

Minutes

Council Committee Meeting

4 December 2012

Attention:

This is a Committee which has only made recommendations to Council. No action should be taken on any recommendation contained in these Minutes. The Council resolution pertaining to an item will be made at the Ordinary Council Meeting next following this meeting.

Table of Contents

Declaratio	n of Opening	4
Present a	nd Apologies and Leave Of Absence (Previously Approved)	4
1.	Addresses By Members of the Public (only for items listed	
	on the agenda)	5
2.	Disclosures of Financial Interest	5
3.	Disclosures of Interests Affecting Impartiality	
3.1	Councillor Walker – 8.1 - Outcomes of negotiation process	
	for City of Nedlands Membership of the Western	
	Metropolitan Regional Council	6
3.2	Councillor McManus – 8.2 – Claremont Nedlands Lions	
·	Club – Proposed Lease for revised location	6
4.	Declarations by Members That They Have Not Given Due	
	Consideration to Papers	6
5.	Confirmation of Minutes	
5.1	Committee Meeting 13 November 2012	
6.	Matters for Which the Meeting May Be Closed	
7.	Divisional Reports	
7.1	Planning & Development Report No's PD54.12 to PD57.12	
PD54.12	No. 7 (Lot 33) Stanley Street, Nedlands – Retrospective	
1 004.12	Outbuilding (Sea Container)	8
PD55.12	No. 93 (Lot 559) Bruce Street, Nedlands – Additions	
1 000.12	(Ground Floor) to Single House	10
8.1	Outcomes of negotiation process for City of Nedlands	10
0.1	Membership of the Western Metropolitan Regional Council	11
PD56.12	Metropolitan Region Scheme Amendment 1236/57 - Bush	
1 000.12	Forever Area Definition, Clause Insertion and Removal of	
	Clause 16 (1a)(a) for New Similar Clause Insertion 16 (1a)	
	and (ba) in the Metropolitan Scheme Text – response to	
	public consultation	18
PD57.12	Proposed Scheme Amendment No. 198 – To add a clause	10
1 037.12	to Schedule V – Special use Zone - that facilitates that a	
	current Master Plan for the site controls its development	
	Scheme Amendment No. 194	19
7.2	Technical Services Report No's TS25.12 to TS26.12	
TS25.12	Survey Results – Establishing a Dog Park South of Stirling	[
1323.12	Highway	21
TS26.12	Big Day Out Concert – Monday 28 January 2013 at	∠ ۱
1020.12	Claremont Show Grounds, Claremont	23
7.3	Community & Organisational Development No's CM10.12	20
7.5	to CM11.12	25
CM10 12	All Abilities Play Space – Concept Plan	
		25
CIVITI.12	Approval of Applications to the Community Grants Fund and Youth Grants Fund	26
7 1		
7.4	Corporate & Strategy Report No's CPS50.12 to CPS55.12	
	List of Accounts Paid – October 2012	
	Local Laws Review	
UP352.12	Request for Exemption of Council Rates	ა0

31
32
34
35
35
36
41
41
41

City of Nedlands

Minutes of a meeting of the Council Committee held in the Council Chambers, Nedlands on Tuesday 4 December 2012 at 7 pm.

Declaration of Opening

The Presiding Member declared the meeting open at 7 pm, and drew 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)

Councillors His Worship the Mayor, R M Hipkins (Presiding Member)

Councillor N B J Horley Coastal Districts Ward Councillor L J McManus Coastal Districts Ward Councillor I S Argyle Dalkeith Ward Councillor W R Hassell Dalkeith Ward Councillor S J Porter (until 9.07 pm) Dalkeith Ward Councillor R M Binks Hollywood Ward Councillor B G Hodsdon Hollywood Ward Councillor K Walker Hollywood Ward Melvista Ward Councillor T James Councillor N Shaw Melvista Ward Councillor M L Somerville-Brown Melvista Ward

Staff Mr M Cole Acting Chief Executive Officer

Ms D Blake Acting Director Corporate & Strategy
Mr P Mickleson Director Planning &Development
Mr M Goodlet Director Technical Services
Ms P Panayotou Acting Director Community &
Organisational Development

Mrs N Ceric Executive Assistant

Public There were 3 members of the public present.

Press The Post Newspaper representative.

Leave of Absence Nil.

(Previously Approved)

Apologies Councillor K E Collins Coastal Districts Ward

Absent Nil.

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. Addresses By Members of the Public (only for items listed on the agenda)

Mr P Plaisted, 22 Vincent Street, Nedlands (spoke in relation to the item)

Item 8.1

Mr K Gorey, 30 Palmerston Street, Mosman Park (spoke in relation to the item)

Item 8.1

2. Disclosures of Financial Interest

The Presiding Member reminded 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.

There were no disclosures of financial interest.

3. Disclosures of Interests Affecting Impartiality

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

3.1 Councillor Walker – 8.1 - Outcomes of negotiation process for City of Nedlands Membership of the Western Metropolitan Regional Council

Councillor Walker disclosed an impartiality interest in Item 8.1 - Outcomes of negotiation process for City of Nedlands Membership of the Western Metropolitan Regional Council. She disclosed that she had an impartiality interest, however did not disclose the nature of the interest. She declared that there may be a perception that her impartiality on the matter may be affected. She declared that she would consider this matter on its merits and vote accordingly.

3.2 Councillor McManus - 8.2 - Claremont Nedlands Lions Club - Proposed Lease for revised location

Councillor McManus disclosed an impartiality interest in Item 8.2 - Claremont Nedlands Lions Club – Proposed Lease for revised location. He disclosed that he is the Vice President of Claremont Lions Club, and as a consequence, there may be a perception that his impartiality on the matter may be affected. He declared that he would consider this matter on its merits and vote accordingly.

4. Declarations by Members That They Have Not Given Due Consideration to Papers

Nil.

5. Confirmation of Minutes

5.1 Committee Meeting 13 November 2012

Moved – Councillor Shaw Seconded – Councillor Hassell

The minutes of the Council Committee held 13 November 2012 are confirmed.

CARRIED 11/-

(Abstained: Crs. Walker)

6. Matters for Which the Meeting May Be Closed

In accordance with Standing Orders and for the convenience of the public, the Committee identified any matter to be discussed behind closed doors at this meeting and that matter was deferred for consideration as the last item of this meeting.

7. Divisional Reports

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.

7.1 Planning & Development Report No's PD54.12 to PD57.12

PD54.12 No. 7 (Lot 33) Stanley Street, Nedlands – Retrospective Outbuilding (Sea Container)

Committee	4 December 2012
Council	11 December 2012

Applicant	Barry McMahon
Owner	Princep Pty Ltd
Officer	Elle O'Connor - Planning Officer
Director	Peter Mickleson – Director Planning & Development
Director	1 intertala
Signature	1 Mones
File ref.	DA12/422 : ST2/7
Previous Item	Nil
No's	
Disclosure of	No officer involved in the preparation of this report
Interest	had any interest which required it to be declared in
	accordance with the provisions of the Local
	Government Act 1995.

Regulation 11(da) – Although the applicant had withdrawn Council agreed to proceed with a Policy on sea containers.

Moved – Councillor Hassell Seconded – Councillor James

Council requests Administration to draft a Policy on sea containers within the City.

Mr M Goodlet, Director Technical Services left room at 7.08 pm.

CARRIED 11/1 (Against: Cr. Argyle)

Committee Recommendation

Council requests Administration to draft a Policy on sea containers within the City.

Recommendation to Committee

Council:

- refuses an application for a retrospective outbuilding (sea container) at No. 7 (Lot 33) Stanley Street, Nedlands in accordance with the application and plans received on 25 October 2012 for the following reasons:
 - a. the proposal does not satisfy the performance criteria of the RCodes (cl 6.10);
 - b. the proposal does not satisfy the objectives of TPS2 (cl 5.5.1);
 - c. sea containers have an industrial appearance and are generally not considered appropriate structures within residential areas; and
 - d. the structure has a negative impact on the existing and future amenity of the locality and is contrary to orderly and proper planning.
- 2. requests Administration to draft a Policy on sea containers within the City.

Mr M Goodlet, Director Technical Services returned to the room at 7.18 pm.

PLEASE NOTE THIS ITEM HAS BEEN WITHDRAWN.

PD55.12 No. 93 (Lot 559) Bruce Street, Nedlands – Additions (Ground Floor) to Single House

Committee	4 December 2012
Council	11 December 2012

Applicant	Tascone Design Team		
Owner	R A Ostergaard & C S Miles		
Officer	Thomas Geddes – Planning Officer		
Director	Peter Mickleson - Director Planning & Development		
Director	1 intertala		
Signature	1 Mondes		
File ref.	DA12/349: BR9/93		
Previous Item	DA07/600		
No's	DA01/000		
Disclosure of	No officer involved in the preparation of this report		
Interest	had any interest which required it to be declared in		
	accordance with the provisions of the Local		
	Government Act (1995).		

Moved – Councillor Binks Seconded – Councillor Porter

That Item 8.1 be brought forward.

CARRIED UNANIMOUSLY 12/-

PLEASE NOTE: THIS ITEM HAS BEEN BROUGHT FORWARD

8.1 Outcomes of negotiation process for City of Nedlands Membership of the Western Metropolitan Regional Council

Committee	4 December 2012
Council	11 December 2012

Applicant	City of Nedlands	
Acting CEO	Michael Cole	
Acting CEO		
Signature	1 had the	
File ref.	ORN/016-21	
Previous Item	13.3 – 28 August 2012	
No's	TS11.12 – 26 June 2012	
Disclosure of	No officer involved in the preparation of this report	
Interest	had any interest which required it to be declared in	
	accordance with the provisions of the Local	
	Government Act (1995).	

Councillor Walker – Impartiality Interest

She disclosed that she had an impartiality interest, however did not disclose the nature of the interest. She declared that there may be a perception that her impartiality on the matter may be affected. She declared that she would consider this matter on its merits and vote accordingly.

Mr P Plaisted, 22 Vincent Street, Nedlands (spoke in relation to the item)

Item 8.1

Non-Elector

Moved – Councillor Binks

Seconded - Councillor McManus

That Mr Gorey, a non-elector of the City be permitted to address the meeting.

CARRIED UNANIMOUSLY 12/-

Mr K Gorey, 30 Palmerston Street, Mosman Park (spoke in relation to the item)

Item 8.1

Regulation 11(da) – Council agreed to call for expressions of interest for the disposal of waste.

Moved – Councillor Hassell Seconded – Councillor Porter

Council:

- 1. defer negotiations to join the Western Metropolitan Regional Council until after the State Government has responded to the Metropolitan Local Government Review; and
- 2. request administration to call for expressions of interest for the disposal of waste.

CARRIED 9/1

(Against: Cr. Argyle)

(Abstained: Crs. Horley & Shaw)

Committee Recommendation

Council:

- 1. defer negotiations to join the Western Metropolitan Regional Council until after the State Government has responded to the Metropolitan Local Government Review; and
- 2. request administration to call for expressions of interest for the disposal of waste.

Recommendation to Committee

Council:

- 1. Defer negotiations to join the Western Metropolitan Regional Council until after the State Government has responded to the Metropolitan Local Government Review.
- 2. Enter into a Waste Delivery Agreement with the Western Metropolitan Regional Council on the same terms as the Western Metropolitan Regional Council member Councils.

Purpose

This report presents the outcomes of negotiations for the City of Nedlands to join the Western Metropolitan Regional Council.

Strategic Plan

- KFA 5: Governance
 - 5.6 Ensure compliance with statutory requirements and guidelines.
 - 5.8 Establish and actively manage a range of partnerships with government, private and not-for-profit sectors.
- KFA 7: Economic Development
 - 7.3 Work collaboratively with WESROC and State Government agencies in developing and implementing regional strategies.

Background

At its meeting on 26 June 2012, Council resolved that Council:

- 1. Enters into negotiations with the WMRC; and
- 2. Negotiations are completed and reported back to Council by 31 December 2012

Council considered a further report at its meeting on 28 August 2012 where Council considered the proposed negotiation process and appointed Councillor McManus, Councillor Binks and the Acting Chief Executive Officer as the City of Nedlands representatives on the Core Negotiating Group.

Key Relevant Previous Decisions:

(As per above)

Proposal Detail

The proposal involves negotiations for the City of Nedlands to join the Western Metropolitan Regional Council.

The Core Negotiating Group recommends deferral of the proposal until the State Government has responded to the final report of the Metropolitan Local Government Review.

However, the Core Negotiating Group recommends the City of Nedlands enter into a Waste Delivery Agreement with the Western Metropolitan Regional Council on the same terms as the Western Metropolitan Regional Council member Councils.

Consultation

Required by legislation:	Yes 🗌	No 🗵
Required by City of Nedlands policy:	Yes 🗌	No 🖂
Council agreed to the appointment of the Activ	na Chief Evecutive	Officer

Council agreed to the appointment of the Acting Chief Executive Officer and Councillors Binks and McManus to the Core Negotiating Group.

Legislation

Sections 3.61 to 3.68 of the *Local Government Act 1995* sets out the requirements to establish Regional Local Governments.

Budget/financial implications

Deferring the negotiations for membership of the WMRC saves an estimated \$40,000 for the negotiating parties in consulting fees for facilitator, valuer and lawyer.

Entering into a Waste Delivery Agreement with the WMRC saves the City about \$30,000 per year in waste disposal fees.

Risk Management

Risks associated with the proposal have been considered by the Core Negotiating Group and are addressed in the discussion below.

Discussion

The Core Negotiating Group is made up representatives of the WMRC member Councils and the City of Nedlands. The members of the Core Negotiating Group are:

City of Nedlands

Councillor Robert Binks Councillor Leo McManus

Acting Chief Executive Officer Mr Michael Cole

WMRC Member Councils

Councillor Jack Walsh (Cottesloe)
Councillor Paul Kelly (Claremont)

Mr Stephen Tindale (Chief Executive Officer - Subiaco)

Mr Ron Cacciope of Integral Development was appointed as a facilitator.

The progress of the negotiations has been steady, progressing toward a proposal that seemed to be acceptable to all parties. All parties agreed that a satisfactory "backstop" agreement was for the City of

Nedlands to enter into a Waste Delivery Agreement with the WMRC. Such an agreement would be on identical terms to the Waste Delivery Agreement all member Councils have signed, and requires the delivery of all waste to the WMRC for a five year period with certain exemptions.

However, on 25 October 2012, the State Government released the Final Report of the Metropolitan Local Government Review. The report made two recommendations of key significance to the negotiations:

- The existing Regional Local Governments in the metropolitan area be dissolved, their provisions in the Local Government Act 1995 be repealed for the metropolitan area and a transitional plan for dissolving the existing bodies in the metropolitan area be developed; and
- 2. A new structure of local government in metropolitan Perth be created through specific legislation which:
 - a. incorporates all of the Swan and Canning Rivers within applicable local government areas;
 - b. transfers Rottnest Island to the proposed local government centred around the City of Fremantle; and
 - c. reduces the number of local governments in metropolitan Perth to 12, with boundaries as detailed in Section 5 of this report.

The boundaries proposed in Section 5 recommend a new Council be formed of all member Councils, the City of Nedlands and the Town of Cambridge.

Each recommendation on its own, if progressed, would render the WMRC redundant, suggesting that the WMRC will cease to exist under most models of local government reform. The report is out for comment until 5 April 2013.

For the City of Nedlands to join the WMRC, the WMRC's Establishment Agreement needs to be amended and approved by the Minister for Local Government. In the current environment, the Minister is unlikely to approve a new WMRC Establishment Agreement until after the State election on 9 March 2013 and after the path for reform has been decided. To get to an agreement, the parties would have incurred valuation and facilitation costs of about \$40,000.

Considering the new circumstances, the Core Negotiating Group agreed that negotiations should be put on hold, and that the City of Nedlands should negotiate with the WMRC for a Waste Delivery Agreement.

Such an agreement achieves positive outcomes for all parties, and in particular:

- 1. Gives the City of Nedlands an opportunity to participate in DiCOM without being exposed to any risk from the operations;
- 2. Secures 6,000 tonnes per year of waste at member Council rates to meet the WMRC's obligation to deliver 33,000 tonnes of waste per year under the Waste Supply Agreement between the WMRC and DiCOM AWT Operations Pty Ltd; and
- Enables an easy transition irrespective of the outcome of local government reform. If reform leads to amalgamations then the region is managing waste consistently. If reform goes nowhere then all parties are in a strong position to resume membership negotiations.

The City has long been a leader in waste management in the western suburbs through its three bin system, and community expectations are that the City would continue to be a leader in waste management by looking at alternate waste treatments instead of landfill, such as DiCOM. A Waste Delivery Agreement will secure local waste processing in an environment where landfill levies are likely to increase sharply and landfills will be further and further from the City.

A Waste Delivery Agreement also signals the intent of the City of Nedlands to work regionally, notwithstanding the uncertainty of local government reform, and is a clear expression of support by the City for advanced waste treatment.

The Waste Delivery Agreement between the WMRC and its member Councils is included as an attachment. The Agreement requires the delivery of all waste collected, subject to exemptions. Standard exemptions that WMRC member Councils hold are for recyclables and green waste, and the City can negotiate these with the WMRC.

Conclusion

The Core Negotiating Group has not arrived at a consensus about the City of Nedlands joining, a fee for joining nor had they agreed on a valuation method to arrive at a proposed joining fee.

Given that Ministerial Approval would be required for the City of Nedlands to enter the WMRC, it is unlikely a decision would be made until after the State Election when the State Government will consider response to the final report of the Metropolitan Local Government Review. Deferral of negotiations is therefore recommended.

However, in order to demonstrate a commitment to work regionally, it is also recommended that the City of Nedlands enters into a Waste

Delivery Agreement with the Western Metropolitan Regional Council on the same terms as the Western Metropolitan Regional Council member Councils.

Attachments

1. Waste Delivery Agreement between WMRC and its member Councils.

Councillor Somerville-Brown & Councillor McManus left the room at 8.29 pm.

PD56.12		h Forever Removal (lause Inse	Area Defirof Clause of Clause of the critical (1)	nition, Clause 16 (1a)(a) for a) and (ba) in
	the Metropolit public consult		ne Text -	response to

Committee	4 December 2012
Council	11 December 2012

Applicant	Western Australian Planning Commission		
Owner	City of Nedlands		
Officer	Jason Moore- Strategic Planning Officer		
Director	Peter Mickleson - Director Planning & Development		
Director	1 interdata		
Signature	1 Thomas		
File ref.	TPN/067-04		
Previous Item	Nil		
No's	TVII		
Disclosure of	No officer involved in the preparation of this report		
Interest	had any interest which required it to be declared in		
	accordance with the provisions of the Local		
	Government Act (1995).		

Regulation 11(da) – Not applicable – Recommendation adopted.

Moved – Councillor Shaw Seconded – Councillor Hassell

That the Recommendation to Committee is adopted.

(Printed below for ease of reference)

CARRIED 9/-

(Abstained: Cr. Walker)

Committee Recommendation / Recommendation to Committee

Council advises the Western Australian Planning Commission that it supports the proposed Metropolitan Region Scheme Amendment 1226/57 entitled "Bush Forever Area Definition Clause Insertion and Removal of Clause 16 (1a)(a) for New Similar Clause Insertion 16 (1a) and (ba) in the Metropolitan Scheme Text."

Councillor McManus returned to the room at 8.29 pm.

PD57.12	Proposed Scheme Amendment No. 198 – To add a clause to Schedule V – Special use Zone - that facilitates that a current Master Plan for the site controls its development Scheme Amendment No.
	194

Committee	4 December 2012
Council	11 December 2012

Applicant	Peter Driscoll, Landvision on behalf of Hollywood
	Hospital
Owner	Hollywood Private Hospital Board
Officer	Gabriela Poezyn – Manager Strategic Planning
Director	Peter Mickelson – Director Planning & Development
Director	A marketan
Signature	1 Thomas
File ref.	TPN/A198
Previous Item	Nil
No's	
Disclosure of	No officer involved in the preparation of this report
Interest	had any interest which required it to be declared in
	accordance with the provisions of the Local
	Government Act (1995).

Councillor Somerville-Brown returned to the room at 8.30 pm.

Regulation 11(da) – Not applicable – Recommendation adopted.

Moved – Councillor Shaw Seconded – Councillor Binks

That the Recommendation to Committee is adopted.

(Printed below for ease of reference)

CARRIED 9/1

(Against: Cr. Walker)

(Abstained: Crs. James & Somerville-Brown)

Committee Recommendation / Recommendation to Committee

Council:

- 1. initiates the proposed scheme amendment to Town Planning Scheme No. 2 by:
 - a. adding the following additional provision to Schedule V Special Use Zone for Pt Loc 1715 and Pt Loc 8697 Monash Avenue, Nedlands (Hollywood Private Hospital) that states:
 - I. the development of the site shall be in accordance with the current Master Plan applicable to this Special Use Zone as approved by Council from time to time, following the procedure as set out in clause 8.3 of the Scheme.
- 2. progresses the above scheme amendment in accordance with the *Planning and Development Act 2005*.

7.2 Technical Services Report No's TS25.12 to TS26.12

TS25.12	Survey Results - Establishing a Dog Park South
	of Stirling Highway

Committee	4 December 2012
Council	11 December 2012

Applicant	City of Nedlands
Owner	City of Nedlands
Officer	Andrew Dickson – Manager Parks Services
Director	Mark Goodlet – Director Technical Services
Director	KA /
Signature	116
File ref.	ST6-08
Previous Item	Item 12.3 report TS17.12 - Council Meeting - 28
No's	August 2012
Disclosure of	No officer involved in the preparation of this report
Interest	had any interest which required it to be declared in
	accordance with the provisions of the Local
	Government Act (1995).

Regulation 11(da) – Council agreed not to establish a Dog Park South of Stirling Highway.

Moved – Councillor Porter Seconded – Councillor Hassell

That Council does not proceed with the establishment of a Dog Park South of Stirling Highway.

CARRIED 6/5

(Against: Mayor Hipkins Crs. Horley McManus Binks Hodsdon)

(Abstained: Cr. Somerville-Brown)

Committee Recommendation

That Council does not proceed with the establishment of a Dog Park South of Stirling Highway.

Recommendation to Committee

Council:

- 1. receives the results from the survey of residents surrounding the three (3) identified potential locations for a fenced dog park South of Stirling Highway;
- 2. instructs Administration to prepare a landscape plan for Paul Hasluck Reserve that is consistent with the recommendations of the Foreshore Enhancement and Management Plan (Volume 2 2010) and that makes provision for a fenced dog park; and
- 3. approves the inclusion of \$60,000 for consideration in the 2013/14 Parks Services capital budget submission for preparation of a landscape plan and for establishment of a fenced dog park located at Paul Hasluck Reserve, subject to Swan River Trust approvals.

TS26.12 Big Day Out Concert – Monday 28 January 2013 at Claremont Show Grounds, Claremont

Committee	4 December 2012
Council	11 December 2012

Applicant	Keiran McNamara, Director General - Department of
	Environment and Conservation
Owner	Altered State (WA) Pty Ltd
Officer	Katy Trevaskis – Environmental Health Officer
Director	Mark Goodlet – Director Technical Services
Director	M
Signature	M
File ref.	ENV/Ø17-056
Previous Item	Nil
No's	IVII
Disclosure of	No officer involved in the preparation of this report
Interest	had any interest which required it to be declared in
	accordance with the provisions of the Local
	Government Act (1995).

Councillor Hassell left the room at 8.49 pm.

Regulation 11(da) – Not applicable – Recommendation adopted.

Moved – Councillor James Seconded – Councillor Binks

That the Recommendation to Committee is adopted.

(Printed below for ease of reference)

Mr M Cole, Acting Chief Executive Officer left the room at 8.50 pm.

Councillor Hassell returned to the room at 8.51 pm.

Mr M Cole, Acting Chief Executive Officer returned to the room at 8.52 pm.

CARRIED 8/2

(Against: Crs. Horley & McManus) (Abstained: Crs. Hodsdon & Walker)

Committee Recommendation / Recommendation to Committee

Council, pursuant to Regulation 18 (12) of the *Environmental Protection (Noise) Regulations 1997*, agrees to the Department of Environment and Conservation's proposed conditions, (refer to attachment 1) for the Big Day Out music festival to be held at the Claremont Showgrounds on Monday 28 January 2013 subject to the Department of Environment and Conservation or Altered State (WA) Pty Ltd notifying the City of Nedlands Health Section of any noise complaints received from City of Nedlands residents, within 7 days after the event.

7.3 Community & Organisational Development No's CM10.12 to CM11.12

CM10.12 All Abilities Play Space – Concept Plan

Committee	4 December 2012
Council	11 December 2012

Applicant	City of Nedlands
Owner	City of Nedlands
Officer	Marion Granich – Manager Community Development
Director	Pat Panayotou – A/Director Community and
	Organisational Development
Director	
Signature	*
File ref.	CRS/5054
Previous Item	CM09.12
No's	GIVI09.12
Disclosure of	No officer involved in the preparation of this report
Interest	had any interest which required it to be declared in
	accordance with the provisions of the Local
	Government Act (1995).

Regulation 11(da) - Not applicable - Recommendation adopted.

Moved – Councillor Somerville-Brown Seconded – Councillor Horley

That the Recommendation to Committee is adopted.

(Printed below for ease of reference)

Councillor James left the room at 8.57 pm and returned at 9.00 pm.

Councillor Porter retired from the meeting at 9.07 pm.

CARRIED 8/1

(Against: Cr. Argyle)

(Abstained: Crs. Walker & James)

Committee Recommendation / Recommendation to Committee

Council endorses the Concept Plan for the All Abilities Play Space on Beaton Park, the Esplanade, Dalkeith, as at Attachment A.

CM11.12 Approval of Applications to the Community Grants Fund and Youth Grants Fund

Committee	4 December 2012
Council	11 December 2012

Applicant	City of Nedlands
Owner	City of Nedlands
Officer	Marion Granich – Manager Community Development
Director	Pat Panayotou – A/Director Community and
	Organisational Development
Director	3
Signature	
File ref	CMS/505
Previous Item	CP35.12
No's	
Disclosure of	No officer involved in the preparation of this report
Interest	had any interest which required it to be declared in
	accordance with the provisions of the Local
	Government Act (1995).

Regulation 11(da) – Not applicable – Recommendation adopted.

Moved – Councillor McManus Seconded – Councillor Hassell

That the Recommendation to Committee is adopted.

(Printed below for ease of reference)

CARRIED UNANIMOUSLY 11/-

Committee Recommendation / Recommendation to Committee

Council approves applications to the Community Grants Fund or the Youth Grants Fund (excluding GST) for the following events:

- 1. Swanbourne Christmas Carols Event \$1,000;
- 2. Christmas Carols on the Lawn Event \$1,000:
- 3. Community Christmas Event \$1,000;
- 4. Stanley Street Christmas Party \$250;
- 5. Kingsway Christmas Party \$250;
- 6. Minora Road Christmas Party \$250 and
- 7. United Nations Youth Association National Evatt Trophy Final 2012 \$250

7.4 Corporate & Strategy Report No's CPS50.12 to CPS55.12

CPS50.12 List of Accounts Paid – October 2012

Committee	4 December 2012
Council	11 December 2012

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

Regulation 11(da) – Not applicable – Recommendation adopted.

Moved – Councillor Shaw Seconded – Councillor James

That the Recommendation to Committee is adopted.

(Printed below for ease of reference)

Councillor Hodsdon left the room at 9.13 pm.

CARRIED 9/(Abstained: Cr. Walker)

Committee Recommendation / Recommendation to Committee

Council receives the List of Accounts Paid for the month of October 2012 (refer to attachment).

CPS51.12 Local Laws Review

Committee	4 December 2012
Council	11 December 2012

Applicant	City of Nedlands
Owner	City of Nedlands
Officer	Phoebe Huigens, A/Manager Corporate Services
Director	Darla Blake, A/Director Corporate & Strategy
Director	D Q11
Signature	Dlake
File ref.	LEG/024
Previous Item	Nil
No's	INII
Disclosure of	No officer involved in the preparation of this report
Interest	had any interest which required it to be declared in
	accordance with the provisions of the Local
	Government Act (1995).

Councillor Hodsdon returned to the room at 9.14 pm.

Regulation 11(da) – Not applicable – Recommendation adopted.

Moved – Councillor Hassell Seconded – Councillor James

That the Recommendation to Committee is adopted.

(Printed below for ease of reference)

CARRIED 10/(Abstained: Cr. Horley)

Please note that under section 3.12(2) of the *Local Government Act 1995,* the Presiding Member read aloud the purpose and effect of the proposed local law.

Local Law Relating to Reserves, Foreshores and Beaches:

Purpose: To provide for the regulation, control and management of activities conducted on Council reserves, foreshores and beaches throughout the District.

Effect: To establish a system regulating activities on reserves, foreshores and beaches with which persons wishing to conduct such activities must observe.

Local Law Relating to Site Erosion and Sand Drift: Purpose: To provide for the regulation of issues relating to site erosion and sand drift within the municipality.

Effect: To enable better management of issues relating to site erosion and sand drift within the municipality.

Local Law Relating to Council Halls:

Purpose: To establish the conditions under which halls, centres, buildings or premises owned or vested in or under the care, control and management of the City may be hired.

Effect: To properly manage and maintain the City's built assets and facilities.

Signs Local Law:

Purpose: To provide for the regulation, control and management of signs within the District

Effect: To establish the requirements with which any person seeking to erect a sign within the City of Nedlands must comply.

Committee Recommendation / Recommendation to Committee

Council authorises Administration to:

- 1. Undertake a review of the:
 - a. Local Law Relating to Reserves, Foreshores and Beaches;
 - b. Local law Relating to Site Erosion and Sand Drift;
 - c. Local Law Relating to Council Halls; and
 - d. Signs Local Law.
- 2. Report back to Council the results of the review and any submissions received as per requirements of Section 3.12 and 3.16 of the Local Government Act 1995 and the Department of Local Government Operational Guidelines.

CPS52.12 Request for Exemption of Council Rates

Committee	4 December 2012
Council	11 December 2012

Applicant	City of Nedlands
Owner	City of Nedlands
Officer	Mathew Ayre – Rates Officer
Director	Darla Blake – A/Director Corporate & Strategy
Director	DRI. Ro
Signature	N Dlake
File ref.	RTV/049
Previous Item	Nil
No's	14
Disclosure of	No officer involved in the preparation of this report
Interest	had any interest which required it to be declared in
	accordance with the provisions of the Local
	Government Act (1995).

Regulation 11(da) – Not applicable – Recommendation adopted.

Moved – Councillor James Seconded – Councillor Hassell

That the Recommendation to Committee is adopted.

(Printed below for ease of reference)

CARRIED 10/1 (Against: Cr. Walker)

Committee Recommendation / Recommendation to Committee

Council grants an exemption from rates for the property at 95A Waratah Avenue, Dalkeith in accordance with Section 6.26(2)(d) Local Government Act 1995.

CPS53.12 Delegation of Authority – Awards of Tenders during the Council Recess

Committee	4 December 2012
Council	11 December 2012

Applicant	City of Nedlands
Owner	City of Nedlands
Officer	Rajah Senathirajah, Manager Finance Services
Director	Darla Blake
	A/Director Corporate and Strategy
Director	PRI. Ac
Signature	N DIAM
File ref.	CRS/058
Previous Item	N/A
No's	IVA
Disclosure of	No officer involved in the preparation of this report
Interest	had any interest which required it to be declared in
	accordance with the provisions of the Local
	Government Act (1995).

Regulation 11(da) – Not applicable – Recommendation adopted.

Moved – Councillor Somerville-Brown Seconded – Councillor Shaw

That the Recommendation to Committee is adopted.

(Printed below for ease of reference)

CARRIED 9/1 (Against: Cr. James)

(Abstained: Cr. Walker)

Committee Recommendation / Recommendation to Committee

Council delegates to the Chief Executive Officer the authority to determine tenders in accordance with the *Local Government Act* (Functions and General) Regulations 1996 over the Council recess to a maximum of \$500,000 (excl GST).

CPS54.12 City of Nedlands Strategic Community Plan "Nedlands 2023"

Committee	4 December 2012
Council	11 December 2012

Applicant	City of Nedlands
Owner	City of Nedlands
Officer	Rajah Senathirajah, Manager Finance Services
Director	Darla Blake
	A/Director Corporate and Strategy
Director	DRI A
Signature	John
File ref.	CRS/058
Previous Item	N/A
No's	IVA
Disclosure of	No officer involved in the preparation of this report
Interest	had any interest which required it to be declared in
	accordance with the provisions of the Local
	Government Act (1995).

Regulation 11(da) – Not applicable – Recommendation adopted.

Moved – Councillor Somerville-Brown Seconded – Councillor Shaw

That the Recommendation to Committee is adopted.

(Printed below for ease of reference)

CARRIED UNANIMOUSLY 11/-

Committee Recommendation / Amended Recommendation

Council adopts the City of Nedlands Strategic Community Plan 2013-2023, "Nedlands 2023", with the following changes:

- 1. The addition of the Strategic Community Plan indicators (attached to this Memo for your consideration);
- 2. On page 7, the addition of a caption for the diagram, "Age distribution for the City of Nedlands, ABS 2011";
- 3. Page 20, change "Swanbourne Surf Lifesaving Club" to "Swanbourne Nedlands Surf Lifesaving Club";
- 4. Page 39, changing the paragraph for "Housing Types" to:

The Table below shows the areas the City identified as being suitable for housing diversity and the percentage of

participants who would be agreeable to the different housing types in these identified areas; and

5. Page 39, under "Housing Types", change "Mt Claremont" to "Specific areas of Mt Claremont".

Recommendation to Council

Council adopts the City of Nedlands Strategic Community Plan 2013-2023, "Nedlands 2023".

ABSOLUTE MAJORITY REQUIRED

CPS55.12 City of Nedlands Dogs Amendment Local Law 2012

Committee	4 December 2012
Council	11 December 2012

Applicant	City of Nedlands
Owner	City of Nedlands
Officer	Phoebe Huigens, Acting Manager Corporate
	Services
Director	Darla Blake, Acting Director Corporate and Strategy
Director	PRI. As
Signature	N Dlane
File ref.	LEG/024
Previous Item	N/A
No's	IVA
Disclosure of	No officer involved in the preparation of this report
Interest	had any interest which required it to be declared in
	accordance with the provisions of the Local
	Government Act (1995).

Regulation 11(da) – Not applicable – Recommendation adopted.

Moved – Councillor James Seconded – Councillor Hassell

That the Recommendation to Committee is adopted.

(Printed below for ease of reference)

CARRIED 10/-

(Abstained: Crs. McManus)

Please note that under section 3.12(2) of the *Local Government Act 1995*, the Presiding Officer read aloud the purpose and effect of the proposed local law.

Purpose: The purpose of the local law is to provide for the regulation, control and management of dogs and issues relating to dogs within the municipality.

Effect: The effect of the local law is to control activities and manage dogs within the municipality.

Committee Recommendation / Recommendation to Committee

Council approves advertising the City of Nedlands Dogs Amendment Local Law 2012.

8. Reports by the Chief Executive Officer

PLEASE NOTE THIS ITEM WAS BROUGHT FORWARD (see page 11)

8.1 Outcomes of negotiation process for City of Nedlands Membership of the Western Metropolitan Regional Council

Committee	4 December 2012
Council	11 December 2012

Applicant	City of Nedlands
Acting CEO	Michael Cole
Acting CEO Signature	1 m
File ref.	ORN/016-21
Previous Item	13.3 – 28 August 2012
No's	TS11.12 – 26 June 2012
Disclosure of	No officer involved in the preparation of this report
Interest	had any interest which required it to be declared in
	accordance with the provisions of the Local
	Government Act (1995).

8.2 Claremont Nedlands Lions Club - Proposed Lease for revised location

Committee	4 December 2012
Council	11 December 2012

Applicant	City of Nedlands
Owner	City of Nedlands
Officer	Rebecca Boley – Property Management Officer
Acting CEO	Michael Cole
Acting CEO	
Signature	1 had the
File ref.	CMS/216
Previous Item No's	PD50.12 on November 27 2012
Disclosure of	No officer involved in the preparation of this report
Interest	had any interest which required it to be declared in
	accordance with the provisions of the Local
	Government Act (1995).

Councillor McManus – Impartiality Interest

He disclosed that he is the Vice President of Claremont Lions Club, and as a consequence, there may be a perception that his impartiality on the matter may be affected. He declared that he would consider this matter on its merits and vote accordingly.

Regulation 11(da) – Council agreed this item lay on the table until the Council Meeting of 11 December 2012.

Moved – Councillor Horley Seconded – Councillor Binks

That this item lay on the table to the Council Meeting of 11 December 2012.

CARRIED 10/-

(Abstained: Crs. McManus)

Committee Recommendation

That this item lay on the table to the Council Meeting of 11 December 2012.

Recommendation to Committee

Council:

- notes the revised proposal to lease land adjacent to the tennis courts near the Mt Claremont Community Centre, land which the City is the registered proprietor of subject to a crown grant in trust; and
- 2. authorises the Mayor and CEO to sign a lease with the Claremont Nedlands Lions Club for this land to locate a shed on the following conditions:
 - a. the Club apply for and receive planning approval before lease document is executed;
 - b. the City's standard lease template will be used;
 - c. the term will be ten (10) years with an option to renew for a further five (5) years;
 - d. the Club will apply for and receive a building permit before commencing works to erect the shed;
 - e. provision to remove shed at expiration of term or City of Nedlands to acquire any improvements at an agreed value;
 and
 - f. provision in lease to include any conditions of a planning approval.

Purpose

The purpose of this report is to inform Council of an alternative site proposed for the Claremont Nedlands Lions Club to locate a shed for their use within the City of Nedlands and to seek endorsement of the proposed site and terms of the arrangement.

Strategic Plan

- KFA 4: Community Wellbeing
 - 4.1 Provide and facilitate access to services and facilities required by the broader community, clubs and community groups.
- KFA 5: Governance
 - 5.1 Manage the City's resources in a sustainable and responsible manner.
 - 5.8 Establish and actively manage a range of partnerships with government, private and not-for-profit sectors.

Background

In 2011 the Claremont Nedlands Lions Club discussed with the former CEO, the possibility of having a "shed" within the City of Nedlands for the Clubs use. One site suggested was the Broome Street Depot. Investigation into this proposal found that the Town of Claremont currently leases balance of the depot to its maximum occupancy and no area is available for another shed to be located for the Club's use. Other issues of access outside depot operational hours and security were also tendered to highlight the unsuitability of this location to have a shed for the Club's use.

The Lions Club had previously erected and used a shed at the "old Town of Claremont depot". On investigation by City of Nedland's officers it has been found that this shed can be recycled and relocated to another site.

Council considered a report on November 27 2012 which proposed to locate the shed next to Drabble House at 8 Webster Street Nedlands however this site was deemed unsuitable and the location was referred back to the City's Administration for further consideration.

City Administration officer's have since met and identified an alternative site on land which the City is the registered proprietor of, subject to a Crown grant in trust and with legal description Lot 6987 on Deposited Plan 167276 being the whole of land comprised in Certificate of Title Volume 2115 Folio 135. The lease of this revised site is now the subject for Council's consideration.

Proposal Detail

It is proposed to enter into a lease with the Claremont Nedlands Lions Club for an area of land located adjacent to the tennis courts near the Mount Claremont Community Centre to locate a shed for use by the Club.

The City is the registered proprietor of an estate in fee simple of the land described as Lot 6987 on Deposited Plan 167276 being the whole of land comprised in Certificate of Title Volume 2115 Folio 135. This land was transferred to the City as a Crown Grant in Trust to be used solely for community purposes. This land is now zoned for Municipal Purposes.

The proposed lease would be based on the City's standard lease template. It would be subject to a "peppercorn" rental.

The specifications of the shed which has been recycled from the "old Town of Claremont depot" and proposed to be relocated to area beside the tennis courts near the Mount Claremont Community Centre are:

- total area 30.4 m2;
- roller door at one end for vehicle access to store trailer in shed:
- concrete floor required (refer to attachment 2).

The area beside the tennis courts near the Mount Claremont Community Centre is zoned for "municipal purposes". The Lions Club is a community group carrying on charitable work. This revised site is preferred for its accessibility, safety and security of location for such a storage shed. It is proposed to include upon determination of the lease, the option for the Lions Club to either restore the premises to its former state prior to lease agreement or for the City of Nedlands to acquire any improvements at an agreed value.

The Lease would also make provision for any conditions of a planning approval.

Consultation		
Required by legislation:	Yes 🗌	No 🗵
Required by City of Nedlands policy:	Yes 🖂	No 🗆

Consultation type: The City will consult with the Lions Club to ensure mutual agreement to terms for the lease of land to locate a shed. If the planning department deem consultation with neighbouring residents to be required this will also be conducted.

Legislation

Local Government (Functions and General) Regulations 1996

The lease of land to the Lions Club is an "exempt disposition" of land as defined in Regulation 30 (2)(b) - the land is disposed of to a body that is charitable in purpose and members are not entitiled to receive pecuniary profit for the body's actions.

Budget/financial implications		
Budget:		
Within current approved budget: Requires further budget consideration:	Yes ☐ Yes ☐	No ∑ No ∑
Financial:		

The Club will be responsible for all costs associated with attaining planning and building approvals. The Club is also responsible for costs associated with installation of the shed on site. The Club will also be responsible for legal costs associated with preparation of the lease agreement.

C12/173 39

Risk Management

Any risk associated with the proposal will be included in the lease, i.e. options open to parties on expiration of the lease e.g. City to acquire improvements at an agreed amount or Club to restore premises to former state. The lease will also be contingent on planning approval being received. Any conditions of a planning approval will be provided for in the lease to ensure local amenity is preserved.

Discussion

The Claremont Nedlands Lions Club has been in discussion for some time with the City of Nedlands to obtain a site to locate a shed for storage and use by the Club. Administration had identified a site beside Drabble House which was considered by the Committee and Council and referred back for further consideration to identify an alternative location. The Administration has now identified an alternative site on an area beside the tennis courts near the Mount Claremont Community Centre and accessible from Adderley Street in Mount Claremont. This site is preferred for its location near the Community centre providing added safety and security as well as its vehicle accessibility, as required by the Club. Adderley Street dead ends at the community centre so there is likely to be little impact on traffic in accessing the shed. The intended use of the shed by the Lions Club is for storage which would not adversely impact the neighboring area and any conditions of a planning approval will be provided for in the lease agreement.

Conclusion

The proposed lease of land to the Claremont Nedlands Lions Club for locating a storage shed on the revised site will satisfy the requirements of the Club in order for them to carry on their community service based activities. It will also ensure that the shed is located in a more appropriate location in terms of access and local amenity. This will in turn promote and facilitate the provision of community services and continue to develop a sense of community within the City of Nedlands.

Attachments

- 1. Site location map for shed beside tennis courts near Mount Claremont Community Centre, accessed from Adderley Street.
- 2. Photo of the shed intended to be relocated to proposed site. This photo was taken on location at the old Town of Claremont depot before removal.

9. Urgent Business Approved By the Presiding Member or By Decision

Nil.

10. Confidential Items

Nil.

Declaration of Closure

There being no further business, the Presiding Member declared the meeting closed at 9.43 pm.

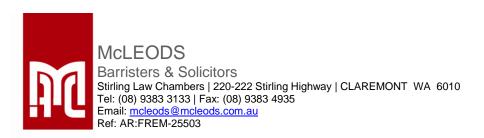
Attachment to Item 8.1

Committee 4 December 2012

Outcomes of negotiation process for City of Nedlands Membership of the Western Metropolitan Regional Council

Waste delivery agreement

Town of Claremont
Town of Cottesloe
Town of Mosman Park
Shire of Peppermint Grove
City of Subiaco
Western Metropolitan Regional Council



Copyright notice

McLeods owns the copyright in this document and commercial use of the document without the permission of McLeods is prohibited.

Table of Contents

Copyright notice Details Agreed terms		i
		1
		2
1. 1.1 1.2 1.3	Defined terms and interpretation Defined terms Defined terms – Establishment Agreement and Local Government Act Interpretation	2 2 2 2
2. 2.1 2.2	Delivery of waste obligations Delivery of waste to WMRC Exemptions	2 2 2
3.	Term	3
4.	Miscellaneous	3
4.1 4.2 4.3 4.4 4.5 4.6 4.7 4.8 4.9	Further assurance Entire agreement Severability Amendment and waiver Notices Counterparts Dispute resolution Governing law Legal costs	3 3 3 3 4 4 5 5
Sigi	ning page	6

Details

Parties

Town of Claremont

of 308 Stirling Highway, Claremont, Western Australia

Town of Cottesloe

of 109 Broome Street, Cottesloe, Western Australia

Town of Mosman Park

of Memorial Park, Bayview Terrace, Mosman Park, Western Australia

Shire of Peppermint Grove

of 1 Leake Street, Peppermint Grove, Western Australia

City of Subiaco

of 241 Rokeby Road, Subiaco, Western Australia

Western Metropolitan Regional Council

of PO Box 47, Mosman Park, Western Australia (WMRC)

Background

- A The Participants are the participant local governments in the WMRC and the parties to the Establishment Agreement.
- B WMRC and Project SPV are parties to the Waste Supply Agreement.
- C The parties wish to enter into this Agreement to facilitate the operation of the Waste Supply Agreement.

Agreed terms

1. Defined terms and interpretation

1.1 Defined terms

In this Agreement, unless inconsistent with the context -

Commission Date has the same meaning as in Schedule 1 of the Waste Supply Agreement;

Establishment Agreement means the Establishment Agreement dated 23 December 2003 made by the Participants under the *Local Government Act 1995*;

Municipal Solid Waste has the same meaning as in Schedule 2 of the Waste Supply Agreement;

Participants means the Towns of Claremont, Cottesloe and Mosman Park, the Shire of Peppermint Grove and the City of Subiaco;

Party means a party to this Agreement;

Project SPV means DiCOM AWT Operations Pty Limited ACN 124 331 148;

Term has the meaning set out in clause 3 of this Agreement;

Waste has the same meaning as in clause 1.1 of the Establishment Agreement; and

Waste Supply Agreement means the agreement between Project SPV and WMRC dated 5 April 2007.

1.2 Defined terms – Establishment Agreement and Local Government Act

Subject to clause 1.1, words and expressions that are defined in the Establishment Agreement or the *Local Government Act 1995* have the same meaning in this Agreement.

1.3 Interpretation

This Agreement is to be interpreted in accordance with clause 1.3 of the Establishment Agreement.

2. Delivery of waste obligations

2.1 Delivery of waste to WMRC

Subject to clause 2.2, during the Term each Participant must deliver to WMRC, at the site or sites specified by WMRC, all its Waste to enable WMRC to comply with its obligations under clause 4.8 of the Waste Supply Agreement in relation to the delivery of Municipal Solid Waste.

2.2 Exemptions

- (1) WMRC may give a Participant a written exemption from the requirements of clause 2.1.
- (2) WMRC cannot give an exemption unless it is satisfied that giving the exemption would not affect its capacity to comply with its obligations under clause 4.8 of the Waste Supply Agreement in relation to the delivery of Municipal Solid Waste.

(3) An exemption –

- (a) must be in writing;
- (b) may be for any part of the Term;
- (c) may be subject to conditions; and
- (d) may apply to all or part of a Participant's Waste.

3. Term

The term of this Agreement -

- (a) is 5 years from the Commission date; and
- (b) may be extended by the written agreement of the Parties.

4. Miscellaneous

4.1 Further assurance

Each party will do all things necessary to give full effect to this Agreement and its enforcement and to the transactions contemplated by this Agreement including executing any document.

4.2 Entire agreement

This Agreement represents the entire agreement between the parties relating to its subject matter and supersedes any other agreement between the parties in respect of the subject matter of this Agreement, and to the extent permitted by law, no term (including any warranty or condition) will be implied into this Agreement.

4.3 Severability

In the event of part of this Agreement being or becoming void or unenforceable, that part is to be severed from this Agreement with the intention that the balance of this Agreement is to remain in full force and effect, unaffected by the severance.

4.4 Amendment and waiver

- (1) This Agreement may not be amended except by a document in writing signed by or on behalf of each of the parties.
- (2) Any waiver or relinquishment of the performance of any term or condition of this Agreement will be effective only if made in writing and executed by or on behalf on the party granting the waiver.
- (3) No waiver of any one breach of any term or condition of this Agreement is to operate as a waiver of any other breach of the same or other term or condition of this Agreement.

4.5 Notices

Any notice, direction or other communication which must or may be given in connection with this Agreement -

(a) must be in writing in order to be valid;

- (b) is sufficient if executed by the party giving the notice or on its behalf by any director, secretary, duly authorised officer or legal practitioner of that party;
- (c) in order to be valid must be given to a party as follows -
 - (i) delivered or sent by prepaid post to, or left at, the address of that party as set out in this Agreement;
 - (ii) sent to the facsimile number of that party as set out in this Agreement;
 - (iii) sent to the email address of that party; or
 - (iv) delivered or sent to another address or facsimile number as is notified in writing by that party to the other party from time to time; and
- (d) if given in accordance with paragraph (c), will be deemed to take effect -
 - (i) in the case of prepaid post, on the second business day after the date of posting;
 - (ii) in the case by email, on receipt of return email from the recipient acknowledging receipt of the email;
 - (iii) in the case of facsimile, on receipt of a transmission report from the sending machine confirming successful transmission; and
 - (iv) in the case of delivery by hand, on delivery.

4.6 Counterparts

This Agreement may be executed in any number of counterparts and all those counterparts together constitute one instrument.

4.7 Dispute resolution

- (1) If a dispute arises between the parties in connection with this Agreement, a party must give notice of the dispute to each other party identifying the dispute and providing details of it.
- (2) If a dispute is not resolved between the parties within 14 days of a notice under subclause (1) being given, the parties must endeavour to settle the dispute by mediation to be conducted by a mediator independent of the parties, appointed by agreement of the parties within 35 days of a notice in subclause (1) being given or, failing agreement, by a person appointed by the chair of LEADR or her or his nominee.
- (3) The mediation rules of the Law Society of NSW are to apply to the mediation.
- (4) It is a condition precedent to the right of any party to arbitrate or litigate a dispute under this Agreement that it first has complied with the mediation process in accordance with this clause.
- (5) Each party may be represented by a qualified legal practitioner or other representative in any mediation proceedings.
- (6) The parties must continue to comply with their obligations under this Agreement despite any dispute being referred to mediation, unless agreed otherwise by the parties in writing.

4.8 Governing law

This Agreement is to be construed and interpreted in accordance with the laws of the State of Western Australia and the parties agree to submit to the jurisdiction of the courts of that State and of courts competent to hear appeals from them.

4.9 Legal costs

Each party is to pay its own costs and expenses (including legal costs) of and incidental to the preparation, negotiation, completion and signing of this Agreement.

Signing page

EXECUTED as an agreement on	-
THE COMMON SEAL of the Town of Claremont is affixed by authority of a resolution of the Council in the presence of -	
Mayor	Chief Executive Officer
Name of Mayor (print)	Name of Chief Executive Officer (print)
THE COMMON SEAL of Town of Cottesloe is affixed by authority of a resolution of the Council in the presence of -	
	Chief Executive Officer
Name of Mayor (print)	Name of Chief Executive Officer (print)
THE COMMON SEAL of Town of Mosman Park is affixed by authority of a resolution of the Council in the presence of -	
Mayor	Chief Executive Officer
Name of Mayor (print)	Name of Chief Executive Officer (print)

THE COMMON SEAL of Shire of Peppermint Grove is affixed by authority of a resolution of the Council in the presence of -

President	Chief Executive Officer
Name of President (print)	Name of Chief Executive Officer (print)
THE COMMON SEAL of City of Subiaco is affixed by authority of a resolution of the Council in the presence of -	
Mayor	Chief Executive Officer
Name of Mayor (print)	Name of Chief Executive Officer (print)
THE COMMON SEAL of Western Metropolitan Regional Council is affixed by authority of a resolution of the Council in the presence of -	
Chairman	Chief Executive Officer
Name of Chairman (print)	Name of Chief Executive Officer (print)

Attachment to Item 8.2

Committee 4 December 2012

Claremont Nedlands Lions Club - Proposed Lease for revised location



