



City of Nedlands

Agenda

Council Meeting

26 June 2012

Dear Council member

The next ordinary meeting of the City of Nedlands will be held on Tuesday 26 June 2012 in the Council chambers at 71 Stirling Highway Nedlands commencing at 7 pm.

A handwritten signature in black ink, appearing to read 'Michael Cole'.

Michael Cole
Acting Chief Executive Officer
19 June 2012

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City of Nedlands

Notice of an ordinary meeting of Council to be held in the Council chambers, Nedlands on Tuesday 26 June 2012 at 7 pm.

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).

Present and Apologies and Leave Of Absence (Previously Approved)

Leave of Absence His Worship the Mayor, R M Hipkins
(Previously Approved)

Apologies None as at distribution of this agenda.

Disclaimer

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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.

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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.

1.1 Mr D Utting, 29 Viewway, Nedlands

Question 1

Can community consultation surveys be improved to allow direct and easy resident feedback that measures perhaps the key issue ie density.

In City of Nedlands surveys, a tsunami of questions overwhelms respondents and none of these questions seems to succinctly address the basic issue which is retainment of current densities in residential areas.

Also, questions such as 'are you in favour of increased housing diversity?' are used which seems to be code for 'do you want increased density?'

Why not have a question that neatly asks: 'are you in favour of increased density?'

Currently, the airy fairy wording and sheer bulk and volume of consultation surveys threaten to undermine public confidence in them and increase non-participation rates.

Answer

Feedback on our community consultation surveys is always welcome and the suggestion has been taken on board.

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 22 May 2012

The minutes of the ordinary Council meeting held 22 May 2012 are to be confirmed.

8.2 Special Council meeting 14 June 2012

The minutes of the Special Council meeting held 14 June 2012 are to be confirmed.

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

Council, in accordance with Standing Orders and for the convenience of the public, is to identify any matter which is to be discussed behind closed doors at this meeting, and that matter is to be deferred for consideration as the last item of this meeting.

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:

Council Committee

12 June 2012

Unconfirmed, Circulated to Councillors on 14 June 2012


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 Planning & Development Report No's PD19.12 to PD23.12 (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.

PD19.12	No. 119 (Lot 227) Rochdale Road, Mt Claremont – Retrospective Additions (Ground Floor) to Single House
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Committee	12 June 2012
Council	26 June 2012

Applicant	BGC Construction P/L
Owner	Ms E L Ambrose
Officer	Matt Stuart - Senior Statutory Planning Officer
Director	Peter Mickleson - Director Planning & Development Services
Director Signature	
File ref	RO3/119 : DA12/13 : M12/5857
Previous Item No's	D04.11
Disclosure of Interest	No officer involved in the preparation of this report had any interest which required it to be declared in accordance with the provisions of the <i>Local Government Act (1995)</i> .

Committee Recommendation / Recommendation to Committee

Council approves an application for retrospective additions (ground floor) to single house at No. 119 (Lot 227) Rochdale Road, Mt Claremont, in accordance with the application and plans dated 13 January 2012, with the following conditions:


- 1. this planning approval pertains only to the eastern and western walls and the roof structure of the sunken retreat;**
- 2. all structures shall be constructed wholly inside the site boundaries of the Certificate of Title;**
- 3. the height of any existing retaining walls located along lot boundaries shall not be raised;**
- 4. all stormwater from the development which includes permeable and non-permeable areas shall be contained on**

site by draining to soak-wells of adequate capacity to contain runoff from a 20 year recurrent storm event; and soak-wells shall be a minimum capacity of 1 m³ for every 80 m² of calculated surface area of the development;

- 5. all downpipes from guttering shall be connected so as to discharge into drains which shall empty into a soak-well and each soak-well shall be located at least 1.8 m from any building and at least 1.8 m from the boundary of the block;**
- 6. any proposed structure or addition shall not encroach closer than 1.8 m on any soak-well; and**
- 7. any additional development, which is not in accordance with the original application or conditions of approval, as outlined above, will require further approval by Council.**

PD20.12	No. 10 Selby Street, Shenton Park – Outline Development Plan (ODP) for Proposed Para-Quad Association of WA
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Committee	12 June 2012
Council	26 June 2012

Applicant	Jonathan Jones (Architect)
Owner	Para Quad Association Of W.A.
Officer	Nick Bakker – Planning Officer
Director	Peter Mickleson - Director Planning & Development Services
Director Signature	
File ref	SE3/10 : DA2011/358 : M12/10174
Previous Item No's	Nil
Disclosure of Interest	No officer involved in the preparation of this report had any interest which required it to be declared in accordance with the provisions of the <i>Local Government Act (1995)</i> .


Committee Recommendation / Recommendation to Committee

Council:

1. approves, in principle, the limited ODP for Para-Quad Association of WA, No. 10 Selby Street, Shenton Park, as per Clauses 3.8.3 of Town Planning Scheme No. 2 (TPS2), for the purpose of seeking consent from the Western Australian Planning Commission (WAPC) to formally advertise the limited ODP;
2. instructs Administration to refer the limited ODP to the WAPC and to seek consent to advertise the limited ODP; and
3. instructs Administration to advertise the proposed limited ODP in accordance with Clauses 3.8.4 and 3.8.5 of TPS2, upon receiving consent to advertise from the WAPC.

PD21.12	Review of the Proposed Parking Local Law Relating to Parking and Parking Facilities.
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Committee	12 June 2012
Council	26 June 2012

Applicant	City of Nedlands
Owner	City of Nedlands
Officer	Luke Marsden – Parking Strategy Coordinator
Director	Peter Mickleson – Director Planning & Development Services
Director Signature	
File ref.	LEG/003-07/01
Previous Item No's	14.3 – 27 April 2011 T24.10 – 14 December 2010 13.2 - 22 June 2010 7.7 - 18 May 2010 CP41.09 - 13 October 2009 14.2 - 11 August 2009
Disclosure of Interest	No officer involved in the preparation of this report had any interest which required it to be declared in accordance with the provisions of the <i>Local Government Act (1995)</i> .

Committee Recommendation

That this item be referred back to Administration for redrafting to remove all provisions which permit or allow the introduction of pay for use parking.


Recommendation to Committee

Council approves the proposed parking and parking facilities Local Law in accordance with the statutory requirements, Part 3, Division 2, section 3.12 of the *Local Government Act 1995*.

ABSOLUTE MAJORITY REQUIRED

PD22.12	Metropolitan Region Scheme Amendment 1210/41 – Rationalisation of Stirling Highway Public Comment
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Committee	12 June 2012
Council	26 June 2012

Applicant	N/A
Owner	Various
Officer	Christie Downie - Sustainable Planning Officer
Director	Peter Mickleson - Director Planning & Development Services
Director Signature	
File ref.	TPN/067-04
Previous Item No's	Nil
Disclosure of Interest	No officer involved in the preparation of this report had any interest which required it to be declared in accordance with the provisions of the <i>Local Government Act (1995)</i> .


Committee Recommendation / Recommendation to Committee

Council:

1. supports the proposed Metropolitan Region Scheme Amendment, Rationalisation of Stirling Highway Reservation;
2. requests the Western Australian Planning Commission (WAPC) in accordance with Section 126 of the *Planning and Development Act 2005* to concurrently with this amendment process rezone the affected land to a zoning under the City of Nedlands Town Planning Scheme No. 2 (TPS2) that is the same as the land within the same lot; and
3. requests the Western Australian Planning Commission (WAPC) to reconsider the reservation on 26, 35, 80, 100, 102 and 134 Stirling Highway due to the presence of buildings with heritage value.

PD23.12	Western Australian Bicycle Network Plan – Public Comment
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Committee	12 June 2012
Council	26 June 2012

Applicant	Department of Transport
Owner	N/A
Officer	Christie Downie – Sustainable Planning Officer
Director	Peter Mickleson - Director Planning & Development Services
Director Signature	
File ref.	ORN/055-03
Previous Item No's	Nil
Disclosure of Interest	No officer involved in the preparation of this report had any interest which required it to be declared in accordance with the provisions of the <i>Local Government Act (1995)</i> .

Committee Recommendation / Recommendation to Committee

Council:

1. supports the draft Western Australian Bicycle Network (WABN) Plan in principle as it is a coordinated, state wide approach to facilitating the development of cycle facilities;
2. identifies the following issues required to be addressed in the final document:
 - a. the key recommendation relating to connecting schools does not provide sufficient detail to ascertain its merit, and requires a clear statement on proposed funding;
 - b. the key recommendation relating to traffic management does not provide sufficient detail and it is essential that the findings of the working group are reflected in engineering standards and guidelines;
 - c. the draft WABN Plan is largely focused on facilitating access to the Central Business District (CBD) neglecting the necessity for high quality cross suburb routes;
 - d. the proposal identifies a Principal Shared Path along Thomas Street / Winthrop Avenue without providing detail regarding funding requirements, timeframe or responsible agencies;


- e. **the City is supportive of projects that strengthen the cycle links between the north-western suburbs and the QEII / UWA precinct;**
- f. **the City would like to see the grants program reviewed regularly to ensure the funding categories meet local government needs and would appreciate the timing of the grants program is aligned with local government budget preparation; and**
- g. **the draft WABN highlights the need for additional funding from the State Government to achieve its cycling objectives and the State Budget 2012-13 includes \$20 million over two years for cycling infrastructure and grants and strong financial commitment must be maintained over the 10 year life of the plan to successfully deliver on its aims.**

12.3 Sustainable Infrastructure Report No's TS11.12 to TS13.12 (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.

TS11.12	Western Metropolitan Regional Council (WMRC) Proposal for Membership and Utilisation of DiCom
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Committee	12 June 2012
Council	26 June 2012

Applicant	City of Nedlands
Owner	City of Nedlands
Officer	Andrew Melville – Acting Director Technical Services
Director	Andrew Melville – Acting Director Technical Services
Director Signature	
File ref.	
Previous Item No's	Nil
Disclosure of Interest	No officer involved in the preparation of this report had any interest which required it to be declared in accordance with the provisions of the <i>Local Government Act (1995)</i> .

Committee Recommendation

That Council enters into negotiations with the WMRC.


Recommendation to Committee

Council:

1. Decline the offer from WMRC to join at this time; and
2. Instruct Administration to call for tenders for the receipt of the City's waste.

TS12.12	City of Nedlands Waste and Recycling tender 2005/06.08 contract extension
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Committee	12 June 2012
Council	26 June 2012

Applicant	City of Nedlands
Owner	City of Nedlands
Officer	Chaminda Mendis
Director	Andrew Melville – Acting Director Technical Services
Director Signature	
File ref.	TEN/181
Previous Item No's	Nil
Disclosure of Interest	No officer involved in the preparation of this report had any interest which required it to be declared in accordance with the provisions of the <i>Local Government Act (1995)</i> .

Committee Recommendation


That this item be referred back and reconsidered in February 2013.

Recommendation to Committee

Council accepts the City of Nedlands Waste and Recycling Service tender 2005/06.08 contract extension for a further five (5) years commencing from 1 December 2013 to 1 December 2018.

TS13.12	Tender No. 2011/12.09 – Supply and Lay of Hot Asphalt Road Surfacing
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Committee	12 June 2012
Council	26 June 2012

Applicant	City of Nedlands
Owner	City of Nedlands
Officer	Maria Hulls – Manager Engineering Services
Director	Andrew Melville – Acting Director Technical Services
Director Signature	
File ref.	TEN/353
Previous Item No's	Nil
Disclosure of Interest	No officer involved in the preparation of this report had any interest which required it to be declared in accordance with the provisions of the <i>Local Government Act (1995)</i> .

Committee Recommendation / Recommendation to Committee

Council:


- 1 **Accept the tender submitted by Roads 2000 Pty Ltd for the Supply and Lay of Hot Asphalt Road Surfacing for the 2012/13 financial year as per the schedule of rates (Attachment 1) submitted; and**
- 2 **Accept the option to extend the contract for two (2) twelve month periods at the end of the initial period ending 30 June 2013, at the Principals discretion.**

12.4 Community & Organisational Development Report No's CM03.12 to CM04.12 (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.

CM03.12	Accessible Parking Bay for Tresillian Community Centre
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Committee	12 June 2012
Council	26 June 2012


Applicant	City of Nedlands
Owner	City of Nedlands
Officer	Marion Granich – Manager Community Development
Director	Darla Blake – Director Community and Organisational Development
Director Signature	
File ref.	CMS/505
Previous Item No's	
Disclosure of Interest	No officer involved in the preparation of this report had any interest which required it to be declared in accordance with the provisions of the <i>Local Government Act (1995)</i> .

Committee Recommendation / Recommendation to Committee

Council notes funding for an accessible parking bay at the Tresillian Community Centre has been included for consideration in the Draft 2012/13 budget.

CM04.12	Nedlands Aged Persons Homes Trust Inc. (Lisle Villages Inc)
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Committee	12 June 2012
Council	26 June 2012

Applicant	Nedlands Aged Persons Homes Trust Inc. (Lisle Villages Inc)
Owner	Nedlands Aged Persons Homes Trust Inc. (Lisle Villages Inc)
Director	Darla Blake – Director Community and Organisational Development
Director Signature	
File ref.	CMS/155-05
Previous Item No's	CM11.11 – Item 7.3 - 8 November 2011 C10/133 – Item 13.3 – 26 October 2010 C10/65 - Item 14.5 – 27 July 2010 C73.04 – Item 14.5 – 14 December 2004
Disclosure of Interest	No officer involved in the preparation of this report had any interest which required it to be declared in accordance with the provisions of the <i>Local Government Act (1995)</i> .

Committee Recommendation / Recommendation to Committee

Council approves “in principle” the following changes and inclusion of new clauses into the proposed Lisle Villages Inc Constitution (formerly Nedlands Aged Persons Homes Trust Inc Constitution):

1. approves clause 1 – the name of the Association will change from Nedlands Aged Persons Homes Trust Inc to Lisle Villages Inc;
2. approves changed wording of the Objects of the Association clause 3 noting that the requirement in clause 3(a) of the current Constitution “to first meet the needs of residents and past residents of the City of Nedlands and then the needs of the residents of the western suburbs” is to be removed and replaced with a requirement to ‘give preference to the residents and past residents of the City of Nedlands’;
3. approves a change to clause 5(b) – the removal of a compulsory \$10 fees for Ordinary Members of the Association and be replaced as clause 5(d) of the proposed Constitution stating, “the membership or joining fee (if any) payable to the Association by any Other Member shall be determined at the Annual General Meeting”;

4. **approves a change to clause 8(a) – “an Annual General Meeting must be held each year within four (4) months of the end of the Association’s financial year”, as required by the Associations Incorporations Act 1987;**
5. **approves a change to clause 9(a) on the composition of the Board of Management from the existing minimum of eleven (11) and maximum of fourteen (14) to be replaced as clause 9(b) in the proposed Constitution, “The Board of Management will comprise of a minimum of six (6) and a maximum of ten (10) persons”;**
6. **agrees to rescind the Council resolution of December 2004, as it is no longer relevant following negotiations with the Lisle Villages Inc:**

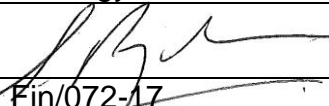
“That the Nedlands Aged Persons Homes Trust (Inc) be advised, the Council no longer wishes to have a Councillor representative on its Management Committee and would support an amendment to the Nedlands Aged Persons Homes Trust (Inc) constitution to put this change into effect.”
7. **The City of Nedlands confirms they wish to continue with a representative being appointed to the Board of Management as per clause 9(b)(ii) of the proposed Constitution and clause 9(a)(v) of the current Constitution;**
8. **approves the addition in clause 9(g)(v) of the proposed Constitution to state, “This clause does not apply to Board Members appointed pursuant to clause 9(b)(ii) by the City of Nedlands”;**
9. **approves clause 11 – removing the requirement of the Board of Management to appoint employees, as this will be the responsibility of the Chief Executive Officer;**
10. **approves the addition of the following words to clause 20(c) in the proposed Constitution, after the word ‘Alterations’ and before the word ‘passed; in the first line: ‘approved by the Council of the City of Nedlands; and**
11. **delegates authority to the Mayor and CEO to grant City of Nedlands approval to the Constitutional changes, as required under clause 21 of the current Constitution, provided the Special General Meeting of Members of the Association gives its assent to the proposed changes and these are consistent with those approved “in principle” by the Council.**

12.5 Corporate & Strategy Report No's CP24.12 to CP27.12 (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.

CP24.12	Monthly Financial Report – April 2012
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Committee	12 June 2012
Council	26 June 2012

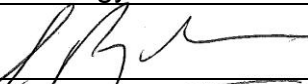
Applicant	City of Nedlands
Owner	City of Nedlands
Officer	Vanaja Jayaraman – A/Manager Finance
Director	Rajah Senathirajah – A/Director Corporate & Strategy
Director Signature	
File ref.	Fin/072-17
Previous Item No's	Nil
Disclosure of Interest	No officer involved in the preparation of this report had any interest which required it to be declared in accordance with the provisions of the <i>Local Government Act (1995)</i> .

Committee Recommendation / Recommendation to Committee

Council receives the Monthly Financial Report for April 2012. (Refer to Attachments)

CP25.12	Investment Report – April 2012
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Committee	12 June 2012
Council	26 June 2012

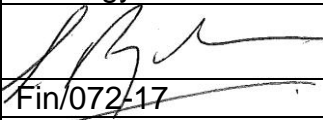
Applicant	City of Nedlands
Owner	City of Nedlands
Officer	Vanaja Jayaraman – A/Manager Finance
Director	Rajah Senathirajah – A/Director Corporate & Strategy
Director Signature	
File ref.	Fin/071-07
Previous Item No's	Nil
Disclosure of Interest	No officer involved in the preparation of this report had any interest which required it to be declared in accordance with the provisions of the <i>Local Government Act (1995)</i> .

Committee Recommendation / Recommendation to Committee

Council receives the Investment Report for the period ended 30 April 2012 (refer to attachment).

CP26.12	List of Accounts Paid – April 2012
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Committee	12 June 2012
Council	26 June 2012

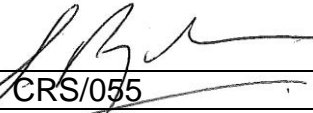
Applicant	City of Nedlands
Owner	City of Nedlands
Officer	Vanaja Jayaraman – A/Manager Finance
Director	Rajah Senathirajah – A/Director Corporate & Strategy
Director Signature	
File ref.	Fin/072-17
Previous Item No's	Nil
Disclosure of Interest	No officer involved in the preparation of this report had any interest which required it to be declared in accordance with the provisions of the <i>Local Government Act (1995)</i> .

Committee Recommendation / Recommendation to Committee

Council receives the List of Accounts Paid for the month of April 2012. (Refer to Attachment)

CP27.12	Policy Review
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Committee	12 June 2012
Council	26 June 2012

Applicant	City of Nedlands
Owner	City of Nedlands
Coordinator	Natalie Wilson – Acting Coordinator Corporate
Director	Rajah Senathirajah – A/Director Corporate & Strategy
Director Signature	
File ref	CRS/055
Previous Item No's	Nil
Disclosure of Interest	No officer involved in the preparation of this report had any interest which required it to be declared in accordance with the provisions of the <i>Local Government Act (1995)</i> .

Committee Recommendation / Recommendation to Committee

Council approves the following policies:

- a) **Natural Area Path Network**
- b) **Illegal Removal of Vegetation**
- c) **Shading of Streetlights**
- d) **Capital Grants to Sporting Clubs (M12/9780)**
- e) **Public Attendance at Briefings and Workshops (M12/8523)**

13. Reports by the Chief Executive Officer

13.1 Common Seal Register Report – May 2012

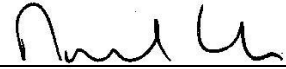
The attached Common Seal Register Report for the month of May 2012 is to be received.

13.2 List of Delegated Authorities – May 2012

The attached List of Delegated Authorities for the month of May 2012 is to be received.

13.3 Retrospective Approval of Verge Development at 26 Genesta Crescent, Dalkeith

Committee	Nil
Council	26 June 2012

Applicant	Planning Solutions Australia Pty Ltd
Owner	Susan Folwell
Director	Andrew Melville – Acting Director Technical Services
CEO	Mike Cole – Acting Chief Executive Officer
CEO Signature	
File ref.	GE1/26-02
Previous Item No's	Item CM09.10 – Council meeting – 27 April 2010 Item SI09.12 – Council Meeting - 22 May 2012
Disclosure of Interest	No officer involved in the preparation of this report had any interest which required it to be declared in accordance with the provisions of the <i>Local Government Act (1995)</i> .

Recommendation to Council

Council approves the request for retrospective approval of the verge development adjacent to 26 Genesta Crescent, Dalkeith subject to the following conditions being completed within 28 days:

1. **drainage is installed to the artificial grass sub base, as approved by Administration, to ensure that all storm water is retained within the verge area;**
2. **The City is indemnified by the owner of 26 Genesta Crescent, Dalkeith against all claims arising out of, or in connection with the verge development.**

Purpose

To present for Council's consideration a request received from Planning Solutions Australia Pty Ltd, acting on behalf of the owner of 26 Genesta Crescent, Dalkeith, for retrospective approval of the adjacent verge development without modification.

Strategic Plan

KFA 3: Built Environment

- 3.7 Provide efficient and integrated approvals systems.

KFA 5: Governance

5.9 Identify, manage and seek to minimise risk.

Background

Council adopted the current Verge Development policy on 27 April 2010. Current policy contains a provision relating to the installation of artificial grass conditional to certain requirements. In accordance with the current policy, where artificial grass installation is incorporated in a verge development, there is a requirement to make satisfactory arrangements for drainage and to include it as part of the maximum 40% hard paved area.

Recent discussions at a Councillor workshop suggested that a maximum of 40% verge area be permitted for artificial turf, in addition to a maximum of 40% hardstand area and with a minimum of 20% of the verge area to be vegetated or grassed. It is important to note that if the Council were to approve this installation it would still not comply with these changes if they were endorsed by Council.

It is a requirement of the Verge Development policy and the Local Laws relating to Thoroughfares that owners apply for a permit prior to commencing any works within a public Thoroughfare.

Without applying for a permit, artificial grass was installed as part of a verge development at 26 Genesta Crescent, Dalkeith between 1 and 14 December 2011. The development does not conform to the current Verge Development policy in that approximately 95% of the verge comprises hard stand, with artificial grass accounting for approximately 70% of hardstand area. In addition, there has been no consideration for drainage of the sub base during installation.

Administration wrote to the owner of 26 Genesta Crescent informing them that the verge development did not conform to Council's requirements, that it had been installed unlawfully and to contact the City within 28 days to discuss the matter.

Approximately 13 weeks after completion of the works, with the matter unresolved and upon advice from the City's lawyers, a prosecution notice for a breach of clause 7(1)(e)(ii) of the Local Laws Relating to Thoroughfares was issued to the company having carried out the works. The company was identified as Astro Synthetic Turf Pty Ltd. The prosecution was listed for a hearing in the Perth Magistrates Court on 13 April 2012. Astro Synthetic Turf Pty Ltd were convicted at the hearing, fined \$3,000.00 and required to pay \$1,128.80 in costs.

In addition to the prosecution, a notice was served on 19 March 2012 to Astro Synthetic Turf Pty Ltd pursuant to clause 40 of the Local Laws Relating to Thoroughfares requiring the artificial grass be removed within 28 days, this date being the 16 April 2012.

The owner was informed of the notice requiring the removal of the artificial grass and subsequently submitted a Verge Development application showing no modification to the completed works. Administration refused the application and advised that modification to the artificial grass would be required (to ensure compliance with Council policy) before approval could be granted.

Planning Solutions Australia Pty Ltd, acting on behalf of the owner of 26 Genesta Crescent, contacted the City and requested retrospective approval of the verge development be considered by Council. They have also requested no action be taken in enforcing the removal notice until Council has considered the request for retrospective approval. Administration has agreed to this request.

Planning Solutions Australia Pty Ltd has submitted a brief of information supporting approval of the verge development without modification. The submission is included in the Councillor's information package.

Key Relevant Previous Decisions:

Item CM09.10 – Council meeting – 27 April 2010
Council Resolution / Recommendation to Committee:

Council approves the Verge Development policy.

Item SI02.12 – Council meeting – 22 May 2012
Council Resolution

That this item lay on the table to the next Council Meeting

Proposal Detail

Planning Solutions Australia Pty Ltd, acting on behalf of the owner of 26 Genesta Crescent, Dalkeith proposes to retain the adjacent verge development without modification. They have requested they would like to appeal Administration's decision in not approving a permit in retrospect and wish to have Council exercise its discretion to issue retrospective approval.

Consultation

Required by legislation: Yes No

Required by City of Nedlands policy: Yes No

Consultation type:

At the Council Meeting held on 22 May 2012, Councillors requested that Administration reconsider this issue and engage in discussions

with the owners of 26 Genesta Crescent Dalkeith. In response to this request, the Acting CEO and Acting Director Technical Services has met with the property owners on two (2) occasions. One meeting was held at the property to visually demonstrate the drainage capacity of the artificial grass installation.

Legislation

- *Local Government Act 1995*
- *Local Laws Relating to Thoroughfares*
- *Verge Development Policy*
- *Drainage of Private Properties Policy*

Budget/financial implications

Budget:

Within current approved budget: Yes No

Requires further budget consideration: Yes No

Financial:

There may be a cost to the City if compliance action requires the City to remove all or part of the development; however the associated cost would not be significant and would be recoverable.

Risk Management

Risk Category	Risk Rating Prior to Controls	Risk Rating After Controls
Financial	Moderate: The City is liable for any claims for damages arising out of the installation of a verge development as this public land under the care and control of the City.	Low: In order to obtain a permit to install artificial grass on a verge, property owners are required to indemnify Council from any possible litigation arising out of, or in connection to, its installation as part of a verge development.
Health	Low	Low
Reputation	Moderate: There is a possibility that any action taken by Council may receive some coverage by local media (i.e. Post Newspaper).	Moderate

Operation / Service Interruption	Low	Low
Environment	Moderate: There is some scope for issues around storm water management and adverse affects to the environment. There is scientific evidence pointing to a reduction in localised temperature regulation resulting from artificial grass being used as a substitute for natural grass or gardens.	Low: Drainage and associated storm water management issues are addressed within the requirements set out by policy.
Regulatory	High: The Thoroughfares Local Law clearly defines the procedure and allowable uses for private development on public lands. Where the local laws are openly disregarded it gives rise to heightened levels of risk to Council and the City.	Low: This is dependent upon Council upholding its regulatory function with respect to controlling private development within public thoroughfares.

Further consideration by the Administration in relation to the need for an Absolute Caveat has resulted in my view that any such requirement is unwarranted or unnecessary in this case for the following reasons:

1. The City has not requested that an Absolute Caveat be agreed to in relation to any other verge development within the City previously
2. The risk of the City being asked to maintain this development into the future is low.

Discussion

During the afternoon of 1 December 2011, the City received information that works were being undertaken on the verge adjacent to 26 Genesta Crescent, Dalkeith. City officers directly attended the address to find works in progress. The officers spoke with two representatives of the building company Zorzi / Grandwood Builders who were on site.

During the discussions, the City officers informed the building company representatives that no application for verge development had been received by the City and this was a requirement under the Local Laws. The officers further advised that it appeared the whole remaining verge area was being prepared for the installation of artificial grass. The

officers advised that if this were the case the development would not conform to Council requirements.

The officers suggested that the works be suspended until such time that an application for verge development could be submitted. The builder's representatives informed the officers that they were acting on instruction from the property owner and that the works would continue to completion and would be defended in court.

The verge development was completed sometime before the 14 December 2011 (refer - Figure 1).



Figure 1 – Verge area showing extent of artificial grass

In examining retrospective approval for the verge development, consideration needs to be given in context of the events prior to completion of the works, the requirements of Council's Verge Development policy and the requirements of the Local Laws. In particular, consideration should be given in respect of drainage requirements and any knowledge the builder's representatives had, in acting on behalf of the owner, of the requirement for obtaining a permit prior to commencing works.

In considering drainage requirements, the following points should be noted:

- the verge area has a gentle fall across the verge (south-west to north-east) towards the property boundary;

- the sub base consists of 'cracker dust', or similar product, that has been compacted and would not provide a suitably permeable layer for drainage purposes; and
- an evaluation of the verge area drainage characteristics has determined that during a significant rainfall event, storm water would not be discharged into the road drainage system, but rather into the small garden bed at the east end of the verge and onto the driveway and into the premises.

In considering the requirements of the Verge Development policy, the following points should be noted:

- approval was not sought prior to commencement of the works;
- the completed works do not conform to Council requirements; and
- Council has not been indemnified against all claims arising out of, or in connection to, the installation of artificial grass on a public Thoroughfare.

In considering the requirements of the Local Laws Relating to Thoroughfares, the following points should be noted:

- a permit had not been issued prior to commencement of the works; and
- the company having carried out the works were convicted of an offence in the Perth Magistrates Court pursuant to clause 7(1)(e)(ii) of the Local Laws Relating to thoroughfares.

In considering any knowledge the builder's representatives had, in acting on behalf of the owner, of the requirement for obtaining a permit prior to commencing works, the following points should be noted:

- the builder's representatives were made aware by City officers of the requirement for a permit at the commencement of works;
- the builder's representatives informed City officers they had been granted approval for the works by the Mayor; and
- given the opportunity to comply with Council's requirements, the builder's representatives advised they would be completing the works and would defend this decision in court.

Following the recent site visit between the property owners, and senior City staff, it was agreed that the City's recommendation to Council would be to install drainage to the satisfaction of the City rather than installing a drainage system as described by the applicant.

This drainage system is expected to include a sub surface spoon type drain with a trafficable grate which would direct water from the lowest end of the verge to a soak well with a trafficable lid to be installed as close as possible to the applicant's boundary. It is important to ensure that the installation is of a sturdy construction to withstand forces of vehicle movement onto the sub-surface structure.

Conclusion

The application for retrospective approval does not comply with Council policy although can be made to do so. The City could not approve this development without modification as has been requested by the applicant. The City's recommendations to Council reflects discussion at the Council meeting held on 22 May 2012 and has the support of the applicant.

Attachments

Nil.

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 Argyle – Rename Verges

On 24 May 2012 Councillor Argyle gave notice of his intention to move the following at this meeting.

That verges be renamed and become known as "Nature Strips".

Supporting Comments

Verges/nature strips exist extensively throughout the city of Nedlands, usage is by convention, a partnership between Ratepayers, Residents and their City Council. The word verge came into being as society organised itself; the word nature was in place before society organised itself, as in Crown lands, as set aside since, by society as Parks and Gardens; Verges/Nature strips.

Meaning of the Word "Verge" - To have a particular direction to lie or extend towards a specific point. The bounds, limits, or precincts of a particular place. The extreme edge, brink, border of a surface area, but regarded as having definite limits. A limiting or bounding belt or strip. A grass edging of flower-bed, etc from a walkway or road. Edge of tiles projecting over a gable - board. Wand or rod carried before bishop, dean etc, as an emblem of office.

Meaning of the Word "Nature" - Based on the innate moral sense, instinctive (natural law justice and virtue) established by nature and natural resources. Process favouring survival best adapted to our environment. An arrangement according to natural features. Nature study (as school subject), practical study of plant, animal, in particular bird life. Trail path through woods etc, set aside to draw attention to interesting natural objects. "Nature Strip" a piece of street lawn with or without trees in front of a place of living between fence or footpath and roadway or between dual carriageways, as in Hackett Drive, Thomas Street, through Nedlands and Subiaco. To stimulate pride and awareness in our society as to the importance of our natural surrounds.

Administration Comment

Verge is the term in current use amongst the majority of Local Governments in WA and is considered all encompassing in its characteristic, whereas the implication of "nature strip" may harbour a belief that the area is naturally landscaped. There are considerable hard stand areas between the boundary and the edge of the carriageway that contain no vegetation. The Local Government Act 1995 also uses the term 'verge' to mean that part of the land between the carriageway and the land which abuts the thoroughfare.

14.2 Councillor Walker – Private Briefings – Policy & Procedure

On 2 June 2012 Councillor Walker gave notice of her intention to move the following at this meeting.

"That Council requests administration to draw up a policy and related procedure on meetings and private briefings in respect to supporting the relationships between developers and Elected Members. This policy would align with the Department of Local Governments Operational Guidelines No 12 (2006)."

Supporting Comments

In light of the current report of the Post (31.5.12) where Councillors have had private briefings with Developers and in light a recent Financial Review Article 12th January 2012, where the council of Port Headland was accused of not making transparent the agreements between the town and a developer. The accusations made against Port Headland Council were that agreements were being made that facilitated an development application and thus gave preferential treatment to specific developers. This has since become a preliminary investigation for the CCC.

I believe a policy is required so that both developers, administration, Councillors and DAP's representatives are fully aware of the purpose of such meetings/briefings. This will bring clarity to and ensure that the developer understand that what is said in such meetings does not constitute an agreement with the Council, its DAP's members and/or the City as a body corporate.

In researching the protocols around this situation I have discovered that DLG guidelines 'Elected Members' Relationship with Developers' exist. It states policies and procedures adopted by local governments for dealing with a development application "must ensure a clear distinction between the staff assessing an application and the task of council determining an application. The procedure should minimize the opportunity for the two roles to be confused and also ensure that those determining applications are not able to direct or unduly influence those carrying out the assessment and vice versa."

The request is for a policy with associated procedures regarding the protocols for both developer, elected members and staff in respect private briefings of Council is therefore the purpose of the motion outlined above.

Administration Comment

The request to draw up a policy and related procedure is supported.

14.3 Councillor Walker – Scholarship awarded to Member of the Metropolitan Local Government Review Panel

On 24 May 2012 Councillor Walker gave notice of her intention to move the following at this meeting.

That the City of Nedlands write to the Minister for Local Government requesting an explanation into the award by the City of Perth to a serving member of the ‘Independent Metropolitan Governance Review Panel’.

Supporting Comments

Minister Castrilli in June 2011 appointed ‘The Independent Metropolitan Governance Review Panel’ to report on the review of Local Governments by June 2012. As part of the many responsibilities of the panel it is maintained by the Department of Local Government website that “By looking at the roles, responsibilities and functions of local government, the Panel’s recommendations may propose that the scope of services provided by local government expand or contract in certain areas.” Furthermore, in the ‘Issues Paper’ subsequently released by the independent panel it is argued that any final recommendation ‘on the number of local governments and related boundary issues will be framed around the conclusions the panel reaches about what is in the best interests of the community of metropolitan Perth. In April 2012 the draft findings of the Independent Metropolitan Review Panel were issued. Within this document it is argued that a key finding of the panel was that ‘any future model, the size of the City of Perth should be increased and its role enhanced’.

On the 9th June 2012 it was reported in the media that a panel member, Ms. van Leeuwen received a \$10k scholarship from the City of Perth. The acceptance of such an award from the City of Perth, which itself is party to the review, is questioned. Moreover, given that the award to a panel member is accepted in the period between the draft findings release, the submission period and authoring of the final recommendations brings into question the ‘independence’ of the review as the partiality of a panel member is clearly compromised. As such the City requires an explanation by the Minister.

Administration Comment

While this is a matter for the Minister and the City of Perth, Administration supports the request for an explanation from the Minister.

14.4 Councillor Hassell – Tawarri Jetty

On 22 May 2012 Councillor Hassell gave notice of his intention to move the following at this meeting.

That the Acting Chief Executive Officer provide Council with a report on the status of the replacement of the Tawarri Jetty.

Supporting Comments

The jetty was damaged and removed some time ago and a report is warranted.

Administration Comment

Administration has been working with solicitors and our insurers on progressing an insurance claim for the damaged jetty. A report will be provided to Council shortly, once the outcome of the insurance claim is known.

15. Elected members notices of motion given at the meeting for consideration at the following ordinary meeting on 24 July 2012

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 24 July 2012 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

Any confidential items to be considered at this point.

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 "Michael Cole".

Michael Cole
Acting Chief Executive Officer



DEL12/263

Record Type Delegated Authority

94 (Lot 49) Rosedale Street Floreat - Additions (Ground Floor) to Single House

Container No. R05/94
Primary Contact Barry Gaskin (Addressee)
Business Phone
Organisation

Record Barcode



DEL12/264

Record Type Delegated Authority

Infringement Withdrawal 101571 - Britt Willesee

Container No. RGS/013-31
Primary Contact Britt Willesee (Addressee)
Business Phone
Organisation

Record Barcode



DEL12/265

Record Type Delegated Authority

Infringement Withdrawal 502393 - Michael Hawthorne

Container No. RGS/013-31
Primary Contact Michael Hawthorne (Addressee)
Business Phone
Organisation

Record Barcode



DEL12/266

Record Type Delegated Authority

56 (Lot 199) Golodsmith Road Dalkeith - Additions (Two Storey) to Single House

Container No. G02/56
Primary Contact Stephen & Ruth Chan (Addressee)
Business Phone 9321-7864
Organisation

Record Barcode



DEL12/267

Record Type Delegated Authority

75 (Lot 200) Mountjoy Road Nedlands - Additions (Ground Floor) to Single House

Container No. M05/75
Primary Contact The Design Mill (Addressee)
Business Phone 9300-3677
Organisation

Record Barcode



DEL12/268

Record Type Delegated Authority

110 (Lot 2) Williams Road Nedlands - Additions (Carport) to Single House

Container No. W11/110
Primary Contact John Bateman (Addressee)
Business Phone
Organisation

Record Barcode



DEL12/269

Record Type Delegated Authority

21 (Lot 279) Hampden Road Nedlands - Additions (Ground Floor) to Commercial Premises

Container No. HA6/21
Primary Contact Lumic Patios (Addressee)
Business Phone 9297-1170
Organisation

Record Barcode





DEL12/270

Record Type Delegated Authority

30 (Lot 125) Portland Street Nedlands - Single Storey Single House

Container No. PO1/30
Primary Contact APG Homes Pty Ltd (Addressee)
Business Phone 9441-5888
Organisation

Record Barcode



Record Type Delegated Authority

DEL12/271

10 (Lot 1) Walba Way Swanbourne - Additions (Garage and Re-Roof) to Grouped Dwelling

Container No. WA1/10
Primary Contact D Kailis (Addressee)
Business Phone
Organisation

Record Barcode



Record Type Delegated Authority

DEL12/272

18 (Lot 25) Bostock Road Nedlands - Additions (Carport and Re-Roof) to Single House

Container No. BO2/18
Primary Contact Tam Lee-Steere (Addressee)
Business Phone
Organisation

Record Barcode



Record Type Delegated Authority

DEL12/273

14 (Lot 710) Karella Street Nedlands - Amendments to DA12/36

Container No. KA1/14
Primary Contact Robert Holl Master Builder (Addressee)
Business Phone 9302-3855
Organisation

Record Barcode



Record Type Delegated Authority

DEL12/274

15 (Lot 306) Lantana Avenue Mt Claremont - Garden Shed

Container No. LA5/15
Primary Contact Janet Nielsen (Addressee)
Business Phone
Organisation

Record Barcode



Record Type Delegated Authority

DEL12/275

83 (Lot 433) Circe Circle Dalkeith - Single Storey Dwelling & Swimming Pool

Container No. CI2/83
Primary Contact John Pitcher (Addressee)
Business Phone
Organisation

Record Barcode



Record Type Delegated Authority

DEL12/276

29 (Lot 335) Leura Street Nedlands - Two Storey Single House

Container No. LE4/29
Primary Contact Sharp and Van Rhyn Architects Pty Ltd (Addressee)
Business Phone 9383-3666
Organisation

Record Barcode





DEL12/277

Record Type Delegated Authority

**6 (Lot 209) Mayfair Street Mt Claremont - Ancillary Accommodation Store
Verandah Decking and Retaining Wall**

Container No. MA6/6
Primary Contact Alexander Planning Consultants (Addressee)
Business Phone 9386-1066
Organisation

Record Barcode



Record Type Delegated Authority

DEL12/278

33 (Lot 149) Alexander Road Dalkeith - Patio

Container No. AL2/33
Primary Contact A & S Anderson (Addressee)
Business Phone
Organisation

Record Barcode



Record Type Delegated Authority

DEL12/279

33 (Lot 253) Leon Road Dalkeith - Over Height Fence to Single House

Container No. LE2/35
Primary Contact Residential Attitudes (Addressee)
Business Phone 9202-9000
Organisation

Record Barcode



Record Type Delegated Authority

DEL12/280

181a (Lot 2) Selby Street Shenton Park - Patio

Container No. SE3/181A
Primary Contact Helen Foley (Addressee)
Business Phone 9285-8782
Organisation

Record Barcode



Record Type Delegated Authority

DEL12/281

**Seal Certification - Seal No. 611 - Surrender of lease and New Lease agreement
between City of Nedlands and Cottesloe Golf Club (9 seals required)**

Container No. IFM/033-06
Primary Contact Cottesloe Golf Club (Inc.) (Addressee)
Business Phone 9384-3222
Organisation Sports Clubs

Record Barcode



Record Type Delegated Authority

DEL12/282

Parking Infringement Withdrawn 301802 - Daniel Calderwood

Container No. RGS/013-31
Primary Contact Daniel Mark Calderwood (Addressee)
Business Phone
Organisation

Record Barcode





City of Nedlands

Action Tracking Cover Sheet
List of Delegated Authority - May 2012

Page 7
Date 19/6/2012
Time 11:46:24 AM
Login Name Nicole Borowicz

DEL12/283

Record Type **Delegated Authority**

**Approval for a Vehicle on Reserve - Melvista Oval (Nedlands Park) Croquet Club
Flood Lights**

Container No. **PRS/047-01**
Primary Contact **Nedlands Croquet Club (Addressee)**
Business Phone **9386-8008**
Organisation **Sports Clubs**

Record Barcode

