

**Minutes**

**Council Committee Meeting**

**8 June 2021**

**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 next Ordinary Meeting of Council following this meeting.

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**City of Nedlands**

**Minutes of a meeting of the Council Committee held in the Council Chambers, 71 Stirling Highway, Nedlands on Tuesday 8 June 2021 at 7 pm.**

# Declaration of Opening

The Presiding Member declared the meeting open at 7.02 pm and drew attention to the disclaimer below.

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

**Councillors** Deputy Mayor L J McManus (Presiding Member)

Councillor F J O Bennett Dalkeith Ward

Councillor A W Mangano Dalkeith Ward

Councillor N R Youngman Dalkeith Ward

Councillor B G Hodsdon Hollywood Ward

Vacant Hollywood Ward

Councillor J D Wetherall Hollywood Ward

Councillor R A Coghlan Melvista Ward

Councillor R Senathirajah Melvista Ward

Councillor B Tyson Melvista Ward

Councillor N B J Horley Coastal Districts Ward

Councillor K A Smyth Coastal Districts Ward

**Staff** Mr E K Herne Acting Chief Executive Officer

Mr J Duff Director Technical Services

Mr T G Free Director Planning & Development

Mr A Melville Acting Director Corporate & Strategy

Ms P Panayotou Executive Manager Community

Mrs N M Ceric Executive Officer

**Invited**  Peter Bennington Independent IT Consultant

**Public** There were 12 members of the public present and 1 online.

**Press** Nil.

**Leave of Absence** Nil.

**(Previously Approved)**

**Apologies** Nil.

**Disclaimer**

Members of the public who attend Council meetings should not act immediately on anything they hear at the meetings, without first seeking clarification of Council’s position. For example, by reference to the confirmed Minutes of Council meeting. Members of the public are also advised to wait for written advice from the Council prior to taking action on any matter that they may have before Council.

Any plans or documents in agendas and minutes may be subject to copyright. The express permission of the copyright owner must be obtained before copying any copyright material.

# 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.

Nil.

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

Addresses by members of the public who have completed Public Address Session Forms will be invited to be made as each item relating to their address is discussed by the Committee.

Mr Luke Bishop, 282 Marine Parade, Swanbourne CSD07.21

(spoke in support of the recommendation)

Mr Alan Bruce, 4A Florence Street, West Perth CPS12.21

(spoke in support of the recommendation)

Mrs Sue Wood, 20 Clark Street, Nedlands 9.4

(spoke in opposition to the recommendation)

Mr Lindsay Timms, 27A Clark Street, Nedlands 9.4

(spoke in opposition to the recommendation)

Moved – Councillor Tyson

Seconded – Councillor Smyth

**That Standing Order 3.4(4) be suspended to allow the following 3 additional public addresses on item 9.4.**

**CARRIED UNANIMOUSLY 11/-**

Mrs Jo Hiller, 22 Clark Street, Nedlands 9.4

(spoke in opposition to the recommendation)

Dr Henry Esbenshade, 15 Landon Way, Mt Claremont 9.4

(spoke in opposition to the recommendation)

Mrs Jennifer Esbenshade, 15 Landon Way, Mt Claremont 9.4

(spoke in opposition to the recommendation)

# Disclosures of Financial and/or Proximity Interest

The Presiding Member reminded Council Members and Employees 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.

# Disclosures of Interests Affecting Impartiality

The Presiding Member reminded Council Members and Employees of the requirements of Council’s Code of Conduct in accordance with Section 5.103 of the *Local Government Act*.

## Councillor Bennett – Item 9.4 - Responsible Authority Report - 10 Multiple Dwellings at Lot 21 (No. 24) Clark Street, Nedlands

Councillor Bennett disclosed an impartiality interest in Item Item 9.4 - Responsible Authority Report - 10 Multiple Dwellings at Lot 21 (No. 24) Clark Street, Nedlands. Councillor Bennett disclosed that he is a Ministerial appointee and paid member of the MINJDAP that will be considering this item at a meeting scheduled for 23 June 2021. As a consequence, there may be a perception that his impartiality on the matter may be affected. In accordance with recent legal advice from McLeods released to the local government sector in relation to a recent Supreme Court ruling, Councillor Bennett advised he will not stay in the room and debate the item or vote on the matter.

Please Note that although not participating in the debate Councillor Bennett intended to listen to Public Questions and Addresses as he believed this is a neutral position and does not predispose a bias for the JDAP.

## Councillor Smyth – Item 9.4 - Responsible Authority Report - 10 Multiple Dwellings at Lot 21 (No. 24) Clark Street, Nedlands

Councillor Smyth disclosed an impartiality interest in Item Item 9.4 - Responsible Authority Report - 10 Multiple Dwellings at Lot 21 (No. 24) Clark Street, Nedlands. Councillor Smyth disclosed that she is a Ministerial appointee and paid member of the MINJDAP that will be considering this item at a meeting scheduled for 23rd June 2021. As a consequence, there may be a perception that her impartiality on the matter may be affected. In accordance with recent legal advice from McLeods released to the local government sector in relation to a recent Supreme Court ruling, Councillor Smyth advised she will not stay in the room and debate the item or vote on the matter.

Please Note that although not participating in the debate Councillor Smyth intended to listen to Public Questions and Addresses as she believed this is a neutral position and does not predispose a bias for the JDAP.

## Councillor Smyth – CSD07.21- Swanbourne Surf Life Saving Club - Clubroom Redevelopment Project

Councillor Smyth disclosed an impartiality interest in Item CSD7.21 - Swanbourne Surf Life Saving Club - Clubroom Redevelopment Project. Councillor Smyth disclosed that as a Coastal Ward Councillor she holds an honorary position of Vice Patron and as a consequence, there may be a perception that her impartiality on the matter may be affected. Councillor Smyth declared that she would consider this matter on its merits and vote accordingly.

## Deputy Mayor McManus – CSD07.21- Swanbourne Surf Life Saving Club - Clubroom Redevelopment Project

Deputy Mayor McManus disclosed an impartiality interest in Item CSD07.21- Swanbourne Surf Life Saving Club - Clubroom Redevelopment Project. Deputy Mayor McManus disclosed that as a Coastal Ward Councillor he holds an honorary position of Vice Patron, and as a consequence, there may be a perception that his impartiality on the matter may be affected. Deputy Mayor McManus declared that he would consider this matter on its merits and vote accordingly.

## Councillor Horley – CSD07.21- Swanbourne Surf Life Saving Club - Clubroom Redevelopment Project

Councillor Horley disclosed an impartiality interest in Item CSD7.21 - Swanbourne Surf Life Saving Club - Clubroom Redevelopment Project. Councillor Horley disclosed that as a Coastal Ward Councillor she holds an honorary position of Vice Patron and as a consequence, there may be a perception that her impartiality on the matter may be affected. Councillor Horley declared that she would consider this matter on its merits and vote accordingly.

# Declarations by Council Members That They Have Not Given Due Consideration to Papers

Nil.

# Confirmation of Minutes

## Committee Meeting 11 May 2021

Moved – Councillor Tyson

Seconded – Councillor Smyth

**The Minutes of the Council Committee held 11 May 2021 be confirmed.**

**CARRIED UNANIMOUSLY 11/-**

# Matters for Which the Meeting May Be Closed

In accordance with Standing Orders and for the convenience of the public, the Committee 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.

Councillor Smyth requested that the discussion on item 9.4 be behind closed doors. The Presiding Member advised this would be dealt with at the item.

# 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.

Moved – Councillor Tyson

Seconded – Councillor Coghlan

**That item 9.4 be brought forward.**

**CARRIED UNANIMOUSLY 11/-**

Moved – Councillor Horley

Seconded – Councillor Coghlan

**That item CSD07.21 be brought forward following item 9.4.**

**CARRIED UNANIMOUSLY 11/-**

Councillor Smyth & Councillor Bennett left the meeting at 7.38 pm.

**Please note this item was brought forward from page 45.**

## Responsible Authority Report for 10 Multiple Dwellings – 24 Clark Street, Nedlands

|  |  |
| --- | --- |
| **Committee** | 8 June 2021 |
| **Applicant** | Tuscom Subdivision Consultants Pty Ltd |
| **Landowner** | Sincerity Holding Pty Ltd |
| **Director** | Tony Free, Interim Director Planning and Development Services |
| **Employee Disclosure under section 5.70 *Local Government Act 1995*** | The author, reviewers and authoriser of this report declare they have no financial or impartiality interest with this matter. There is no financial or personal relationship between City staff and the proponents or their consultants. Whilst parties may be known to each other professionally, this relationship is consistent with the limitations placed on such relationships by the Codes of Conduct of the City and the Planning Institute of Australia*.* |
| **Report Type**  Information Purposes | Items provided to Council for information purposes. |
| **Reference** | DA20-56042 (DA/20/01889) |
| **Previous Item** | Nil |
| **Delegation** | Nil |
| **Attachments** | 1. Responsible Authority Report and Attachments |
| **Confidential Attachments** | Nil |

**Councillor Bennett – Impartiality Interest**

Councillor Bennett disclosed an impartiality interest in Item Item 9.4 - Responsible Authority Report - 10 Multiple Dwellings at Lot 21 (No. 24) Clark Street, Nedlands. Councillor Bennett disclosed that he is a Ministerial appointee and paid member of the MINJDAP that will be considering this item at a meeting scheduled for 23 June 2021. As a consequence, there may be a perception that his impartiality on the matter may be affected. In accordance with recent legal advice from McLeods released to the local government sector in relation to a recent Supreme Court ruling, Councillor Bennett advised he will not stay in the room and debate the item or vote on the matter.

Please Note that although not participating in the debate Councillor Bennett intended to listen to Public Questions and Addresses as he believed this is a neutral position and does not predispose a bias for the JDAP.

**Councillor Smyth – Impartiality Interest**

Councillor Smyth disclosed an impartiality interest in Item Item 9.4 - Responsible Authority Report - 10 Multiple Dwellings at Lot 21 (No. 24) Clark Street, Nedlands. Councillor Smyth disclosed that she is a Ministerial appointee and paid member of the MINJDAP that will be considering this item at a meeting scheduled for 23rd June 2021. As a consequence, there may be a perception that her impartiality on the matter may be affected. In accordance with recent legal advice from McLeods released to the local government sector in relation to a recent Supreme Court ruling, Councillor Smyth advised she will not stay in the room and debate the item or vote on the matter.

Please Note that although not participating in the debate Councillor Smyth intended to listen to Public Questions and Addresses as she believed this is a neutral position and does not predispose a bias for the JDAP.

**Regulation 11(da) – Council agreed that Clark Street is zoned R60 by the City’s Local Planning Scheme. Under the Residential Design Codes Volume 2, the reasonable expectation of the residents of that street is that new developments would be up to 3 storeys with a total height of 12 metres, and a plot ratio of up to 0.8.**

**Clark Street currently consists predominantly of well-maintained single level residential dwellings on lots of approximately 900 square metres. The street enjoys the amenity associated with a low-density suburban street.**

**The proposed development is 4 storeys with an overall height of 14.6 metres, with a plot ratio of 0.95. The scale and bulk of the development is beyond the desired R60 acceptable outcomes for Clark Street and well beyond a reasonable outcome for the existing low scale, well maintained dwelling stock which is the dominant built form in Clark Street. The proposed development is not supported by the Aims of the Nedlands Local Planning Scheme – to protect and enhance the local character and amenity, nor by the objectives of the Residential zone which includes the requirement to ensure development maintains compatibility with the desired streetscape in terms of bulk, scale and height. The proposed development goes beyond what is reasonable anticipated by the Scheme, thus the development is inconsistent with the proper and orderly planning for Clark Street. Such an assessment is supported by the Planning and Development Regulations 2015.**

**The development is proposing to develop to a R80 standard which would allow 4 storeys, at a height of 15 metres and a plot ratio of 1. The density coding, in part, is to create a level of certainty of all parties. It is not reasonable to expect that the residents of Clark Street would have expected that a development in their street be at a R80 density, when the street was rezoned to R60 in 2019. The approval of this development is essentially indicating that the zoning of the street is incorrect and should be R80 not R60. This is not the role of the approval authority of development applications. On this basis the development application should be refused.**

**It is also appropriate to highlight the width of the circulation corridors which are less than the minimum width of 1.5 metre to meet the acceptable outcomes measure. This diminishes the useability and amenity of the development for residents and visitors. The sole use of highlight windows for the bedroom window for Apartment’s Number 1 and 2 limits the volume of daylight coming into these apartments and thus reduces their liability.**

**Balcony balustrade treatments and the eastern and western facing windows having a minimum base from the floor of 1.6 metres serve to protect the privacy of the neighbouring properties.**

Moved – Councillor Coghlan

Seconded – Councillor Tyson

**That Council:**

* + - 1. **does not adopt as the Responsible Authority the Officer Recommendation contained in the Responsible Authority Report for the development of 10 multiple dwellings at 24 Clark Street, Nedlands included at Attachment 1;**

* + - 1. **instructs the CEO to incorporate Council’s Responsible Authority recommendation into the Responsible Authority Report for the development of 10 multiple dwellings at 24 Clark Street, Nedlands;**

* + - 1. **appoints Councillor Coghlan and Councillor Tyson to coordinate Council’s submission and presentation to the Metro Inner-North JDAP for the development of 10 multiple dwellings at 24 Clark Street, Nedlands;**

* + - 1. **advises the Metro Inner-North JDAP as follows:**

**4.1 Refuse the DAP Application reference DAP/20/01889 and accompanying plans (Attachment 1) in accordance with Clause 68 of Schedule 2 (Deemed Provisions) of the Planning and Development (Local Planning Schemes) Regulations 2015, and the provisions of the City of Nedlands Local Planning Scheme No. 3, on the following grounds:**

**a.     The development is inconsistent with the streetscape character of Clark Street as a result of the proposed height, bulk and scale not being in accordance with:**

**clause 67(2)(a)(b)(m) and (n) of the Planning and Development (Local Planning Scheme) Regulations 2015;**

**the aims of the Scheme under Clause 9(a) of the City of Nedlands Local Planning Scheme No. 3;**

**residential zone objectives under Clause 16 of the City of Nedlands Local Planning Scheme No.  3.**

**b.     Having regard to State Planning Policy 7.3 Residential Design Codes Volume 2 – Apartments, the height, bulk and scale of the proposed development is inappropriate to the context and local character and will result in unreasonable adverse internal and external amenity impacts given that it does not achieve an appropriate building envelope or massing as the development does not adequately satisfy:**

**Element 2.2 (Building Height) Element Objectives O2.2.1, O2.2.2 and O2.2.4 as it creates a bulk and scale that adversely affects the amenity of the surrounding single houses.**

**Element 2.5 (Plot Ratio) Element Objective O2.5.1 as it far exceeds the bulk and scale of a building coded R60 and its massing will unreasonably impact to surrounding single houses.**

**Element 3.5 (Visual Privacy) Element Objective O3.5.1 as Apartment’s Number 1 and 2, bedroom habitable room window is solely provided with a highlight window.**

**Element 4.5 (Circulation and Common Spaces) Element Objectives 04.5.1 and 04.5.2 as circulation corridors in the development does not meet a minimum of 1.5m in width.**

Amendment

Moved - Councillor Youngman

Seconded - Councillor Mangano

* + - 1. **requests that should the JDAP approve the application the following conditions be added:**

**all balcony balustrades shall be either opaque material or frosted glass; and**

**all windows on the building side facing east and west shall have a minimum base of 1.6 metres from the floor.**

**The AMENDMENT was PUT and was**

**CARRIED UNANIMOUSLY 8/-**

**The Substantive Motion was PUT and was**

**CARRIED UNANIMOUSLY 8/-**

Councillor Bennett & Councillor Smyth returned to the meeting at 8.11pm.

**Council Resolution**

**That Council:**

* + - 1. **does not adopt as the Responsible Authority the Officer Recommendation contained in the Responsible Authority Report for the development of 10 multiple dwellings at 24 Clark Street, Nedlands included at Attachment 1;**

* + - 1. **instructs the CEO to incorporate Council’s Responsible Authority recommendation into the Responsible Authority Report for the development of 10 multiple dwellings at 24 Clark Street, Nedlands;**

* + - 1. **appoints Councillor Coghlan and Councillor Tyson to coordinate Council’s submission and presentation to the Metro Inner-North JDAP for the development of 10 multiple dwellings at 24 Clark Street, Nedlands;**

* + - 1. **advises the Metro Inner-North JDAP as follows:**

**4.1 Refuse the DAP Application reference DAP/20/01889 and accompanying plans (Attachment 1) in accordance with Clause 68 of Schedule 2 (Deemed Provisions) of the Planning and Development (Local Planning Schemes) Regulations 2015, and the provisions of the City of Nedlands Local Planning Scheme No. 3, on the following grounds:**

**a.     The development is inconsistent with the streetscape character of Clark Street as a result of the proposed height, bulk and scale not being in accordance with:**

**clause 67(2)(a)(b)(m) and (n) of the Planning and Development (Local Planning Scheme) Regulations 2015;**

**the aims of the Scheme under Clause 9(a) of the City of Nedlands Local Planning Scheme No. 3;**

**residential zone objectives under Clause 16 of the City of Nedlands Local Planning Scheme No.  3.**

**b.     Having regard to State Planning Policy 7.3 Residential Design Codes Volume 2 – Apartments, the height, bulk and scale of the proposed development is inappropriate to the context and local character and will result in unreasonable adverse internal and external amenity impacts given that it does not achieve an appropriate building envelope or massing as the development does not adequately satisfy:**

**Element 2.2 (Building Height) Element Objectives O2.2.1, O2.2.2 and O2.2.4 as it creates a bulk and scale that adversely affects the amenity of the surrounding single houses.**

**Element 2.5 (Plot Ratio) Element Objective O2.5.1 as it far exceeds the bulk and scale of a building coded R60 and its massing will unreasonably impact to surrounding single houses.**

**Element 3.5 (Visual Privacy) Element Objective O3.5.1 as Apartment’s Number 1 and 2, bedroom habitable room window is solely provided with a highlight window.**

**Element 4.5 (Circulation and Common Spaces) Element Objectives 04.5.1 and 04.5.2 as circulation corridors in the development does not meet a minimum of 1.5m in width.**

* + - 1. **requests that should the JDAP approve the application the following conditions be added:**

**all balcony balustrades shall be either opaque material or frosted glass; and**

**all windows on the building side facing east and west shall have a minimum base of 1.6 metres from the floor.**

Recommendation to Committee

That Council:

1. adopts as the Responsible Authority the Officer Recommendation contained in the Responsible Authority Report for the development of 10 multiple dwellings at 24 Clark Street, Nedlands included at Attachment 1;
2. instructs the CEO to incorporate Council’s Responsible Authority recommendation into the Responsible Authority Report for the development of 10 multiple dwellings at 24 Clark Street, Nedlands; and
3. appoints Councillor (insert name) and Councillor (insert name) to coordinate Council’s submission and presentation to the Metro Inner-North JDAP for the development of 10 multiple dwellings at 24 Clark Street, Nedlands.
4. **Executive Summary**

In accordance with the *Planning and Development (Development Assessment Panels) Regulations 2011*, Administration has prepared a Responsible Authority Report in relation to the revised plans received on 28 May 2021 for the Metro-Inner North Joint Development Assessment Panel (JDAP) Form 1 Application at Lot 421 (No. 24) Clark Street, Nedlands.

The purpose of this report is to inform Council of the recommendation to the JDAP and for Council to make its recommendation as the Responsible Authority.

**Voting Requirement**

Simple Majority.

1. **Background**

**2.1 Land Details**

|  |  |
| --- | --- |
| **Metropolitan Region Scheme Zone** | Urban |
| **Local Planning Scheme Zone** | Residential |
| **R-Code** | R60 |
| **Land area** | 911m2 |
| **Land Use** | Proposed – Residential (Multiple Dwelling) |
| **Use Class** | ‘P’ - Permitted use |

**2.2 Locality Plan**

Lot 421 (No. 24) Clark Street, Nedlands (the site) is located within the street block bounded by Clark Street to the north, Broadway to the east, Edward Street to the south and Bruce Street to the west.

The site experiences a slope in natural ground level of approximately 0.7m from the front boundary (north) to the rear boundary (south). The land abutting the site is zoned R60, however lots further to the east of the site are zoned R160 and R-AC3 abutting Broadway.

The site previously contained a residential dwelling, which has since been demolished and the site cleared. An aerial map of the site is provided below.

A picture containing store, shop, warehouse

Description automatically generated

**Aerial Map**

**2.3 Background**

On 26 October 2020, the City received a Development Application for a Multiple Dwelling Development comprising of 10 apartments at the site. This application is to be determined by the Metro Inner-North Joint Development Assessment Panel (JDAP).

1. **Application Details**

The applicant seeks development approval for a four (4) storey Multiple Dwelling comprising of 10 apartments. The development is proposed as follows:

* A ground floor level comprising two (2) x studio apartments, bin store, storerooms, resident lobby and six (6) bicycle rails;
* Levels 1 and 2 comprising of four (4) x 2-bedroom apartments;
* Roof level (Level 3) comprising of a communal outdoor living area for residents only (no public access). An enclosed plant room and air-conditioning units are also located on this level; and
* A total of 10 resident car parking spaces will be provided at ground level to the rear of the development. Three (3) visitor car parking spaces are also to be provided.

1. **Consultation**

In accordance with the City’s Local Planning Policy – Consultation of Planning Proposals, the development proposal is considered a Complex Application. The application was advertised for over four weeks, commencing on 22 January 2021 and concluding on 18 Feburary 2021. Additional consultation time was granted to accommodate the rescheduled community information session that was cancelled due to the WA Government mandatory lockdown between 31 January – 5 February 2021.

Administration received a total of 29 submissions during the public consultation period, of which:

* 2 submissions were in support of the application;
* 1 submission was neither supportive nor objecting; and
* 26 submissions objected to the proposal.

Due to the number of concerns raised during public consultation, a separate summary of the submissions is contained in **Attachment 1**.

1. **Assessment of Statutory Provisions**

**5.1 Design Review**

For this application, an architectural and landscape architectural design review was undertaken. A copy of the architectural and landscape architectural design review against State Planning Policy 7.0 - Design of The Built Environment (SPP 7.0) is contained in **Attachment 1**. A meeting was also held to allow the applicants an opportunity to present to the City’s consultants and address any queries.

A summary of the proposal against SPP 7.0 is provided below, noting that since the original application was submitted, further information and amended development plans were provided by the applicant in response to the initial comments of the City’s consultants. The table below demonstrates aspects of the development proposal that the City’s consultants are supportive of.

|  |  |
| --- | --- |
| **Legend** | |
| **3** | Supported |
| **2** | Supported with conditions |
| **1** | Further information required |
| **0** | Not supported |

|  |  |  |
| --- | --- | --- |
| **SPP 7.0 Principles** | **Architectural design review** | **Landscape Architectural design review** |
| Principle 1: Context and Character | **3** | **N/A** |
| Principle 2: Landscape Quality | **3** | **3** |
| 1. 3.2 Orientation | **1** |
| 1. 3.3 Tree Canopy and Deep Soil Areas | **3** |
| 1. 3.4 Communal Open Space | **3** |
| 1. 3.6 Public Domain Interface | **1** |
| 1. 4.12 Landscape Design | **3** |
| 1. 4.16 Water Management Conservation | **3** |
| Principle 3: Built Form and Scale | **3** | **N/A** |
| Principle 4: Functionality and Built Quality | **1** | **N/A** |
| Principle 5: Sustainability | **2** | **N/A** |
| Principle 6: Amenity | **3** | **N/A** |
| Principle 7: Legibility | **3** | **N/A** |
| Principle 8: Safety | **3** | **N/A** |
| Principle 9: Community | **3** | **N/A** |
| Principle 10: Aesthetics | **3** | **N/A** |

The proposal is considered consistent with the 10 design principles of SPP 7.0.

It should be noted considerable modifications to the development proposal has already been undertaken by the applicant based on the advice of theindividual architectural and landscape architect engaged by the City, prior to the City’s formal DRP which was only established in May 2021**.**

**5.2 Residential Design Codes Volume 2 (R-Codes)**

A summary of the design elements that were identified as not meeting the Acceptable Outcomes of the R-Codes is outlined in the table below.

An assessment of the proposal against the R-Codes is detailed in full in **Attachment 1**.

|  |  |  |  |
| --- | --- | --- | --- |
| **R-Codes Element** | **Proposed** | **Acceptable Outcomes** | **Element Objectives** |
| Element 2.2- Building Height | 4 storeys and 14.6m overall building height from Natural Ground Level (NGL) | 3 storeys and 12.0m overall building height from Natural Ground Level (NGL) | Element Objectives 02.2.1, 02.2.2, 02.2.3 and 02.2.4 is achieved. |
| Element 2.5- Plot Ratio | 0.95 or 864m2 (19% increase) | 0.8 or 729m2 | Element Objectives 02.5.1 is achieved. |
| Element 3.5- Visual Privacy | Apartments 1 and 2 bedroom habitable room window is solely provided with a highlight window. | Habitable room windows without excessive reliance on high sill levels or permanent screening of windows. | Element Objectives 03.5.1 is achieved. |
| Element 4.5 - Circulation and Common Spaces | The width of circulation corridors proposed is between 1.35m - 1.44m. | Circulation corridors are a minimum 1.5m in width | Element Objectives 04.5.1 and 04.5.2 is achieved. |

1. **Recommendation to JDAP**

Administration recommends that Council adopts the Officer Recommendation contained in the Responsible Authority Report to recommend approval of the development, as included in **Attachment 1**.

In the event that Council resolves to recommend to the JDAP that the application should be refused, the following is provided to assist:

It is recommended that the Metro Inner-North JDAP resolves to:

1. **Refuse** DAP Application reference DAP/20/01889 and accompanying plans (Attachment 1) in accordance with Clause 68 of Schedule 2 (Deemed Provisions) of the Planning and Development (Local Planning Schemes) Regulations 2015, and the provisions of the City of Nedlands Local Planning Scheme No. 3, subject to the following reasons:
2. The development is inconsistent with the streetscape character of Clark Street as a result of the proposed height, bulk and scale does not accord to the following:
3. Clause 67(2)(a)(b)(m) and (n) of the Planning and Development (Local Planning Scheme) Regulations 2015.
4. Aims of the Scheme under Clause 9(a) of the City of Nedlands Local planning Scheme No. 3.
5. Residential zone objectives under Clause 16 of the City of Nedlands Local planning Scheme No. 3.
6. Having regard to State Planning Policy 7.3 Residential Design Codes Volume 2 – Apartments, the height, bulk and scale of the proposed development is inappropriate to the context and local character and will result in unreasonable adverse internal and external amenity impacts given that it does not achieve an appropriate building envelope or massing as the development does not adequately satisfy:
7. Element 2.2 (Building Height) Element Objectives O2.2.1, O2.2.2 and O2.2.4 as it creates a bulk and scale that adversely affects the amenity of the surrounding single houses.
8. Element 2.5 (Plot Ratio) Element Objective O2.5.1 as it far exceeds the bulk and scale of a building coded R60 and its massing will unreasonably impact to surrounding single houses.
9. Element 3.5 (Visual Privacy) Element Objective O3.5.1 as Apartment 1 and 2 bedroom habitable room window is solely provided with a highlight window.
10. Element 4.5 (Circulation and Common Spaces) Element Objectives 04.5.1 and 04.5.2 as circulation corridors in the development does not meet a minimum of 1.5m in width
11. **Conclusion**

Council is requested to consider the proposed development as the Responsible Authority. It is requested that Council makes a recommendation to the JDAP to either approve or refuse the application.

The application has been assessed in accordance with the planning framework and in instances where the proposal does not satisfy a provision or statute, a condition has been recommended to address the requirement.

Administration acknowledges the proposal represents a change to the existing character of the locality. That notwithstanding, there are multiple sites within the street that are likely to take advantage of the R60 density codes over time. Clark Street provides an important transition between the newly coded Mixed Use R-AC3 (along Broadway) with default height of six (6) storey to then a five (5) storey default height for R160 and to a default height of three (3) storey in areas codes R60.

The potential changes in the form of subdivision, grouped dwellings and multiple dwellings can be managed through appropriate siting and design. Administration is of the view that the subject application has appropriately considered façade, street setback, form, and streetscape presentation in order to achieve the relevant element objectives of the R-Codes or can be made capable by the application of conditions.

It is recommended Council adopt the Officer Recommendation contained in the Responsible Authority Report to approve the development.

**Please note this item was brought forward from page 31.**

|  |
| --- |
| CSD07.21 Swanbourne Surf Life Saving Club - Clubroom Redevelopment Project |

|  |  |
| --- | --- |
| **Committee** | 8 June 2021 |
| **Council** | 22 June 2021 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 of the *Local Government Act 1995*** | Nil. |
| **Executive Manager** | Patricia Panayotou – Executive Manager Community |
| **Attachments** | Nil. |
| **Confidential Attachments** | Nil. |

**Councillor Smyth – Impartiality Interest**

Councillor Smyth disclosed an impartiality interest in Item CSD7.21 - Swanbourne Surf Life Saving Club - Clubroom Redevelopment Project. Councillor Smyth disclosed that as a Coastal Ward Councillor she holds an honorary position of Vice Patron and as a consequence, there may be a perception that her impartiality on the matter may be affected. Councillor Smyth declared that she would consider this matter on its merits and vote accordingly.

**Deputy Mayor McManus – Impartiality Interest**

Deputy Mayor McManus disclosed an impartiality interest in Item CSD07.21- Swanbourne Surf Life Saving Club - Clubroom Redevelopment Project. Deputy Mayor McManus disclosed that as a Coastal Ward Councillor he holds an honorary position of Vice Patron, and as a consequence, there may be a perception that his impartiality on the matter may be affected. Deputy Mayor McManus declared that he would consider this matter on its merits and vote accordingly.

**Councillor Horley – Impartiality Interest**

Councillor Horley disclosed an impartiality interest in Item CSD7.21 - Swanbourne Surf Life Saving Club - Clubroom Redevelopment Project. Councillor Horley disclosed that as a Coastal Ward Councillor she holds an honorary position of Vice Patron and as a consequence, there may be a perception that her impartiality on the matter may be affected. Councillor Horley declared that she would consider this matter on its merits and vote accordingly.

**Regulation 11(da) – Not Applicable – Recommendation Adopted**

Moved – Councillor Horley

Seconded – Councillor Smyth

**That the Recommendation to Committee be adopted.**

(Printed below for ease of reference)

Councillor Wetherall left the meeting at 8.12pm and returned at 8.15pm.

**CARRIED UNANIMOUSLY 11/-**

**Committee Recommendation / Recommendation to Committee**

**Council approves the following expenditure on the redevelopment of the Swanbourne Surf Life Saving Club’s facilities project, being:**

1. **$124, 200 in the 2021/22 financial year; and**
2. **$124,200 in the 2022/23 financial year.**

**The Presiding Member adjourned the meeting for 5 minutes for the purposes of a refreshment break.**

The meeting adjourned at 8.25pm and reconvened at 8.30pm with the following people in attendance:

**Councillors** Deputy Mayor L J McManus (Presiding Member)

Councillor F J O Bennett Dalkeith Ward

Councillor A W Mangano Dalkeith Ward

Councillor N R Youngman Dalkeith Ward

Councillor B G Hodsdon Hollywood Ward

Vacant Hollywood Ward

Councillor J D Wetherall Hollywood Ward

Councillor R A Coghlan Melvista Ward

Councillor R Senathirajah Melvista Ward

Councillor B Tyson Melvista Ward

Councillor N B J Horley Coastal Districts Ward

Councillor K A Smyth Coastal Districts Ward

**Staff** Mr E K Herne Acting Chief Executive Officer

Mr J Duff Director Technical Services

Mr T G Free Director Planning & Development

Mr A Melville Acting Director Corporate & Strategy

Ms P Panayotou Executive Manager Community

Mrs N M Ceric Executive Officer

**Invitation** Peter Bennington Independent IT Consultant

**Public** There were 4 members of the public present and 1 online.

**Press** Nil.

## 8.1 Planning & Development Report No PD22.21

Planning & Development Report No PD22.21 to be dealt with at this point (copy attached yellow cover sheet).

|  |  |
| --- | --- |
| **PD22.21** | **Consideration of Development Application for 5 Grouped Dwellings at 15 Thomas Street, Nedlands** |
|  | |
| **Committee** | 8 June 2021 |
| **Council** | 22 June 2021 |
| **Applicant** | H Golestani |
| **Landowner** | Go Develop Louise St P/L |
| **Director** | Tony Free – Director Planning & Development |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | The author, reviewers and authoriser of this report declare they have no financial or impartiality interest with this matter.  There is no financial or personal relationship between City staff and the proponents or their consultants.  Whilst parties may be known to each other professionally,  this relationship is consistent with the limitations placed on  such relationships by the Codes of Conduct of the City and  the Planning Institute of Australia. |
| **Report Type**  Quasi-Judicial | When Council determines an application/matter that directly affects a person’s right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications and other decisions that may be appealable to the State Administrative Tribunal. |
| **Reference** | DA21/61309 |
| **Previous Item** | Nil |
| **Delegation** | In accordance with the City’s Instrument of Delegation, Council is required to determine the application due to the application proposing five dwellings. |
| **Attachments** | 1. Local Planning Scheme Regulations 2015 Clause 67 (2) Assessment 2. Administration State Planning Policy 7.0 Assessment 3. Applicant State Planning Policy 7.0 Assessment 4. Renders (Artist Impression) |
| **Confidential Attachments** | 1. Plans |

**Regulation 11(da) – Not Applicable – Recommendation Adopted**

Moved – Councillor Senathirajah

Seconded – Councillor Coghlan

**That the Recommendation to Committee be adopted.**

(Printed below for ease of reference)

**CARRIED 8/3**

**(Against: Crs. Bennett Mangano & Tyson)**

**Committee Recommendation / Recommendation to Committee**

**In accordance with clause 68(2)(b) of the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015*, Council approves the development application received on 4 March 2021 in accordance with the plans date stamped 25 May 2021 (DA21/61309) for five (5) grouped dwellings at Lot 72 (No.15) Thomas Street, Nedlands, subject to the following conditions:**

1. **This approval is for a ‘Residential’ (Grouped Dwellings) land use and development as defined under the City’s Local Planning Scheme No.3 and the subject land may not be used for any other use without prior approval of the City.**
2. **This approval is limited to the construction of 5 grouped dwellings only and does not relate to any site works, decking or retaining walls 500mm or greater above the approved ground levels.**
3. **The development shall at all times comply with the application and the approved plans, subject to any modifications required as a consequence of any condition(s) of this approval.**
4. **All footings and structures shall be constructed wholly inside the site boundaries of the property’s Certificate of Title.**
5. **Prior to occupation of the development, all major openings and unenclosed outdoor active habitable spaces, which have a floor level of more than 0.5m above natural ground level, as shown on the plans, shall be set back in accordance with clause 5.4.1 of the Residential Design Codes Volume 1, in direct line of sight within the cone of vision from the lot boundary, a minimum distance as prescribed in C1.1 of Clause 5.4.1 – Visual Privacy of the Residential Design Codes. Alternatively, the major openings are to be screened in accordance with the Residential Design Codes by either;**
6. **fixed obscured or translucent glass to a height of 1.60 metres above finished floor level, or**
7. **Timber screens, external blinds, window hoods and shutters to a height of 1.6m above finished floor level that are at least 75% obscure.**
8. **A minimum sill height of 1.60 metres as determined from the internal floor level; or**
9. **an alternative method of screening approved by the City of Nedlands.**

**The required setbacks and/or screening shall be thereafter maintained to the satisfaction of the City of Nedlands.**

1. **Prior to occupation of the development the finish of the parapet walls is to be finished externally to the same standard as the rest of the development in:**
2. **Face brick;**
3. **Painted render;**
4. **Painted brickwork; or**
5. **Other clean material as specified on the approved plans.**

**And maintained thereafter to the satisfaction of the City of Nedlands.**

1. **The parking bays and vehicle access areas shall be drained, paved and constructed in accordance with the approved plans and are to comply with the requirements of AS/NZS 2890.1:2004 prior to the occupation or use of the development.**
2. **Waste management for the development shall comply with the approved Waste Management Plan to the satisfaction of the City of Nedlands. Any modification to the approved waste management plan will require further approval by the City.**
3. **Bin stores shall be located behind the street alignment, screened so as not to be highly visible from the street or common property and constructed to the City’s satisfaction.**
4. **All stormwater from the development, which includes permeable and impermeable areas shall be contained onsite.**
5. **Prior to occupation of the development, all external fixtures including, but not limited to, TV and radio antennae, satellite dishes, plumbing ventes and pipes, solar panels, air conditioners, hot water systems and utilities shall be integrated into the design of the building and not be visible from the primary street to the satisfaction of the City.**
6. **Prior to the occupation of the development, all structures within the 1.5m visual truncation area abutting vehicle access points shall be truncated or reduced to 0.75m height to the satisfaction of the City of Nedlands.**
7. **Prior to occupation, each grouped dwelling is to have an adequate area set aside for clothes drying screened so as to not be highly visible from any adjacent public place in accordance with the requirements of the Residential Design Codes to the satisfaction of the City of Nedlands.**
8. **All landscaping shall be installed and maintained in accordance with the approved landscaping plan dated 25 May 2021, or any modification approved thereto, for the lifetime of the development thereafter, to the satisfaction of the City.**

## 8.2 Technical Services Report No TS11.21

Technical Services Report No TS11.21 to be dealt with at this point (copy attached blue cover sheet).

|  |
| --- |
| **TS11.21 Requested Review of Street Tree Policy** |

|  |  |
| --- | --- |
| **Committee** | 8 June 2021 |
| **Council** | 22 June 2021 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 of the Local Government Act 1995** | Nil. |
| **Director** | Jim Duff – Director Technical Services |
| **Attachments** | Nil. |
| **Confidential Attachments** | Nil. |

Moved – Councillor Bennett

Seconded – Councillor Mangano

**That Council Proceed to the next item of business.**

**CARRIED 8/3**

**(Against: Deputy Mayor McManus Crs. Hodsdon & Senathirajah)**

**Please note no recommendation was made by the Committee.**

Recommendation to Committee

Council requests the Acting CEO to engage an external consultant to assist with the preparation of a detailed project plan that outlines the process to be followed and resourcing required to undertake the review.

## 8.3 Community Services & Development Report No CSD07.21

Community Services & Development Report No CSD07.21 to be dealt with at this point (copy attached orange cover sheet).

**Please note this item was brought forward see page 23.**

|  |
| --- |
| CSD07.21 Swanbourne Surf Life Saving Club - Clubroom Redevelopment Project |

|  |  |
| --- | --- |
| **Committee** | 8 June 2021 |
| **Council** | 22 June 2021 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 of the *Local Government Act 1995*** | Nil. |
| **Executive Manager** | Patricia Panayotou – Executive Manager Community |
| **Attachments** | Nil. |
| **Confidential Attachments** | Nil. |

## 8.4 Corporate & Strategy Report No’s CPS12.21 to CPS13.21

Corporate & Strategy Report No’s CPS12.21 to CPS13.21 to be dealt with at this point (copy attached green cover sheet).

|  |
| --- |
| **CPS12.21 Nedlands Tennis Club – Liquor Licence Variation** |

|  |  |
| --- | --- |
| **Committee** | 8 June2021 |
| **Council** | 22 June 2021 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under *section 5.70 Local Government Act 1995*** | Nil. |
| **Director** | Andrew Melville – Acting Director Corporate & Strategy |
| **Attachments** | Nil. |
| **Confidential Attachments** | Nil. |

Regulation 11(da) – No decision made.

Moved – Councillor Youngman

Seconded – Deputy Mayor McManus

That the Recommendation to Committee be adopted.

(Printed below for ease of reference)

Lost 5/6

(Against: Crs. Smyth Bennett Mangano

Coghlan Senathirajah & Tyson)

**Please note no recommendation was made by the Committee.**

Recommendation to Committee

Council:

1. supports the Nedlands Tennis Club’s application to vary the approved Liquor Licence trading hours and licensed area on the provisions detailed within this report; and
2. requests the CEO provide a letter of consent to Department of Racing Gaming and Liquor.

|  |
| --- |
| **CPS13.21 RFT 2020-21.03 Provision of City Finance System** |

|  |  |
| --- | --- |
| **Committee** | 8 June2021 |
| **Council** | 22 June 2021 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under *section 5.70 Local Government Act 1995*** | Nil. |
| **Director** | Andrew Melville – Acting Director Corporate & Strategy |
| **Attachments** | * + - 1. Enterprise Resource Planning System - Scope of Integrated Modules |
| **Confidential Attachments** | 1. Tender Evaluation and Recommendation Report |

**Regulation 11(da) – The Council agreed that further information was required before a recommendation could be made and this information was going to be provided at a Council Member Briefing on Tuesday 15 June 2021.**

Procedural Motion

Moved – Councillor Senathirajah

Seconded – Councillor Tyson

**That Council proceed to the next item of business.**

**CARRIED UNANIMOUSLY 11/-**

**Please note no recommendation was made by the Committee.**

Recommendation to Committee

Council:

1. approves the supplier, TechnologyOne, to be awarded the contract for RFT 2020-21.03 – Provision City Finance System (Enterprise Resource Planning System) for the initial term of 5 years, comprising the initial 3 years with two one-year extensions, to be awarded under Local Government (Functions & General) Regulations 1996 11(2);
2. agrees to enter a contract with TechnologyOne to purchase their Enterprise Resource Planning System, called OneCouncil, with final contract subject to Chief Executive Officer approval; and
3. notes;
4. the adoption of the Integrated Enterprise Resource Planning approach for implementing Information Systems; and
5. the implementation of the TechnologyOne OneCouncil solution using the Cloud model called “Software as a Service”.

# Reports by the Chief Executive Officer

## Annual Review of the City of Nedlands Register of Delegations

|  |  |
| --- | --- |
| **Committee** | 8 June 2021 |
| **Council** | 22 June 2021 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under *section 5.70 Local Government Act 1995*** | Nil. |
| **CEO** | Ed Herne, Acting Chief Executive Officer |
| **Attachments** | 1. Register of Delegations – with track changes 2. Register of Delegated Authority – final version for adoption |

**Regulation 11(da) – Not Applicable – Recommendation Adopted**

Moved – Councillor Senathirajah

Seconded – Councillor Wetherall

**That the Recommendation to Committee be adopted.**

(Printed below for ease of reference)

**CARRIED BY ABSOLUTE MAJORITY 10/1**

**(Against: Cr. Bennett)**

**Committee Recommendation / Recommendation to Committee**

**Council approves the delegations made to the Chief Executive Officer and Committees, as contained in the Register of Delegations, Attachment 2.**

**Voting Requirement**

Absolute Majority.

**Executive Summary**

The City is required to review its Register of Delegations annually in accordance with section 5.46(2) of the Local Government Act 1995. This review has now been completed and is presented to Council for approval.

**Discussion/Overview**

**Background**

At least once every financial year, delegations from the Local Government Act 1995 and the City of Nedlands Local Planning Scheme No. 3 are to be reviewed by the delegator, either Council or the Chief Executive Officer.

The last review was undertaken at the Ordinary Council Meeting on 25 February 2020. The Annual review has now been completed by the Acting Chief Executive Officer and is presented with the recommended changes where explained,

**Attachment 1** is the current Register of Delegations with track changes showing only one minor change one page 26 of the register the change being the removal of **Section 9.10 (1) and (2) – The local government may appoint persons or classes of persons to be authorised to perform certain functions and must issue them with a certificate stating they are authorised.** This item is no longer required due to an update to the Local Government Act 1995 with a new 9.10 giving authority to the CEO to appoint persons or classes of person to be authorised without needing delegation from Council.

**Attachment 2** is the final updated Register of Delegations with the changes incorporated.

**Key Relevant Previous Council Decisions:**

Ordinary Council Meeting – 23 February 2021 – Amendment

Ordinary Council Meeting – 23 June 2020 – Annual Review & Amendment

Ordinary Council Meeting – 26 May 2020 – Amendment

Ordinary Council Meeting – 25 February 2020 - Amendment

Ordinary Council Meeting – 17 December 2019 – Annual Review

**Consultation**

The Acting Chief Executive Officer reviewed the Register of Delegations in consultation with the Executive Officer, Directors, Executive Manager Community and Managers to ensure the register complied with the requirements under the Local Government Act 1995 and the City’s day to day operations.

**Budget/Financial Implications**

Nil.

**Conclusion**

The Acting Chief Executive Officer has reviewed the Register of Delegations as required by the Local Government Act 1995 and is recommending the amendment as shown with track changes in the attached Register of Delegations be approved by Council.

## City of Nedlands Vexatious Complainants Policy

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| --- | --- |
| **Committee** | 8 June 2021 |
| **Council** | 22 June 2021 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil. |
| **CEO** | Ed Herne, Executive Officer |
| **Attachments** | 1. City of Nedlands Vexatious Complainants Policy |
| **Confidential Attachments** | Nil. |

**Regulation 11(da) – The Council agreed that this policy was not needed that rude, abusive, inappropriate or aggressive/intimidating behaviours could be addressed and included in a complaints policy which was being drafted.**

Moved – Councillor Mangano

Seconded – Councillor Bennett

**Committee Recommendation**

**That Council does not adopt the City of Nedlands Vexatious Complainants Policy.**

**CARRIED UNANIMOUSLY 11/-**

Recommendation to Committee

That Council, by simple majority, adopt the City of Nedlands Vexatious Complainants Policy, as attached.

**Executive Summary**

This Policy establishes an approach for the CEO to deal with vexatious or unreasonable persistence complaints and customers.

The Policy sets out how the Council Members and City administration will deal with customers who:

* Cannot be satisfied,
* Make unreasonable demands,
* Constantly raise the same issue with different employees; and/or
* Are rude, abusive, inappropriate or aggressive/intimidating.

The Policy will apply to all complaints received from customers in relation to:

* A City policy, product, service, event, or facility.
* The service provided by a City Council Member, employee, or a contractor.
* A third party who is under the jurisdiction of the City – includes contractors, consultants, volunteers and work experience or placement employees.

It is intended to also apply to complaints made under Division 3 of the Code of Conduct for Council Members, Committee Members and Candidates for election, where a complainant is unwilling to accept a decision in relation to a complaint, and persists in making the same, or similar complaints.

The Policy proposes several “difficult people” categories including:

* A person who cannot be satisfied
* A person who makes unreasonable demands
* A Person who constantly raises the same issue with different employees
* A Person who is Rude, Inappropriate, Intimidating, Angry, Threatening or Harassing.

The Policy proposes that the CEO make the determination, and although no right of appeal to Council is contemplated by the draft Policy, it is open for Council to direct that such a provision be made in the policy.

**Discussion/Overview**

**Background**

Some local governments have experienced significant issues with people who will not accept a decision from the local government and persist with the complaint or request, often in the same, or similar terms, and sometimes to different Council Members or employees.

In the absence of a policy framework describing types of complaints and the thresholds and options available for dealing with vexatious complainants, it is difficult for the City to deal with such.

The draft policy draws on Guidelines on Complaint Handling (Ombudsman Western Australia Jan 2017).

**Key Relevant Previous Council Decisions:**

Nil.

**Consultation**

Consideration was given to approaches taken by other local governments in guiding drafting of proposed Policy and also to Guidelines on Complaint Handling (Ombudsman Western Australia January 2017).

At a Code of Conduct Council Member Workshop on 30 March 2021 the need for this policy was discussed. A draft policy was circulated to Council Members via email on Friday 23 April 2021 requesting feedback by Wednesday 7 May 2021. No feedback was received, and the draft policy is now presented for consideration and recommended for adoption.

**Strategic Implications**

**How well does it fit with our strategic direction?**

N/A.

**Who benefits?**

Council Members and administration by a significant reduction in vexatious complaints.

**Do we have the information we need?**

Yes, this aligns with local government best practice.

**Does this affect any CEO Key Result Areas?**

Nil.

**Budget/Financial Implications**

No specific financial implications arise from the adoption of this Policy.

**Conclusion**

It is timely for the City to consider and adopt a Policy which allows Administration to address and deal with vexatious complainants, in a considered and consistent manner and is therefore, recommended for adoption.

## CEO Recruitment & Selection Committee Independent Member Appointment

|  |  |
| --- | --- |
| **Committee** | 8 June 2021 |
| **Council** | 22 June 2021 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under *section 5.70 Local Government Act 1995*** | Nil |
| **Manager** | Shelley Mettam, Manager Human Resources |
| **CEO** | Ed Herne, Acting Chief Executive Officer |
| **Attachments** | 1. Guidelines for Local Government CEO Recruitment and Selection, Performance Review and Termination |
| **Confidential Attachment** | 1. Independent Member Application 1 2. Independent Member Application 2 3. Independent Member Application 3 4. Independent Member Application 4 5. Independent Member Application 5 |

Closure of Meeting to the Public

Moved – Councillor Smyth

Seconded - Councillor Tyson

**That the meeting be closed to the public in accordance with Section 5.23 (b) of the Local Government Act 1995 to allow confidential discussion on the following Items.**

**CARRIED 9/2**

**(Against: Deputy Mayor McManus & Cr. Senathirajah)**

The meeting was closed to the public at 9.27 pm.

Moved – Councillor Mangano

Seconded - Councillor Tyson

**That the meeting be reopened to members of the public.**

**CARRIED UNANIMOUSLY 11/-**

The meeting was reopened to members of the public and the press at 9.34 pm.

In accordance with Standing Orders 12.7(3) the Presiding Member read out the motions passed by the Committee whilst it was proceeding behind closed doors and the vote of the members to be recorded in the minutes under section 5.21 of the Local Government Act 1995.

**Regulation 11(da) – Not Applicable Recommendation Adopted**

Moved – Councillor Mangano

Seconded – Councillor Coghlan

**That the Recommendation to Committee be adopted.**

(Printed below for ease of reference)

**CARRIED UNANIMOUSLY 11/-**

**Committee Recommendation / Recommendation to Committee**

**Committee endorses the following recommendation that Mr Andrew Edwards be appointed to the CEO Recruitment & Selection Committee as the independent member until a Long-term Chief Executive Officer has been appointed.**

**Executive Summary**

**Long Term CEO Recruitment – Independent Committee Member**

The Guidelines for Local Government CEO Recruitment and Selection, Performance Review and Termination of a CEO require the inclusion of a suitable person to be an Independent Member of the CEO Recruitment & Selection Committee when recruiting a substantive CEO (Attachment 1).

An advertising process inviting applications from ratepayers, residents or electors to perform the role of Independent Member of the CEO Recruitment and Selection Committee to recruit the Long-Term CEO, closed to applications on 7 May 2021.

Five applications were received and were presented to the CEO Recruitment & Selection Committee for review and consideration. Following the CEO Recruitment & Selection Committee’s review of the applications the Committee has recommended Mr Andrew Edwards be appointed as the Independent Member of the CEO Recruitment & Selection Committee to assist the Committee in the recruitment of a Long-Term CEO.

**Background**

**CEO Recruitment & Selection Committee Independent Member**

In accordance with Local Government CEO Recruitment and Selection Guidelines, there is a requirement for an Independent Member to be on the CEO Recruitment and Selection Committee for recruitment of the substantive CEO.

The guidelines state that the independent person cannot be a current elected member, human resources consultant or staff member of the local government. Examples of who the independent person could be include as follows:

* Former elected members or former staff members;
* Former elected members or former staff members of another local government;
* A prominent or highly regarded member of the community; or
* A person with experience in the recruitment of CEOs and senior executives.

An advertisement inviting suitable applications was placed in the Post Newspaper, on the City’s website, administration notice board, library notice boards and on YourVoice. The application period closed on 7 May 2021.

Five people applied for the role of Independent Member and their confidential applications are attached (Confidential Attachments 1-5).

**Key Relevant Previous Council Decisions:**

Extract Special Council Meeting Minutes - 8 April 2021

“2. instructs the Acting CEO to advertise via the Post Newspaper and Your Voice inviting a ratepayer, resident or elector to apply for the position of Independent Committee Member on the CEO Recruitment & Selection Committee. Participation in the CEO Recruitment & Selection Committee is an honorary role to assist the City in selecting the Long-Term CEO role at the City of Nedlands; and”

**Consultation**

N/A

**Strategic Implications**

Ensures appropriate governance and compliance with Guidelines for Local Government CEO Recruitment and Selection, Performance Review and Termination.

**Budget/Financial Implications**

Nil.

**Conclusion**

The Committee was provided with information regarding applicants for the role of Independent Member of the CEO Recruitment & Selection Committee to assist in the recruitment of a Long-Term CEO.

The CEO Recruitment & Selection Committee are responsible for assessing these applicants and making a recommendation to council regarding the most suitable applicant or applicants. The essence of the role of an independent member is to bring an impartial perspective to the process and reduce any perception of bias.

Therefore, the Committee following assessment of the five applications received recommend that Mr Andrew Edwards as the preferred candidate to be appointed as the Independent Member of the CEO Recruitment & Selection Committee until a Long-Term Chief Executive Officer has been appointed.

**Please note this item was brought forward see page 10.**

## Responsible Authority Report for 10 Multiple Dwellings – 24 Clark Street, Nedlands

|  |  |
| --- | --- |
| **Committee** | 8 June 2021 |
| **Applicant** | Tuscom Subdivision Consultants Pty Ltd |
| **Landowner** | Sincerity Holding Pty Ltd |
| **Director** | Tony Free, Interim Director Planning and Development Services |
| **Employee Disclosure under section 5.70 *Local Government Act 1995*** | The author, reviewers and authoriser of this report declare they have no financial or impartiality interest with this matter. There is no financial or personal relationship between City staff and the proponents or their consultants. Whilst parties may be known to each other professionally, this relationship is consistent with the limitations placed on such relationships by the Codes of Conduct of the City and the Planning Institute of Australia*.* |
| **Report Type**  Information Purposes | Items provided to Council for information purposes. |
| **Reference** | DA20-56042 (DA/20/01889) |
| **Previous Item** | Nil |
| **Delegation** | Nil |
| **Attachments** | 1. Responsible Authority Report and Attachments |
| **Confidential Attachments** | Nil |

# Urgent Business Approved By the Presiding Member or By Decision

Nil.

# Confidential Items

Nil.

# Declaration of Closure

There being no further business, the Presiding Member declared the meeting closed at 9.35pm.