer/officers providing the assistance. Under no circumstances is it to be expressed to any party that administration or any Council officer holds a view on this motion other than that expressed in an official written or verbal report by Administration to the Council meeting considering the motion.

### **14.1 Councillor Hipkins – Review of Residential Design Codes**

Councillor Hipkins has given notice of his intention to move the following at this meeting.

**That:**

**By the 31 August 2011, the City of Nedlands lodges an objection to the proposed change to the Residential Design Codes to increase the permitted size of ancillary accommodation (now called Supplementary Accommodation) and to remove the restriction that the said accommodation shall be occupied by a family member.**

Administration Comment

Will be provided to Elected Members prior to the meeting.

### **14.2 Councillor Hipkins – Local Government Advisory Board assessment of the viability of the merger of the Cities of Nedlands and Subiaco**

Councillor Hipkins has given notice of his intention to move the following at this meeting.

**That:**



**The City of Nedlands advises the Local Government Advisory Board that it has requested the Board only to assess the viability of a merger of the Cities of Nedlands and Subiaco and not to initiate a process for a forced merger of the two cities.**

Administration Comment

Will be provided to Elected Members prior to the meeting.

**15. Elected members notices of motion given at the meeting for consideration at the following ordinary meeting on 23 August 2011**

Disclaimer: Where administration has provided any assistance with the framing and/or wording of any motion/amendment to a Councillor who has advised their intention to move it, the assistance has been provided on an impartial basis. The principle and intention expressed in any motion/amendment is solely that of the intended mover and not that of the officer/officers providing the assistance. Under no circumstances is it to be expressed to any party that administration or any Council officer holds a view on this motion other than that expressed in an official written or verbal report by Administration to the Council meeting considering the motion.

Notices of motion for consideration at the Council Meeting to be held on 23 August 2011 to be tabled at this point in accordance with Clause 3.9(2) of Council's Local Law Relating to Standing Orders.

**16. Urgent Business Approved By the Presiding Member or By Decision**

Any urgent business to be considered at this point.

**17. Confidential Items**

**17.1 No.10 (Lot 1) Knutsford Street Swanbourne - Proposed Additions to an Existing Carport**

This report is presented as a confidential item in accordance with Section 5.23(2)(d) of the Local Government Act 1995.

A confidential report has been circulated to Councillors separately.

**17.2 38 (Lot 51) & 40 (Proposed Lot 61 & 62) Jutland Parade, Dalkeith – Outcome of State Administrative Tribunal (SAT) review and Appeal rights.**

This report is presented as a confidential item in accordance with Section 5.23(2)(d) of the Local Government Act 1995.

A confidential report has been circulated to Councillors separately.

**Declaration of Closure**

There being no further business, the Presiding Member will declare the meeting closed.

A handwritten signature in black ink, appearing to read 'Graham Foster', with a stylized flourish at the end.

Graham Foster  
Chief Executive Officer