

**Minutes**

**Council Committee Meeting**

**10 November 2020**

**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 Adam Armstrong Pavilion, Beatrice Road, Dalkeith on Tuesday 10 November 2020 at 7 pm.**

# Declaration of Opening

The Presiding Member declared the meeting open at 7.01 pm and drew attention to the disclaimer below.

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

**Councillors** Her Worship the Mayor, C M de Lacy (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

Councillor P N Poliwka Hollywood Ward

Councillor J D Wetherall Hollywood Ward

Councillor R A Coghlan Melvista Ward

Councillor G A R Hay Melvista Ward

Councillor R Senathirajah Melvista Ward

Councillor N B J Horley Coastal Districts Ward

Councillor K A Smyth Coastal Districts Ward

**Staff** Mr M A Goodlet Chief Executive Officer

Mrs L M Driscoll Director Corporate & Strategy

Mr P L Mickleson Director Planning & Development

Mr J Duff Director Technical Services

Mrs N M Ceric Executive Assistant to CEO & Mayor

**Public** There were 30 members of the public present and 2 online.

**Press** Nil.

**Leave of Absence** Nil.

**(Previously Approved)**

**Apologies** Councillor L J McManus Coastal Districts Ward

**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.

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# 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.

## Ms Trina Mahon, 17 Kingsway, Nedlands

Question 1

On what date was the City of Nedlands planning staff (or a member thereof) made aware (formally or informally) of a potential development application for 93 - 95 Broadway Nedlands?

Answer 1

30 January 2020

Question 2

Who was the person (and from what company) that contacted the Council to advise of the potential development?

Answer 2

Hassell advised the City of Nedlands of the potential development. Please contact Hassell should you wish to obtain details of persons at that firm.

Question 3

The City of Nedlands contracted architectural firm Hassell to complete built form modelling for Broadway Precinct.  What was the date the firm was engaged to do this work?  On what date was it completed?  What was the cost of the work?

Answer 3

1. 23 January 2020
2. The built form modelling work is not yet complete.
3. $133,190.01

Question 4

On what date were Taylor Burrell Barnett engaged to do a peer review of the built form modelling work for the Broadway Precinct?   What is the cost? Why was a peer review deemed necessary given the City has already paid for Hassell to do the work?

Answer 4

1. 25 September 2020
2. $5,100
3. A peer review of the draft built form modelling was deemed necessary to provide the City with a second professional review and interrogation of the data and assumptions used to model the three bult form scenarios and supplementary detail. This review is being used to further refine the built form modelling for the benefit of finalising a Draft precinct based LPP.
4. Hassell has not yet completed the work or been paid the entirety of their contract.

Question 5

Can the CEO and Director of Planning confirm that any full time staff member who performs paid planning/consulting work outside of their full-time employment with the City of Nedlands, has not performed this other work during Council working hours and/or using Council resources?

Answer 5

No member of the Urban Planning team has performed planning or consulting work outside of their full-time employment during Council working hours and/or using Council resources.

## Mrs Kylie Passage, 80 Doonan Road, Nedlands

Question 1

With respect to the report in The Post on 6/11/2020 that stated that the City’s request for quotation (RFQ) was supported by a document that outlined the scope of the City’s requirements,

Answer 1

A report on this issue, being presented at tonight’s Council Committee, deals with the matters raised in these questions.

Question 1a

Who authored the document?

Answer 1a

By ‘the document’ it is understood that this question refers to the Scope within the RFQ document.  This scope of works within the Request for Quotation contains no contentious terminology and was authored by the CEO.

Question 1b

Was the document authored by a member of the City Administration?

Answer 1b

Please see response above.

Question 1c

Was the document approved by the CEO?

Answer 1c

Yes, given the RFQ including its Scope was approved by the CEO.

Question 2

The Council Agenda from 27 October 2020 Administration Comment regarding the Motion for CGM Communications Contract Termination, Administration Comment point 3 states that CGM is “working with Council and the community to review how the City goes about engagement to help do this better. The aim is to have a top-notch engagement specialist help the City with one of its most significant issues – engagement. They are helping to produce an engagement strategy.”  Point 4 states that “the formal RFQ was conducted with probity.”

a) Does the City Administration/CEO consider that the pejorative language reportedly included in the RFQ, such as “dissidents”, “activists”, “zealots”, and “fanatics”, is evidence of probity, usually defined as standards of honesty, integrity and decency that can withstand scrutiny?

Answer 2a

The RFQ was conducted with probity.  The pejorative language was not included in the RFQ.  The respondents never saw this and it never formed part of the contract.

An adjunct document, titled Internal Evaluation Report was created in-house and included some items of general research.  This document did unfortunately also contain basic references to demographic categories and outdated engagement methods sourced from an online article published in 1992.

When first drafted, the CEO requested the outdated references be removed from this report as inappropriate, however the CEO was not aware that this had not been done.  This document has only ever been circulated to the Nedlands Council.

Question 2b

Does the City Administration/CEO consider that “a “divide and conquer” strategy to exploit differences in the community… to actively manage them?” meets criteria for “top-notch” improved community engagement?

Answer 2b

No.

Question 2c

If CGM tendered on the basis of the contents of this reported RFQ document, how will the City Administration/CEO guarantee that ratepayers can be assured that engagement strategies will be fair-minded, balanced and conducive to respectful relationships and improved outcomes?

Answer 2c

CGM did not tender on the basis of the adjunct document as CGM has never seen it.  Despite this, the matter has now breached the trust of the community and for this reason, rather than any performance reason by CGM Communications, the contract has been terminated by mutual agreement.  A recommendation has been made for three Councillors to be made scrutineers for this process in future.

Question 2d

Given that Council are frequently at the frontline of community engagement responding to their electors, were Councillors consulted about the scope of the RFQ, or made aware of the contents of the supporting document for the RFQ prior to the tender process?

Answer 2d

The Elected Members were informed and were aware that the City was seeking expert advisory services from engagement specialists.

Question 2e

Acknowledging that the need for a City community engagement strategy arises from issues pertaining to implementation of LPS3, does the City Administration/CEO consider LPS3:

1. a fixed policy that “residents must accept”? (per the publicly reported details of the RFQ) or,
2. a policy that, in the usual interest of good government and good governance, needs review and input from City stakeholders during its implementation phase, including representation by the City to WAPC/WA State Government, given its inherent flaws? (Evidence of one clear flaw: lack of R-coding for the A9/Betty Doonan RACF site).

Answer 2e

Both. The Scheme is a legal document and planning approvals must align with the LPS3.  However, the City has already approved 9 Scheme Amendments, and put in place many policies to interpret LPS3 more adequately.

This work is ongoing as there is a need for significant improvements to LPS3 including input from City stakeholders.   Advocacy to the State Government is important to the City and is considered an important role for the City.  Part of the engagement work considers effective advocacy to the State Government.

## Mrs Bronwyn Stuckey, 26 Kingsway, Nedlands

My questions relate to Scheme Amendment 7 to the Local Planning Scheme 3 which was endorsed by Council and which seeks to revise the zoning on part of Broadway from RAC-3 to RAC-4 and on Kingsway from R60 to R40.

Question 1

The Manager for Urban Planning at the City of Nedlands has advised that SA7 was not based on sound town planning principles and that advertising, community information sessions, and submissions on SA7 as a complex amendment will be pointless as it has no likelihood of it been approved by the WAPC.

Answer 1

The Manager of Urban Planning has not stated that the amendment is pointless nor that it had no likelihood of it being approved by the WAPC. What was said in JDAP for 137-139 Broadway was that the Scheme Amendment 7 was determined by the Department for Planning Lands and Heritage to be a complex amendment, and because it had not been advertised as such yet, that there was no regard given to the amendment.

Question 2

What is it about SA7 that constitutes a complex rather than a standard amendment?

Answer 2

Section 34, Part 5 of the Planning and Development (Local Planning Schemes) Regulations outlines the type of amendments that should be classified as basic, standard or complex. Administration originally recommended to Council (at the 28 April 2020 OCM) that Scheme Amendment No 7 was complex for the following reasons, as per Section 34 Part 5:

1. an amendment that is not consistent with a local planning strategy for the scheme that has been endorsed by the Commission;
2. an amendment that is not addressed by any local planning strategy;
3. an amendment relating to development that is of a scale, or will have an impact, that is significant relative to development in the locality;

Question 3 When did the administration learn from the WAPC that it would not be considered as a standard amendment? Before or after it was advertised previously?

Answer 3

Formally on the 23 September 2020 from the WAPC, but informally from the Department of Planning in February 2020 which was communicated to Council at that time.

Question 4

What difference does the administration consider it would make to the overwhelming community opinion in favour of the amendment whether it is complex or standard, given that the zoning changes are exactly the same?

Answer 4

Unfortunately, this decision is out of the hands of Council and the community, as the WAPC has directed that the amendment is complex and must be advertised accordingly.

Question 5

In what way is RAC-4 on Broadway not consistent with local planning strategy when RAC-3 is, and R40 on Kingsway not when R60 is?

Answer 5

The question regarding the amendment being RAC3 vs RAC4 is not what is dictating the differentiation of Standard vs Complex amendment category. Given that the amendment area is within a Strategic Activity Centre (Specialised) and that the WAPC have delivered a Scheme which accords with the Local Planning Strategy which seeks to achieve 4400 dwellings by 2050, the strategic evidence has not been provided as part of Amendment 7 to model the dwelling yield impact on lowering the density coding. This work is currently being finalised with Hassell and TBB which will inform the precinct based local planning framework for the Broadway Precinct.

Question 6

In what way is the present zoning on Broadway and Kingsway based on sound town planning principles when it was developed without prior build-form modelling and without prior traffic assessment being conducted?

Answer 6

The City has been delivered LPS3 which is based on the City of Nedlands and WAPC endorsed Local Planning Strategy. The built form modelling is being undertaken to test built form scenarios and how a nuanced local planning framework will work in comparison to the existing built form controls. The intensity of the upcoding is well beyond the hopes and expectations of the community and Council. As the LPS3 was delivered by the Minister for Planning, this question should also be directed to the Minister.

## Mr Ian Love, 70 Kingsway, Nedlands

Question 1

Mr Goodlet advised the Post newspaper that the terms ‘fanatics’ and ‘zealots’ were included in a ‘adjunct document of information gleaned from online searches in relation to ‘social outrage worldwide’.

How does Mr Goodlet and the administration define the term ‘social outrage’ and can Mr Goodlet provide any examples at all ‘social outrage’ within the City of Nedlands.

Answer 1

The work of author Peter Sandman provides a widely used definition, from which one could consider examples.

Question 2

The same article states that one of the ‘scope of work in this contract is to ‘...minimize their influence of spreading panic and false views of the risks involved…’

Can Mr Goodlet provide any examples where residents have sort to spread panic within the City of Nedlands or to spread false views.

Answer 2

The material referred to is not the CEO’s position on this matter and consequently no examples can be provided.

Question 3

The article mentions that the City have engaged CGM to “Employ a ‘divide and conquer’ strategy to exploit differences between moderates and radicals to actively manage them’.

Can Mr Goodlet advise what the administrations motivations are for seeking to divide the Nedlands community. If that is not what the administration is seeking to do, why would that be part of the scope of work for CGM.

Can Mr Goodlet provide an example of a ‘moderate’ Nedlands resident and a ‘radical’ Nedlands resident.

Can Mr Goodlet give an example of the type of strategies the administration currently use or propose to use to ‘manage them (moderates and radicals).

Answer 3

The material referred to is not the CEO’s position on this matter and consequently no examples can be provided.

Question 4

Transparency builds trust.  In the interest of trust will the CEO provide residents with a copy of the documents referred to by the Post newspaper?  If the answer is No how then can the Post newspaper have a copy?

Answer 4

The Post newspaper has informed the City that it already has a copy.

Question 5

The engagement of CGM was the subject of a discussion at the Council meeting on 27 October 2020, the question was asked ‘What is CGN doing for the City?

The response to this question was set out at Agenda item 14.3 on 27 October as follows:

‘Working with Council and the community to review how the City goes about engagement to help do this better. The aim is to have a top-notch engagement specialist help the City with one of its most significant issues – engagement. They are helping to produce an engagement strategy.’

This answer is not consistent with the report in the Post Newspaper and indeed with the City own notice on page 101 of the Post with the heading ‘Opportunity to Participate in a Community Satisfaction Survey’.  Is seems that there is very much more to the scope of CGM’s service than simply ‘...helping to produce an engagement strategy…’ It seems that they have been engaged to undertake a community satisfaction survey that will categorise Nedlands Residents into: dissidents; advocates; activists; zealots; and fanatics.

Based on this the consultant would then develop strategies to divide and conquer the community by exploiting the differences between moderates and radicals to actively manage them.

Is my understanding of the scope of work set out above accurate, if not please clarify?

If it is accurate why was this not made clear in the answer to the question ‘What is CGM doing for the City?’.

Answer 5

This question is answered in the urgent agenda item to Council Committee.

Question 6

This is a question to each Councillor who voted against the Notice of Motion to cancel the contract with CGM.  Please advise who those councillors were (at the time of writing my questions the minutes were not available on the website).

Did the administration make these and other councillors fully aware of the full and true scope of the contract works with CGM before they voted against the cancellation of the contract at the meeting on 27 October 2020?

Answer 6

No Councillors were aware of this issue when the Notice of Motion was voted on at the 27 October Ordinary Meeting of Council.

Question 7

With regard to the ‘Opportunity to Participate in a community Satisfaction Survey’ notice in the Post on page 101 I have the following questions.

Will CGM and or the administration use the information obtained by this survey to bucket residents into the five categories mentioned above?

Can you provide a definition of the categories?

Can you provide an example of the type of behaviour you have witnessed with the City of Nedlands which would fall into each of the categories?

If I complete the survey and give permission for my name and category to be published will I be told which category I fall into?

If residents are not to be categorized on an individual by individual basis how will it be possible to develop a plan to ‘manage’ groups, which after all are made up of individuals?

Do I get the opportunity to ‘self-assess’ which category I believe I fall into?

If I am categorized into a bucket, I do not agree with am I able to appeal the decision?

Answer 7

CGM Communications are no longer working for the City.  They were completely unaware of the offending material and would not have used any such classification system in any case.

Question 8

On 27 October 2020 I spoke with Ms Wendy Mathews (communications and engagement coordinator) at the City of Nedlands and was advised that there is no document that sets out the scope of work in the manner described by the Post Newspaper and as I have set out above.

Is this true?

Answer 8

This question is answered in the urgent agenda item to Council Committee.

# 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.

Ms Helen Kornweibel, 3 Village Mews, Floreat PD53.20

(spoke in support of the recommendation)

Mr Max Hipkins, 36 Minora Road, Dalkeith CM09.20

(spoke in support of the recommendation)

Ms Alexandrea Thompson, 19 Walba Way, Swanbourne CM10.20

(spoke in support of the recommendation)

Mr Ian Love, 70 Kingsway, Nedlands 10.1

(spoke in relation to the item)

# Disclosures of Financial and/or Proximity 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.

# 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*.

## Councillor Senathirajah – CM09.20 – Council Contribution to Rotary Centenary Event

Councillor Senathirajah disclosed an impartiality interest in Item CM09.20 - Council Contribution to Rotary Centenary Event. Councillor Senathirajah disclosed that he is a member of the Rotary Club of Freshwater Bay, and as a consequence, there may be a perception that his impartiality on the matter may be affected. Councillor Senathirajah declared that he would consider this matter on its merits and vote accordingly.

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

Nil.

# Confirmation of Minutes

## Committee Meeting 14 October 2020

Moved – Councillor Senathirajah

Seconded – Councillor Hodsdon

**The Minutes of the Council Committee held 14 October 2020 be confirmed.**

**CARRIED UNANIMOUSLY 12/-**

# 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.

Nil.

# 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.

## Planning & Development Report No’s PD53.20 to PD54.20

Planning & Development Report No’s PD53.20 to PD54.20 to be dealt with at this point (copy attached yellow cover sheet).

|  |  |
| --- | --- |
| **PD53.20** | **No. 3 Village Mews, Floreat – Residential – Ground Floor Alterations and Upper Floor Addition to Single House**  |
|  |
| **Committee** | 10 November 2020 |
| **Council** | 24 November 2020 |
| **Applicant** | Ben Hohnen |
| **Landowner** | Helen Kornweibel |
| **Director** | Peter Mickleson – Director Planning & Development  |
| **Employee Disclosure under *section 5.70 Local Government Act 1995***  | Nil |
| **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** | DA20/51253 |
| **Previous Item** | Nil |
| **Delegation** | In accordance with the City’s Instrument of Delegation, Council is required to determine the application due to an objection being received. |
| **Attachments** | 1. Applicant’s Justification Report
 |
| **Confidential Attachments** | 1. Plans
2. Submission
3. Assessment
 |

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

Moved – Councillor Wetherall

Seconded – Councillor Youngman

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

(Printed below for ease of reference)

**CARRIED 10/2**

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

**Committee Recommendation / Recommendation to Committee**

**Council approves the development application received on 20 July 2020 with plans date stamped 5 August 2020 for alterations and an upper floor addition to a Residential (Single House) at Lot 69 (No. 3) Village Mews, Floreat, subject to the following conditions and advice notes:**

1. **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.**

1. **This development approval only pertains to a Residential – alterations and upper floor addition to a Single house as indicated on the determination plans.**

1. **All footings and structures to retaining walls, fences and parapet walls, shall be constructed wholly inside the site boundaries of the property’s Certificate of Title.**
2. **Prior to occupation of the development, the western elevation of the balcony on the upper floor facing west is to be screened in accordance with C1.2 of Clause 5.4.1 of the Residential Design Codes (Vol 1). The screening device is to be at least 1.6m in height above the finished floor level of the balcony, at least 75% obscure, permanently fixed and made of a durable material to restrict view in the direction of overlooking to the western adjoining property. The required screening shall be thereafter maintained to the satisfaction of the City of Nedlands.**
3. **All stormwater from the development, which includes permeable and non-permeable areas shall be contained onsite.**
4. **Prior to occupation of the development, all external fixtures including, but not limited to TV and radio antennae, satellite dishes, plumbing vents and pipes, solar panels, air conditioners and hot water systems shall be integrated into the design of the building and not be visible from the primary street, secondary street to the satisfaction of the City of Nedlands.**
5. **Prior to occupation of the development, all air-conditioning plant, satellite dishes, antennae and any other plant and equipment to the roof of the building shall be located or screened so as not to be highly visible from beyond the boundaries of the development site to the satisfaction of the City of Nedlands.**
6. **This approval does not relate to any site works, decking or retaining walls 500mm or greater above the approved ground levels.**

**Advice Notes specific to this proposal:**

1. **All street tree assets in the nature-strip (verge) shall not be removed.  Any approved street tree removals shall be undertaken by the City of Nedlands and paid for by the owner of the property where the development is proposed, unless otherwise approved under the Nature Strip Development approval.**
2. **An exterior fixture associated with any air-conditioning unit or hot water system is considered an appropriate location where it is positioned:**
	* **outside of balcony/verandah areas (if applicable) and below the height of a standard dividing fence within a side or rear setback area; or within a screened rooftop plant area or nook.**
3. **All downpipes from guttering shall be connected so as to discharge into drains, which shall empty into a soak-well; and each soak-well shall be located at least 1.8m from any building, and at least 1.8m from the boundary of the block.  Soak-wells of adequate capacity to contain runoff from a 20-year recurrent storm event. Soak-wells shall be a minimum capacity of 1.0m3 for every 80m2 of calculated surface area of the development.**
4. **All internal water closets and ensuites without fixed or permanent window access to outside air or which open onto a hall, passage, hobby or staircase, shall be serviced by a mechanical ventilation exhaust system which is ducted to outside air, with a minimum rate of air change equal to or greater than 25 litres / second.**
5. **Where the existing structures are to be demolished, a demolition permit is required to be obtained for the proposed demolition work. The demolition permit must be issued prior to the removal of any structures on site All works are required to comply with relevant statutory provisions.**
6. **Prior to the commencement of any demolition works, any Asbestos Containing Material (ACM) in the structure to be demolished, shall be identified, safely removed and conveyed to an appropriate landfill which accepts ACM. Removal and disposal of ACM shall be in accordance with *Health (Asbestos) Regulations 1992*, Regulations 5.43 - 5.53 of the *Occupational Safety and Health Regulations 1996*, *Code of Practice for the Safe Removal of Asbestos 2nd Edition*, *Code of Practice for the Management and Control of Asbestos in a*Workplace, and any Department of Commerce Worksafe requirements.  Where there is over 10m2 of ACM or any amount of friable ACM to be removed, it shall be removed by a Worksafe licensed and trained individual or business.**
7. **Where building works are proposed to the building, a building permit shall be applied for prior to works commencing.**
8. **The landowner is advised that all mechanical equipment (e.g. air-conditioner, swimming pool or spa) is required to comply with the Environmental Protection (Noise) Regulations 1997, in relation to noise.**
9. **The applicant is advised to consult the City’s Acoustic Advisory Information in relation to locating any mechanical equipment (e.g. air-conditioner, swimming pool or spa) such that noise, vibration impacts on neighbours are mitigated. The City does not recommend installing any equipment near a property boundary where it is likely that noise will intrude upon neighbours. Prior to selecting a location for an air-conditioner, the applicant the applicant is advised to consult the online fairair noise calculator at**[**www.fairair.com.au**](http://www.fairair.com.au/)**and use this as a guide to prevent noise affecting neighbouring properties.**
10. **This decision constitutes planning approval only and is valid for a period of four years from the date of approval. If the subject development is not substantially commenced within the four-year period, the approval shall lapse and be of no further effect.**
11. **The applicant is advised that all development must comply with this planning approval and approved plans at all times. Any development, whether it be a structure or building, that is not in accordance with the planning approval, including any condition of approval, may be subject to further planning approval by the City.**
12. **The applicant is advised that variations to the hereby approved development including variations to wall dimensions, setbacks, height, window dimensions and location, floor levels, floor area and alfresco area, may delay the granting of a Building Permit.  Applicants are therefore encouraged to ensure that the Building Permit application is in compliance with this planning approval, including all conditions and approved plans. Where Building Permit applications are not in accordance with the planning approval, a schedule of changes is to be submitted and early liaison with the City’s Planning Department is encouraged prior to lodgement.**
13. **This planning decision is confined to the authority of the *Planning and Development Act 2005*, the City of Nedlands’ Local Planning Scheme No. 3 and all subsidiary legislation. This decision does not remove the obligation of the applicant and/or property owner to ensure that all other required local government approvals are first obtained, all other applicable state and federal legislation is complied with, and any restrictions, easements, or encumbrances are adhered to.**

|  |  |
| --- | --- |
| **PD54.20** | **Local Planning Scheme 3 – Draft Interim Local Planning Policy - Hollywood West Transition Zone** |
|  |
| **Committee** | 10 November 2020 |
| **Council** | 24 November 2020 |
| **Director** | Peter Mickleson – Director Planning & Development  |
| **Employee Disclosure under *section 5.70 Local Government Act 1995*** | Nil |
| **Reference** | Nil |
| **Previous Item** | Nil |
| **Attachments** | 1. Draft LPP - Hollywood West Transition Zone
 |

**Regulation 11(da) – Council Committee determined that it wished to modify certain provisions in the draft document prior to it being advertised.**

Moved – Councillor Wetherall

Seconded – Councillor Hodsdon

**That the Recommendation to Committee be adopted subject to:**

**After the words “Attachment 1” add the words “amended as follows:**

* **s 2.3.3 Building Height, define what is meant by ‘high quality design’ and with reference to the draft LPP on Design Review, and remove reference to ‘medium’ tree in this section**
* **s 2.3.5 Landscaping, define what is meant by ‘significant’ as referred to in relation to Additional design guidance/housing objectives**
* **s 2.4.1 Building Height, remove the words ‘is encouraged where’ in relation to roof top communal open space and replace with ‘will be considered where it includes significant soft landscaping and’**

Amendment

Moved - Councillor Poliwka

Seconded - Councillor Youngman

**That the following be added in the appropriate location/s within the LPP:**

**The additional height will not be supported where the development site abuts land with a lower residential development code; and**

**That the word “substantially” be removed at section 2.4.10 (ii) on page 40 of the draft LPP.**

**The AMENDMENT was PUT and was**

**CARRIED 9/3**

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

**The Substantive Motion was PUT and was**

**CARRIED ON THE CASTING VOTE 6/6**

**(Against: Crs. Horley Smyth Bennett**

**Mangano Youngman & Coghlan)**

**Committee Recommendation**

**Council prepares, and advertises for a period of 21 days, in accordance with the Planning and Development (Local Planning Schemes) Regulations 2015 Schedule 2, Part 2, Clause 4, Transition Zone (Hollywood West) Local Planning Policy, as per Attachment 1 amended as follows:**

* **s 2.3.3 Building Height, define what is meant by ‘high quality design’ and with reference to the draft LPP on Design Review, and remove reference to ‘medium’ tree in this section.**
* **s 2.3.5 Landscaping, define what is meant by ‘significant’ as referred to in relation to Additional design guidance/housing objectives.**
* **s 2.4.1 Building Height, remove the words ‘is encouraged where’ in relation to roof top communal open space and replace with ‘will be considered where it includes significant soft landscaping and’.**

**The following being added in the appropriate location/s within the LPP:**

* + **The additional height will not be supported where the development site abuts land with a lower residential development code; and**
	+ **That the word “substantially” be removed at section 2.4.10 (ii) on page 40 of the draft LPP.**

Recommendation to Committee

Council prepares, and advertises for a period of 21 days, in accordance with the Planning and Development (Local Planning Schemes) Regulations 2015 Schedule 2, Part 2, Clause 4, Transition Zone (Hollywood West) Local Planning Policy, as per Attachment 1.

Moved – Councillor Mangano

Seconded – Councillor Youngman

**That item 10.1 be brought forward.**

**CARRIED UNANIMOUSLY 12/-**

**Please note this item was brought forward from page 37.**

## Community Engagement

|  |  |
| --- | --- |
| **Committee** | 10 November 2020 |
| **Council** | 24 November 2020 |
| **Applicant** | City of Nedlands  |
| **Employee Disclosure under *section 5.70 Local Government Act 1995*** | Nil. |
| **CEO** | Mark Goodlet |
| **Attachments** | 1. Email chain between CGM Communications and the City of Nedlands.
 |

**Regulation 11(da) – Council Committee did not want Councillors providing scrutineering going forward, wished the community to have access to contractual information subject to Freedom of Information provisions and wanted the matter independently investigated.**

Moved – Councillor Wetherall

Seconded – Councillor Senathirajah

**Council:**

**1. notes that the contract between CGM Communications and the City of Nedlands has been terminated by agreement between the parties; and**

1. **appoints Councillor Mangano, Councillor Hodsdon and Councillor Senathirajah to provide scrutineering services for a new engagement services contract to help develop an engagement strategy and community survey.**

Amendment

Moved - Councillor Bennett

Seconded - Councillor Youngman

**That clause 2 be replaced with the following:**

1. **instructs the Mayor undertake an FOI request for the entire documents to be fulfilled within 7 working days as per below:**
	1. **The 22 page contract document bundle distributed to Councillors on the 29th October 2020 relating to quotation for Provision of Consultancy Services Community Outrage Engagement, consisting of 7 contract documents listed in Schedule 1 of AS4122-2010 Annexure Part A (Summary of Content), including document 2 titled: City of Nedlands Request for Quotation document RFQ 2019-20.WM issued April 2020; and**
	2. **The Mayor to release documents once the FOI is completed.**

**That an additional clause be added as follows:**

**3. instructs the CEO to request the Director of Corporate & Strategy to appoint an independent investigator to ascertain the following and report to the Audit & Risk Committee:**

1. **confirmation of the RFQ documents;**
2. **confirmation as to whether CGM Communications ever saw the offending material; and**
3. **the sequence of events that occurred in the development of the RFQ, the procurement process and the assessment.**

**The Mayor granted a recess for the purpose of ascertaining the correct documents being referred to in the motion.**

The meeting adjourned at 9.05 pm and reconvened at 9.26 pm with the following people in attendance:

**Councillors** Her Worship the Mayor, C M de Lacy (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

Councillor P N Poliwka Hollywood Ward

Councillor J D Wetherall Hollywood Ward

Councillor R A Coghlan Melvista Ward

Councillor G A R Hay Melvista Ward

Councillor R Senathirajah Melvista Ward

Councillor N B J Horley Coastal Districts Ward

Councillor K A Smyth Coastal Districts Ward

**Staff** Mr M A Goodlet Chief Executive Officer

Mrs L M Driscoll Director Corporate & Strategy

Mr P L Mickleson Director Planning & Development

Mr J Duff Director Technical Services

Mrs N M Ceric Executive Assistant to CEO & Mayor

Moved – Councillor Wetherall

Seconded – Councillor Poliwka

**That Council proceed back to the substantive motion.**

**CARRIED UNANIMOUSLY 12/-**

**The AMENDMENT was PUT and was**

**CARRIED UNANIMOUSLY 12/-**

**The Substantive was PUT and was**

**CARRIED UNANIMOUSLY 12/-**

**Committee Recommendation**

**Council:**

**1. notes that the contract between CGM Communications and the City of Nedlands has been terminated by agreement between the parties; and**

**2. instructs the Mayor undertake an FOI request for the entire documents to be fulfilled within 7 working days as per below:**

* 1. **The 22 page contract document bundle distributed to Councillors on the 29th October 2020 relating to quotation for Provision of Consultancy Services Community Outrage Engagement, consisting of 7 contract documents listed in Schedule 1 of AS4122-2010 Annexure Part A (Summary of Content), including document 2 titled: City of Nedlands Request for Quotation document RFQ 2019-20.WM issued April 2020; and**
	2. **The Mayor to release documents once the FOI is completed; and**

**3. instructs the CEO to request the Director of Corporate & Strategy to appoint an independent investigator to ascertain the following and report to the Audit & Risk Committee:**

1. **confirmation of the RFQ documents;**
2. **confirmation as to whether CGM Communications ever saw the offending material; and**
3. **the sequence of events that occurred in the development of the RFQ, the procurement process and the assessment.**

Recommendation to Committee

Council:

1. notes that the contract between CGM Communications and the City of Nedlands has been terminated by agreement between the parties; and

2. appoints Councillor Mangano, Councillor (insert name) and Councillor (insert name) to provide scrutineering services for a new engagement services contract to help develop an engagement strategy and community survey.

**Executive Summary**

This report responds to a Post newspaper article of 7 November 2020 and address community concerns on engagement activities within the City of Nedlands. It is recommended that the current community engagement process be revisited with Councillor oversight.

**Discussion**

**Background**

The implementation of Local Planning Scheme 3 (LPS3) has adversely affected a significant number of City of Nedlands residents.

In April 2020 the Mayor and a number of Councillors requested that the City obtain professional assistance to deal with community outrage about the implications Local Planning Scheme 3 (LPS3), understand the community better and build trust between the community, Council and the Administration. Consequently, a simple scope of work was developed with the aim of seeking professional assistance in understanding the matter, providing advice on a way forward and helping to implement any actions required. Three well regarded engagement specialists were approached to provide quotations for this service.

The firm selected to perform the work, CGM Communications, included in their submission on responding to social outrage the work of eminent author Peter Sandman, which has as a fundamental proposition the need to address the legitimate concerns of “outraged” customers. CGM’s submission quoted “… we see ‘social outrage’ as the response to a situation rather than the actual problem itself. The underlying causes of social outrage are the real problem, and once these are identified, analysed and understood, can be resolved …”

CGM’s approach was to seek and hear from the community to identify the real underlying problems so they could be resolved. They were subsequently engaged.

Their professional assistance helped guide the decision of Council to develop an Engagement Strategy and community survey. CGM Communications professional services have been of a high quality throughout their engagement.

Councillor Mangano raised a notice of motion at the 27 October 2020 meeting of Council to terminate the contract with CGM Communications. Councillor Mangano was concerned that CGM Communications has links to developers and the Labor Government and as a consequence, these connections will be detrimental to the City. Councillors were aware of their high-quality service, their professionalism, the confidentiality clauses built into the contract and the fact that many engagement firms also provide services to a range of clients, including developers and the State Government. This motion was lost.

Upon request Councillors were then provided with a copy of the contract as well as a report on the submissions which evaluated the submissions. This evaluation document was an internal document that was not provided to the respondents at any time. It contained material global gleaned from the internet which described a number of responses to social outrage. It was material obtained by an officer researching global social outrage. That material has been confirmed as being found from the internet and authored by Lesly in 1992.

The contract and evaluation report were provided to the Councillors confidentially and then subsequently these documents were provided to the Post newspaper by sources unknown. These internet quotations were printed in the 7 November 2020 Post newspaper claiming that this was the “admin brief” and that ‘the City of Nedlands has asked public relations firms to “divide and conquer” its own residents’.

This is misleading and completely incorrect. The material in question did not form part of the contract and CGM Communications.

CGM Communication first saw this material in the Post article of 7 November 2020 and had no knowledge of it before last week. CGM Communications has confirmed this in Attachment 1.

**CEO Comments**

I acknowledge seeing the offending comments originally and asking them to be deleted as they were inappropriate. Since LPS3, the time available to reread every document is not a realistic proposition and I did not check that they had been removed. I apologize to Council and to the community for this.

There is no underlying current within the Administration that seeks to oppose or undermine the legitimate concerns of the community. There is an intention to come to a position of understanding, trust and respect with the community.

This article has provided uncertainty in the minds of the community, creating a public perception that erodes trust in the Administration and in the process. CGM Communications are aware of this difficulty. Given that this conflicts directly with their aim for trust building as an engagement specialist, they have elected to withdraw from the contract, as per Attachment 1. This is supported by the City and the contract has been terminated by agreement.

In order to move forward with meaningful, trust building engagement, it is proposed that there be some Councillors appointed with scrutineering duties for the scope and evaluation process. This is as distinct from an operational role which would involve content production. Councillor Mangano has demonstrated a deep interest in this matter, and it is proposed that he, along with two other Councillors, provide a scrutineering role of the scope and selection process.

**Key Relevant Previous Council Decisions:**

July 2020

CEO KRA – develop an engagement strategy and community survey.

**Consultation**

This report deals with engagement processes.

**Strategic Implications**

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

Aligns. Community engagement is required under the Local Government Act 1995.

**Who benefits?**

The community. Resetting and recommencing engagement work will improve understanding of the community and its priorities.

**Does it involve a tolerable risk?**

Resetting and recommencing the work with Councillor scrutineers will mitigate risk concerns.

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

Yes.

**Budget/Financial Implications**

**Can we afford it?**

Approximately $25,000 of a $60,000 contract has been expended to date. The current contract has now been terminated.

**How does the option impact upon rates?**

$60,000 represents approximately 0.25% of rates.

## Technical Services Report No’s TS18.20 to TS19.20

Technical Services Report No’s TS18.20 to TS19.20 to be dealt with at this point (copy attached blue cover sheet).

|  |
| --- |
| 0BTS18.20 Acceptance of Management Orders for New Public Open Space at Montario Quarter, Shenton Park |

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| --- | --- |
| **Committee** | 10 November 2020 |
| **Council** | 24 November 2020 |
| **Applicant** | City of Nedlands  |
| **Employee Disclosure under *section 5.70 Local Government Act 1995*** | Nil |
| **Director** | Jim Duff – Director Technical Services |
| **Attachments** | 1. Plan of lots 8001-8004, Deposited Plan 415258
2. Photos of lots 8001, 8002 & 8004, Deposited Plan 415258
 |
| **Confidential Attachments** | Nil. |

**Regulation 11(da) - Council Committee determined to adopt the Administration recommendation with an additional clause addressing a related matter.**

Moved – Councillor Wetherall

Seconded – Councillor Senathirajah

**That the Recommendation to Committee be adopted subject to an additional clause 4 be added as follows:**

1. **instructs the CEO to write to the WAPC Chair seeking a robust explanation as to why the 1600 dwellings proposed for Montario Quarter do not count towards the City’s dwelling target in light of State Government policy on urban consolidation.**

**CARRIED UNANIMOUSLY 12/-**

**Committee Recommendation**

**Council:**

* 1. **accepts issuing of Management Orders to the City of Nedlands for the four (4) newly created reserves** **associated with Stage 1 of the Montario Quarter development, Shenton Park known as Dawes Park, Guttmann Park, Orton Park and Seymour Park comprising lots 8001-8004 on Deposited Plan 415258;**

* 1. **acknowledges that accepting care, control and management of the four (4) reserves will require an operational budget for maintenance and agrees to allocate funding in the 2021-22 financial year when the City assumes responsibility for maintaining the reserves in September 2021;**
	2. **acknowledges that final costs for maintaining the four (4) reserves will be presented for consideration during the 2021-22 budget process following competitive procurement of contract maintenance services;**
	3. **instructs the CEO to write to the WAPC Chair seeking a robust explanation as to why the 1600 dwellings proposed for Montario Quarter do not count towards the City’s dwelling target in light of State Government policy on urban consolidation.**

Recommendation to Committee

Council:

1. accepts issuing of Management Orders to the City of Nedlands for the four (4) newly created reserves associated with Stage 1 of the Montario Quarter development, Shenton Park known as Dawes Park, Guttmann Park, Orton Park and Seymour Park comprising lots 8001-8004 on Deposited Plan 415258;

2. acknowledges that accepting care, control and management of the four (4) reserves will require an operational budget for maintenance and agrees to allocate funding in the 2021-22 financial year when the City assumes responsibility for maintaining the reserves in September 2021; and

3. acknowledges that final costs for maintaining the four (4) reserves will be presented for consideration during the 2021-22 budget process following competitive procurement of contract maintenance services.

|  |
| --- |
| **TS19.20 City of Nedlands Waste Plan**  |

|  |  |
| --- | --- |
| **Committee** | 10 November 2020 |
| **Council** | 24 November 2020 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under *section 5.70 Local Government Act 1995*** | Nil  |
| **Director** | Jim Duff – Director Technical Services |
| **Attachments** | 1. Letter from Department of Water and Environmental Regulation dated 7 November 2019
2. Letter to Department of Water and Environmental Regulation dated 4 December 2019
3. City of Nedlands Waste Plan
4. City of Nedlands Waste Minimisation Strategy and Action Plan 2017-2020
 |

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

Moved – Councillor Youngman

Seconded – Councillor Poliwka

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

(Printed below for ease of reference)

**CARRIED 9/3**

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

**Committee Recommendation / Recommendation to Committee**

**Council approve the City of Nedlands Waste Plan for submission to the Department of Water and Environmental Regulation.**

## Community Development No’s CM09.20 to CM10.20

Report No’s CM09.20 to CM10.20 to be dealt with at this point (copy attached orange cover sheet).

|  |
| --- |
| 1BCM09.20 Council Contribution to Rotary Centenary Event |

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| --- | --- |
| **Committee** | 10 November 2020 |
| **Council** | 24 November 2020 |
| **Applicant** | City of Nedlands  |
| **Employee Disclosure under *section 5.70 Local Government Act 1995*** | Nil  |
| **Director** | Marion Granich – A/Director Corporate and Strategy |
| **Attachments** | Nil.  |
| **Confidential Attachments** | Nil.  |

**Councillor Senathirajah – Impartiality Interest**

Councillor Senathirajah disclosed that he is a member of the Rotary Club of Freshwater Bay, and as a consequence, there may be a perception that his impartiality on the matter may be affected. Councillor Senathirajah declared that he would consider this matter on its merits and vote accordingly.

**Regulation 11(da) – Council Committee preferred the ceremony occurring at the Peace Memorial Rose Gardens and with an invitation to Dalkeith and Nedlands Rotary Clubs to participate.**

Moved – Councillor Poliwka

Seconded – Councillor Youngman

**That the Recommendation to Committee be adopted subject to clause 1 being amended to after the word “ceremony” add the words “(preferably in the Peace Memorial Rose Gardens) and after the word “Australia” add the words “conditional on the Freshwater Bay Rotary Club inviting the Dalkeith and Nedlands Rotary Clubs to participate in the event;”.**

**CARRIED 11/1**

**(Against: Cr. Mangano)**

**Committee Recommendation**

**Council:**

1. **agrees to participate in a tree planting ceremony (preferably in the Peace Memorial Rose Gardens) to commemorate Rotary’s centenary in Australia conditional on the Freshwater Bay Rotary Club inviting the Dalkeith and Nedlands Rotary Clubs to participate in the event; and**
2. **approves expenditure of $1,500 on a plaque and plinth to mark the occasion.**

Recommendation to Committee

Council:

1. agrees to participate in a tree planting ceremony to commemorate Rotary’s centenary in Australia; and
2. approves expenditure of $1,500 on a plaque and plinth to mark the occasion.

|  |
| --- |
| **CM10.20 Public Artwork Health Workers Tribute Project** |

|  |  |
| --- | --- |
| **Committee** | 10 November 2020 |
| **Council** | 24 November 2020 |
| **Applicant** | City of Nedlands  |
| **Employee Disclosure under *section 5.70 Local Government Act 1995*** | Nil  |
| **Director** | Marion Granich – A/Director Corporate & Strategy |
| **Attachments** |  |
| **Confidential Attachments** | 1. Public Artworks Available for Purchase.
2. Statement of Artworks’ Connection to Brief
 |

**Regulation 11(da) – Council Committee preferred a commissioned artwork.**

Moved – Councillor Hodsdon

Seconded – Councillor Youngman

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

(Printed below for ease of reference)

**Lost 5/7**

**(Against: Mayor de Lacy Crs. Horley Smyth Bennett**

**Mangano Poliwka & Coghlan)**

Moved – Councillor Smyth

Seconded – Councillor Bennett

**Committee Recommendation**

**That Council request the Public Art Committee to pursue the option of a commissioned public art piece from a WA artist, in light of the limited choice of off the shelf selections available.**

**CARRIED 10/2**

**(Against: Crs. Youngman & Wetherall)**

Recommendation to Committee

Council approves:

1. purchase of the public artwork “Circle” by Tetsuro Yamasaki;
2. expenditure of up to $50,000 (excluding traffic management) on the purchase and installation of the artwork specified at clause 1;
3. installation on Dot Bennett Park of the artwork specified at clause 1.

## Corporate & Strategy Report No’s CPS29.20

Report No’s CPS29.20 to be dealt with at this point (copy attached green cover sheet).

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| --- |
| **CPS29.20 List of Accounts Paid – September 2020** |

|  |  |
| --- | --- |
| **Committee** | 10 November2020 |
| **Council** | 24 November2020 |
| **Applicant** | City of Nedlands  |
| **Employee Disclosure under *section 5.70 Local Government Act 1995*** | Nil. |
| **Director** | Lorraine Driscoll – Director Corporate & Strategy |
| **Attachments** | 1. Creditor Payment Listing – September 2020; and
2. Credit Card and Purchasing Card payments – September 2020 (28 Aug – 29 Sep).
 |

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

Moved – Councillor Wetherall

Seconded – Councillor Hodsdon

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

(Printed below for ease of reference)

Councillor Bennett left the meeting at 10.52 pm and returned at 10.54 pm.

**CARRIED UNANIMOUSLY 12/-**

**Committee Recommendation / Recommendation to Committee**

**Council receives the List of Accounts Paid for the month of September 2020 as per attachments.**

# Reports by the Chief Executive Officer

Nil.

# Urgent Business Approved by the Presiding Member or By Decision

## Community Engagement

**Please note this item was brought forward see page 22.**

# Confidential Items

Nil.

# Declaration of Closure

There being no further business, the Presiding Member declared the meeting closed at 10.58 pm.