



City of Nedlands

# Agenda

## Council Committee Meeting 13 July 2021

Dear Council Member

The next meeting of the Council Committee will be held on Tuesday 13 July 2021 in the Council Chamber at the City of Nedlands located at 71 Stirling Highway, Nedlands commencing at 7.00pm.

Please be aware COVID-19 4m<sup>2</sup> restrictions with 1.5m social distancing rules apply. Once the venue is at capacity no further admission into the room will be permitted. Prior to entry, attendees will be required to register using the SafeWA App or by completing the manual contact register prior to entry - as stipulated by Department of Health mandatory requirements.

The public can continue to participate by submitting questions and addresses via the required online submission forms at:

<http://www.nedlands.wa.gov.au/intention-address-council-or-council-committee-form>

<http://www.nedlands.wa.gov.au/public-question-time>

Ed Herne  
Acting Chief Executive Officer  
6 July 2021

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## City of Nedlands

**Notice of a meeting of the Council Committee to be held in the Council Chambers, 71 Stirling Highway, Nedlands on Tuesday 13 July 2021 at 7 pm. The meeting will also be livestreamed.**

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### **Council Committee Agenda**

#### **Declaration of Opening**

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

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

**Leave of Absence**                      Councillor J D Wetherall                      Hollywood Ward  
**(Previously Approved)**

**Apologies**                      None as at distribution of this agenda.

#### **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.

**1. Public Question Time**

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

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

**2. Addresses By Members of the Public (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.

**3. Disclosures of Financial and/or Proximity Interest**

The Presiding Member to remind 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.

A declaration under this section requires that the nature of the interest must be disclosed. Consequently, a member who has made a declaration must not preside, participate in, or be present during any discussion or decision-making procedure relating to the matter the subject of the declaration.

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

**4. Disclosures of Interests Affecting Impartiality**

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

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

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

"With regard to the matter in item x ..... I disclose that I have an association with the applicant (or person seeking a decision). This association is ..... (nature of the interest).

As a consequence, there may be a perception that my impartiality on the matter may be affected. I declare that I will consider this matter on its merits and vote accordingly."

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

**5. Declarations by Council Members That They Have Not Given Due Consideration to Papers**

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

**6. Confirmation of Minutes**

**6.1 Committee Meeting 8 June 2021**

The Minutes of the Council Committee held 8 June 2021 are to be confirmed.

**7. 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.

**8. 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.

**8.1 Planning & Development Report No PD23.21 to PD26.21**

Planning & Development Report No PD23.21 to PD26.21 to be dealt with at this point (copy attached yellow cover sheet).

- PD23.21 Consideration of Development Application – Carport Addition & Driveway at 10 Cygnet Crescent, Dalkeith
- PD24.21 Consideration of Development Application for a Change of Use from 'Animal Establishment' to 'Industry-Light' at 29 Carrington Street, Nedlands
- PD25.21 Consideration of Development Application - 6 Aged and Dependent Persons' Dwellings at Lot 100 Montgomery Avenue, Mt Claremont
- PD26.21 Consideration of Street Tree Removal at 22 Pine Tree Lane, Mt Claremont



City of Nedlands

# Planning and Development Reports

**Committee Consideration – 13 July 2021**

**Council Resolution – 27 July 2021**

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<b>PD23.21</b>	<b>Consideration of Development Application – Carport Addition &amp; Driveway at 10 Cygnet Crescent, Dalkeith</b>
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<b>Committee</b>	13 July 2021
<b>Council</b>	27 July 2021
<b>Applicant</b>	S and D O’Keeffe
<b>Landowner</b>	S and D O’Keeffe
<b>Director</b>	Tony Free – Director Planning & Development
<b>Employee Disclosure under section 5.70 Local Government Act 1995 and section 10 of the City of Nedlands Code of Conduct for Impartiality.</b>	<p>The author, reviewers and authoriser of this report declare they have no financial or impartiality interest with this matter.</p> <p>There is no financial or personal relationship between City staff and the proponents or their consultants.</p> <p>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.</p>
<b>Report Type</b>  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.
<b>Reference</b>	DA21/63007
<b>Previous Item</b>	Nil
<b>Delegation</b>	In accordance with the City’s Instrument of Delegation, Council is required to determine the application due to an objection being received.
<b>Confidential Attachments</b>	<ol style="list-style-type: none"> <li>1. Plans</li> <li>2. Submission</li> <li>3. Assessment</li> </ol>

## 1.0 Executive Summary

The purpose of this report is for Council to determine a Development Application received on 13 April 2021, for a Carport at No.10 Cygnet Crescent, Dalkeith.

The application was advertised to adjoining landowners and occupiers in accordance with the City of Nedlands Local Planning Policy (LPP) – Consultation of Planning Proposals due to street setbacks, lot boundary setbacks and the location of the driveway. At the close of the advertising period, one objection was received.

As an objection has been received, this application is presented to Council for determination.

It is recommended that the application be approved by Council as it is considered to satisfy the design principles of the Residential Design Codes (R-Codes) Volume 1 and is unlikely to have a significant adverse impact on the local amenity.



## Recommendation to Committee

In accordance with Clause 68(2)(a) of the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015*, Council approves the development application received on 13 April 2021 in accordance with plans date stamped 30 June 2021 for a Carport and Driveway at Lot 819 (No. 10) Cygnet Crescent, Dalkeith subject to the following conditions:

1. This development approval only pertains to the addition of a Carport and Driveway as indicated on the determination plans.
2. All sides of the carport shall remain open and shall not accommodate a door.
3. All building works to be carried out under this development approval are required to be contained within the boundaries of the subject lot.
4. All stormwater from the development, which includes permeable and non-permeable areas shall be contained onsite; and
5. 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.

## Voting Requirement

Simple Majority

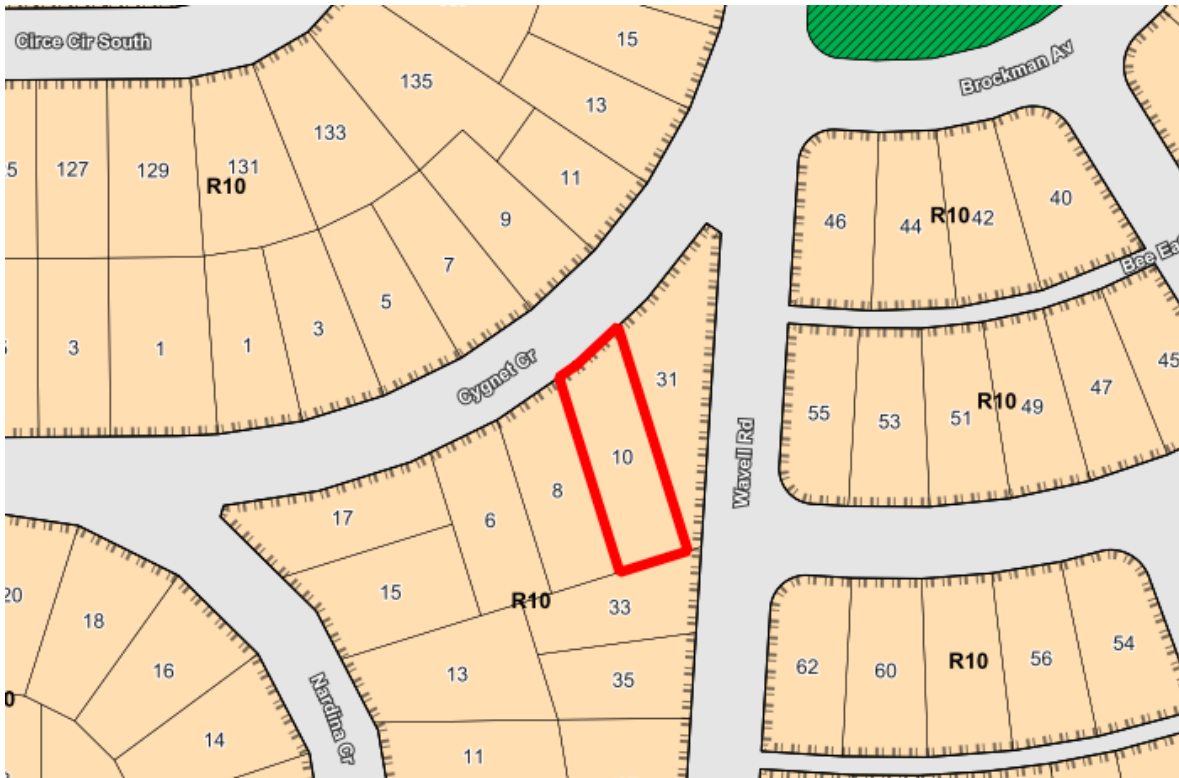
## 2.0 Background

### 2.1 Land Details

<b>Metropolitan Region Scheme Zone</b>	Urban
<b>Local Planning Scheme Zone</b>	Residential
<b>R-Code</b>	R10
<b>Land area</b>	1,237m <sup>2</sup>
<b>Land Use</b>	Residential – Single House
<b>Use Class</b>	'P' - Permitted

### 2.2 Locality Plan

The subject lot is located at No.10 Cygnet Crescent, Dalkeith and is zoned 'Residential' with a density coding of R10. The area is surrounded by existing two-storey houses, some of which include carports and garages in the front setback area.



The subject lot has an existing two storey single house and a dual semi-circle driveway which connects from the west and east of the site. Access to the property is via Cygnet Crescent. The site is relatively flat and slopes down approximately 1.5 metres from east to west.



### **3.0 Application Details**

The application seeks development approval for a double carport situated in the front setback area and associated extension to the driveway. The carport is proposed to be located in the north-east of the site, with a minimum setback of 1.7m from Cygnet Crescent.

### **4.0 Consultation**

The application is seeking assessment under the Design Principles of the R-Codes for the following:

- Setbacks of Garages and Carports
- Vehicle Access

The application was advertised in accordance with the City's Local Planning Policy - Consultation of Planning Proposals to the owners and occupiers of five adjoining properties. The advertising period was for 14 days from 17 May 2021 to 31 May 2021. At the close of the advertising period, one objection was received. The main concerns raised are:

- The removal of the existing letter box and retaining wall, which adjoin an existing dividing wall, may have implications for the structural integrity of the wall;
- The proximity of the carport to the lot boundary, design of the carport, impacts of building bulk and overshadowing; and
- Impact of carport on streetscape and character of surrounding area.

Note: A full copy of all relevant consultation feedback received by the City has been given to the Councillors prior to the Council meeting and contained in Confidential Attachment 2.

#### **4.1 Amended Plans**

Following the advertising of the application and receipt of the objection, the applicant sent amended plans to the City on 30 June 2021. The amended plans provide an increased setback to the eastern lot boundary. The carport now proposes a 1.0m setback to the eastern lot boundary. Originally, the carport proposed a 0.6m setback to the eastern lot boundary. With the amended plans, the carport now achieves the deemed to comply requirements under the Residential Design Codes (R-Codes) for lot boundary setbacks.

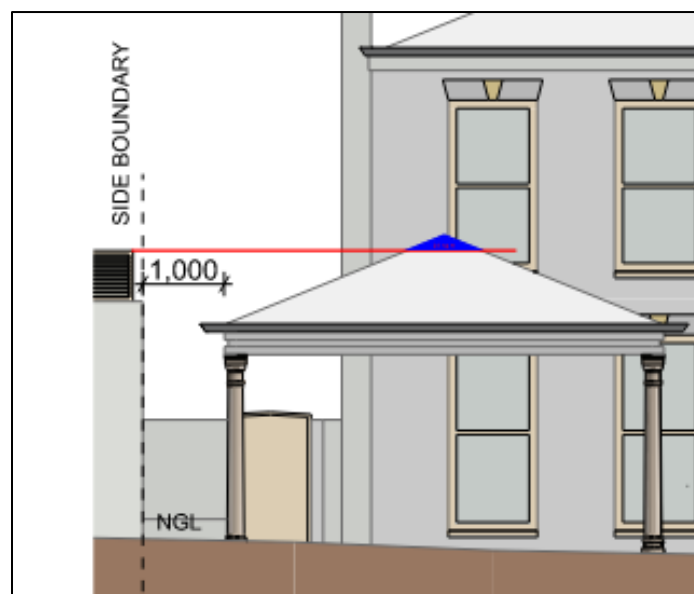
#### **4.2 Summary of Consultation**

The following is a summary of the concerns/comments raised from the neighbour consultation and the City's response and action taken in relation to each issue:

1. Concerns relating to the modifications to the existing retaining, letterbox and garden beds to allow for the proposal which form part of the existing dividing wall between 31 Wavell Road and 10 Cygnet Crescent.
  - To allow for the development of the carport, the garden beds and letterbox will need to be removed. The structural integrity and engineering for the changes to the retaining and dividing fence will be assessed during the

Building Permit stage where there is a 'Notifiable Event' through the BA20a Form.

2. Proximity of carport to lot boundary and resultant impacts of building bulk, overshadowing, vehicle noise and negative amenity to the adjoining property's outdoor living area and swimming pool.
  - Following the advertising period, the City has received amended plans for the carport proposal which now provides a 1.0m setback to the eastern lot boundary. The application is now fully deemed to comply with the R-Codes for the required setback to the eastern lot boundary.
  - No further action is required.
3. Development negatively impacts the streetscape and is out of character of the surrounding area.
  - A detailed Design Principles assessment for Clause 5.2.1 – Setbacks of Garages and Carports is provided at Section 5.2.1 of this Report.
4. The submitters note the carport proposal could be supported with design changes such as reducing the size of the double carport into a single carport, repositioning the carport to retain the garden beds and letterbox, situate carport to other side of semi-circular driveway, reduction in height of the pitch to the maximum boundary wall height.
  - The applicants provided amended plans for the carport proposal which now provides a 1.0m setback to the eastern lot boundary in lieu of 0.6m as originally proposed by the development.
  - The location of the carport abuts an existing boundary wall which has a total height of 3.6m from the ground level at the subject property. The carport has a total height of 4.0m at the northern elevation. The portion of the carport pitch that will be visible from the adjoining lot above the boundary wall is 0.4m. As shown in image below in blue, the total area of the carport that will be visible above the dividing boundary wall is 0.1m<sup>2</sup> from the northern elevation.



## **5.0 Assessment of Statutory Provisions**

### **5.1 Planning and Development (Local Planning Schemes) Regulations 2015**

Clause 67(2) of the Deemed Provisions stipulates those matters that are required to be given due regard to the extent relevant to the application. Where relevant, these matters are discussed in the report. In accordance with provisions (m) and (n) of the Regulations clause 67(2), due regard is to be given to the likely effect of the proposed development's height, scale, bulk and appearance, and the potential impact it will have on the amenity of the locality.

### **5.2 State Planning Policy**

#### **5.2.1 State Planning Policy 7.3 – Residential Design Codes (R-Codes) – Vol 1**

State Planning Policy 7.3 Residential Design Codes Volume 1 (R-Codes) apply to all single and grouped dwelling developments. An assessment under the R-Codes can be undertaken in one of two ways. This is by either meeting the deemed-to-comply provisions or via a Design Principle assessment pathway. The applicants are seeking a Design Principle assessment pathway for this proposal. An assessment is sought under the Design Principles for the R-Codes for Setbacks of Garages and Carports and Vehicular Access. All other areas are fully compliant with the deemed-to-comply provisions.

#### **Clause 5.2.1 – Setbacks of Garages and Carports**

The carport proposes a minimum setback of 1.7m to the primary street in lieu of 3.5m. The development is considered to meet the Design Principles as –

- The carport is considered to contribute to an established streetscape which displays a variety of intrusions into the front setback area, including carports at No. 3 and No. 7 Cygnet Crescent, Dalkeith;
- Due to the angle of the lot boundary addressing the street, the minimum carport setback is 1.7m however the eastern carport post is setback 4.5m from the primary street. As an average setback, the carport proposes a 3.1m setback to the primary street in lieu of 3.5m. With an average setback consideration, the carport is considered to be setback from the street boundary at an appropriate distance;
- The carport incorporates design features such as a pitched roof so as to complement the existing two storey residence with a pitched roof design. The pitched roof will contribute to the character of the development of the subject lot from the streetscape;
- The carport location allows for the maintenance of clear sight lines across the street; and
- Due to the curvature of Cygnet Crescent, the eastern lot boundary of the subject site is approximately 8m longer than the western lot boundary. The carport location along the eastern lot boundary abutting the existing 3.6m high boundary wall is considered to be an appropriate location so as not to detract

from the streetscape or appearance of the dwellings. The carport does not obstruct views from the dwelling to the street and vice versa.

### **Clause 5.3.5 – Vehicle Access**

The driveway proposes a nil setback to the eastern lot boundary in lieu of 0.5m deemed-to-comply. The development is considered to meet the Design Principles as–

- The siting of the development still permits legible access and pedestrian safety;
- The proposed development does not introduce any additional crossovers to the site and the use of the carport will be facilitated by the existing semi-circular driveway; and
- The vehicular access for the carport is proposed along the north eastern corner of the site so as to ensure the mature tree in the front setback area does not require removal to accommodate for the siting of the carport.

## **5.3 Local Planning Policy**

### **City of Nedlands Residential Development Local Planning Policy (LPP)**

The LPP modified provisions of the City of Nedlands Local Planning Scheme No. 3 and the R-Codes in relation to the setback of garages and carports. These provisions of the LPP relating to the setback of the carport have been addressed under the SPP 7.3 – R-Codes assessment above.

## **6.0 Conclusion**

Council is requested to make a decision in accordance with clause 68(2) of the Deemed Provisions. Council may determine to approve the development without conditions (cl.68(2)(a)), approve with development with conditions (cl.68(2)(b)), or refuse the development (cl.68(2)(c)).

The application for the Carport at No. 10 Cygnet Crescent, Dalkeith has been submitted for Council consideration as an objection has been received. The objection raises concerns with the impact of the carport on the amenity of the adjoining property. The City received amended plans following the advertising of the application. The carport now provides a compliant side setback to the eastern lot boundary, therefore addressing the deemed to comply requirements for lot boundary setbacks.

The proposal meets the key amenity related elements of R-Codes Volume 1 and as such is unlikely to have a significant adverse impact on the local amenity of the area. The proposal has been assessed and satisfies the design principles of the Residential Design Codes.

Accordingly, it is recommended that the application be approved by Council, subject to Conditions.

<b>PD24.21</b>	<b>Consideration of Development Application for a Change of Use from ‘Animal Establishment’ to ‘Industry-Light’ at 29 Carrington Street, Nedlands</b>
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<b>Committee</b>	13 July 2021
<b>Council</b>	27 July 2021
<b>Applicant</b>	Hatch Roberts Day
<b>Landowner</b>	Hamlet Properties Pty Ltd
<b>Director</b>	Tony Free – Director Planning & Development
<b>Employee Disclosure under section 5.70 Local Government Act 1995</b>	<p>The author, reviewers and authoriser of this report declare they have no financial or impartiality interest with this matter.</p> <p>There is no financial or personal relationship between City staff and the proponents or their consultants.</p> <p>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.</p>
<b>Report Type</b> 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.
<b>Reference</b>	DA21-62959
<b>Previous Item</b>	Nil
<b>Delegation</b>	In accordance with the City’s Instrument of Delegation, Council is required to determine the application due to objections being received.
<b>Attachments</b>	1. Summary of Submissions
<b>Confidential Attachments</b>	<ol style="list-style-type: none"> <li>1. Development Plans</li> <li>2. Business Management Plan</li> <li>3. Submissions</li> </ol>

## 1.0 Executive Summary

The purpose of this report is for Council to determine a Development Application received on 13 April 2021 for a change of use from an ‘Animal Establishment’ to ‘Industry-Light’ at No. 29 Carrington Street, Nedlands.

The overall intent of the application is to utilise the premises for additional space to support the existing operations of ‘Bread in Common Bakery’ (Common Bakery) for the manufacturing and distribution of bread and pastries directly to restaurants.

The proposed ‘Industry-Light’ use is classified as an ‘A’ use by the City of Nedlands Local Planning Scheme No.3 and was advertised to the owners and occupants of premises within a 100m radius of the site in accordance with the City’s Local Planning Policy – Consultation of Planning Proposals. A total of six (6) submissions were received with four (4) of these being objections, one (1) support with modifications

and one support. Consequently, the application has been referred to Council for determination.

It is recommended that the application be approved by Council as it is considered to satisfy the Scheme and Zone Objectives. The proposal is considered unlikely to have a significant adverse impact on the local amenity, being consistent with the intent and character of the locality.

## **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 13 April 2021 in accordance with the plans date stamped 23 April 2021 (DA21-62959) for the Change of Use from ‘Animal Establishment’ to ‘Industry-Light’ at Lot 387 (No. 29) Carrington Street, Nedlands, subject to the following conditions:**

- 1. This approval is for a ‘Industry-Light’ land use 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 of Nedlands.**
- 2. A maximum of 10 staff (inclusive) shall be permitted on the premises at any one time.**
- 3. Prior to the issue of a Building Permit, the Waste Management Plan dated 28 June 2021, is to be updated in accordance with the City of Nedlands Waste Management Local Planning Policy and Guidelines to include:**
  - a) Detailing of waste generation for the bakery premises; and**
  - b) Inclusion of the SUEZ agreement and waste truck specifications.**

**The updated Waste Management Plan is to be implemented prior to occupation and maintained at all times, to the satisfaction of the City of Nedlands.**

- 4. The bin enclosure location and construction is to comply with the City’s Health Local Laws 2017 and maintained at all times, to the satisfaction of the City of Nedlands.**
- 5. The premises is required to comply with the requirements of the Environmental Protection (Noise) Regulations 1997 at all times, to the satisfaction of the City of Nedlands.**
- 6. All car parking dimensions, manoeuvring areas, crossovers and driveways shall comply with Australian Standard AS2890.1 to the satisfaction of the City of Nedlands.**
- 7. Service and/or delivery vehicles must not service the premises before 7.00am or after 7.00 pm Monday to Saturday, and/or before 9.00 am or after 7.00 pm on Sundays and Public Holidays unless prior approval from the City of Nedlands is granted.**



8. All staff parking bays and deliveries (drop off and pick up) will be serviced from the rear of the site from Government Road at all times, to the satisfaction of the City of Nedlands; and
9. The development shall at all times comply with the application and the approved plans, subject to any modifications required as a consequence of any conditions of this approval.

## Voting Requirement

Simple Majority

## 2.0 Background

### 2.1 Land Details

<b>Metropolitan Region Scheme Zone</b>	Urban
<b>Local Planning Scheme Zone</b>	Service Commercial
<b>R-Code</b>	N/A
<b>Land area</b>	696m <sup>2</sup>
<b>Land Use</b>	Existing – Animal Establishment  Proposed – Industry Light
<b>Use Class</b>	Proposed – ‘A’ use

### 2.2 Locality Plan

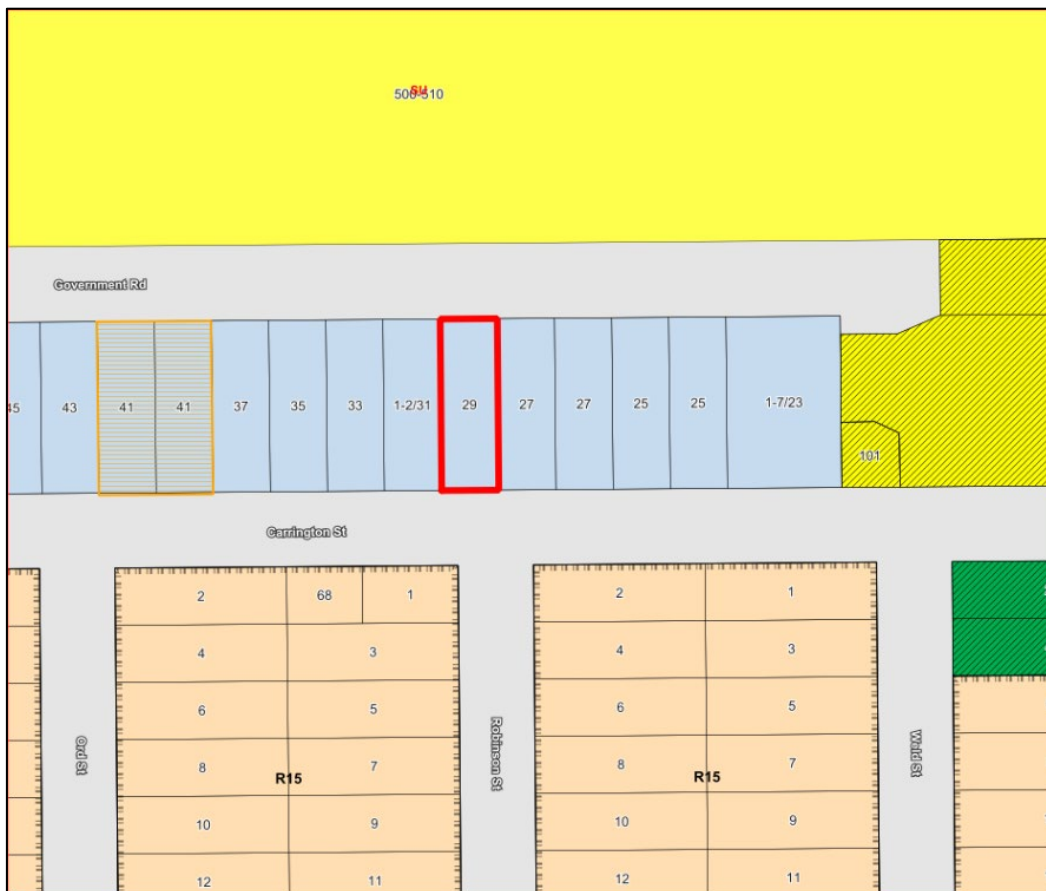
The subject site is located at No. 29 Carrington Street, Nedlands (the site). The site has primary frontage to Carrington Street and secondary frontage to Government Road.

The site is currently used as a “doggy day care” facility called the Canine Lounge. The site was approved as an ‘Animal Establishment’ by Council at the 6 September 2018 Council Meeting.

Currently Common Bakery operates at No. 27 Carrington Street, Nedlands as a Bakery with an incidental shop tenancy. The bakery includes the manufacturing and distribution of bread and pastries to a range of cafés and restaurants. The bakery has been in operation since 2016 since its approval by the City on 27 July 2016.



Within the street block there is a number of business ranging from Lunch Bars (Ginos Orange Lunch Bar) to commercial business, the land to the north is Karrakatta Cemetery and within 100m to the east is the City's Depot facility.



### 3.0 Application Details

Details of the proposal is as follows:

- The site will be used to predominately for mixing dough, bread storage and pastry moulding.
- A portion of the site will be used for food production which includes the preparation of pickles and preserves.
- No wood fire ovens or baking ovens are proposed at the site and will remain in the existing Common Bakery site at 27 Carrington Street.
- Internal modifications to the existing building includes a new Universal Access Toilet, staff change rooms, breakout area and an internal door will be created between 27 and 29 Carrington Street for staff to move back and forth between both sites.
- The existing roller door located at the front elevation of the site will be removed and replaced by a new window and a new ramp located to the rear of the building will be installed.
- No customers will be serviced from the site.
- All deliveries (drop off and pick up) and waste collection will be serviced from the rear of the site from Government Road.
- A total of ten (10) car bays is provided on site. Four (4) existing car bays located at the front of the building will remain and the rear car parking area will be reconfigured to have six (6) car bays.
- Approximately 7 staff members will be working at Common Bakery on both sites at one time as they move back and forth for the business operations depending on demand.
- The hours of operation of the site will match the current bakery operations at 27 Carrington Street as follows:

Current Approved Hours of Operation (No 27 Carrington Street)			
Shop (approved use)	Bakery operations	Pasty operations	Packing Operations
<ul style="list-style-type: none"> <li>• Friday - 7 am till 3pm</li> <li>• Saturday - 8am to 1pm</li> <li>• Sunday - 8am - 12pm</li> </ul>	<ul style="list-style-type: none"> <li>• 4pm – midnight</li> </ul>	<ul style="list-style-type: none"> <li>• 4 am to 12pm</li> </ul>	<ul style="list-style-type: none"> <li>• 4 am to 7 am</li> </ul>

### 4.0 Consultation

The proposal is an 'A' use under the City's Local Planning Scheme No. 3 (LPS 3). An 'A' use requires consultation in accordance with Clause 64 of the Deemed Provisions and the City's Local Planning Policy – Consultation of Planning Proposals (Consultation Policy).

The development application was advertised in accordance with the Consultation Policy by way of letter for 14 days within a 100m radius of the subject site. The application was advertised to 61 landowners and occupiers, commencing on 6 May 2021 and concluding on 20 May 2021.

At the close of the advertising period, a total of six (6) submissions were received (1 in support, 1 support subject to modifications and 4 objections). The main issues raised in the submissions relate to:

- Car parking/Traffic;
- Vehicles Reversing;
- Car parking reconfiguration;
- Common Bakery takeaway coffee
- Noise;
- Air quality; and
- Operation hours.

Refer to **Attachment 1** for the submission table which outlines the comments received and Administration's and the applicant's response to each submission.

Note: A full copy of all relevant consultation feedback received by the City has been given to the Councillors prior to the Council meeting.

## **5.0 Assessment of Statutory Provisions**

### **5.1 Planning and Development (Local Planning Schemes) Regulations 2015**

Clause 67(2) of the Deemed Provisions (Consideration of application by local government) stipulates those matters that are required to be given due regard to the extent relevant to the application. Where relevant, these matters are discussed in the following sections.

### **5.2 Local Planning Scheme No. 3**

#### **5.2.1 Land Use Permissibility**

The proposed land use of the Common Bakery use on the site is classified as 'Industry-Light' under LPS3.

Industry-Light is defined as:

“means premises used for an industry where impacts on the amenity of the area in which the premises is located can be mitigated, avoided or managed”

Industry is defined as:

“means premises used for the manufacture, dismantling, processing, assembly, treating, testing, servicing, maintenance or repairing of goods, products, articles, materials or substances and includes facilities on the premises for any of the following purposes –

- (a) the storage of goods;
- (b) the work of administration or accounting;
- (c) the selling of goods by wholesale or retail;
- (d) the provision of amenities for employees;
- (e) incidental purposes.”

'Industry-Light' has an 'A' use permissibility within the 'Service Commercial' zone. An 'A' use is not permitted unless the local government has exercised its discretion by granting development approval after giving notice in accordance with clause 64 of the deemed provisions. The proposal has been advertised in accordance with the City's Consultation Policy.

Considering the proposed land use, the objectives of the Service Commercial zone and the use class permissibility of the proposed land use on the site, the proposed change of use is considered to be appropriate for the site's context and in accordance with the objectives and intent of the Scheme.

### **5.2.2 Objective of Zone**

The subject site is zoned 'Service Commercial' by LPS3. A Service Commercial zone has the following objectives under the Scheme:

- To accommodate commercial activities which, because of the nature of the business, require good vehicular access and/or large sites.
- To provide for a range of uses which, by reason of their scale, character, operational or land requirements, are not generally appropriate in, or cannot conveniently or economically be accommodated in centre, commercial or industrial zones.
- To ensure land use is compatible with any adjacent commercial, mixed-use or residential areas and would not have a detrimental effect on the amenity of the locality.
- To maintain compatibility with the general streetscape, for all new buildings in terms of scale, height, style, materials, street alignment and design of facades.

The proposed land use of a 'Industry-Light' is considered to meet the objectives of the Service Commercial zone for the following reasons:

- The site will accommodate the expansion of a bakery production business (Common Bakery) that currently exists within the Service Commercial zone.
- The proposal does not result changes to the bulk and scale to the existing building. Some minor cosmetic upgrades to the front facade and a new ramp are proposed at the rear of the building.
- The proposed land use promotes a local business within the area and is considered to be compatible with the existing mix of businesses along Carrington Street.

Considering the above, the proposed land use is deemed to satisfy the objectives of the Service Commercial zone.

### **5.3 Local Planning Strategy**

The City's Local Planning Strategy was endorsed by the Western Australian Planning Commission in 2017. The Strategy identifies the Carrington Street semi-industrial area as a future Precinct within the City. The Strategy seeks to facilitate Carrington Street commercial strip as a mixed business area.

This precinct is the only "industrial" area within the City of Nedlands and in more recent times has undergone a minor transition from a service industrial area to a more commercially-orientated precinct characterised by office development at the corner of Carrington and Loch Streets.

The proposed change of use application is consistent with the overall strategic intent of the precinct as the use is characterised as 'Light industry' and this precinct is the only 'industrial' area within the City's jurisdiction.

## **5.4 Local Planning Policies**

### **5.4.1 Local Planning Policy – Parking**

The proposal complies with the car parking requirement for an Industry-Light use for the site as follows:

- Car parking requirement: 9 car bays.
- Proposed car parking on site: 10 car bays.

### **5.4.2 Traffic Management**

The proposal will not service customers from 29 Carrington Street and all staff parking will be accommodated within the site. All deliveries will be collected and delivered from the rear of the site from Government Road as well as waste collection.

However, some submissions raised concern in regard to the car parking arrangement located outside both 27 and 29 Carrington Street, Nedlands within the verge area owned by the City.

Parking and traffic along Carrington Street should be holistically considered by the Council, as much of the parking sits on Council owned land. In the long term, consideration should be given to a strategic review of the parking and traffic of the Service Commercial area along Carrington Street. The current proposal at No. 29 Carrington Street will assist the overall operation of the Bakery by the provision of additional parking. The proposal will not add to traffic along Carrington Street.

### **5.4.3 Local Planning Policy – Waste Management**

The application was assessed against the Waste Management Local Planning Policy. The Waste Management Plan has been reviewed and is supported. A condition of the determination of the application requires the development to comply with the approved Waste Management Plan in perpetuity.

## **6.0 Conclusion**

Council is requested to make a decision in accordance with clause 68(2) of the Deemed Provisions. Council may determine to approve the development without conditions (cl.68(2)(a)), approve with development with conditions (cl.68(2)(b)), or refuse the development (cl.68(2)(c)).

Considering the proposed land use, the property's zoning and the proposed use of the site, it is unlikely that the bakery manufacturing will have a negative impact of the amenity of the immediate locality.

Based on the car parking assessment provided as part of the development application, the proposal will reduce the number of visitors to the site as the site will not service any customers and the car parking meets the City's Parking Policy.

Considering the above, the proposal is unlikely to have a detrimental impact on the local amenity. Therefore, it is recommended that Council approves the application subject to the conditions identified above.

Change of Use from ‘Animal Establishment’ to ‘Industry – Light’ at Lot 387 (No. 29) Carrington Street, Nedlands

Summary of Submissions

Comments Raised	Respondents who raised issue	Planning Response	Applicant Response
<p><b>Traffic Management</b></p> <ol style="list-style-type: none"> <li>1. The parking and traffic situation around 27 and 29 Carrington Street, as known as Bread in Common Bakery is becoming unsustainable and impacting upon local residents. The traffic situation has continually worsened since the business started selling takeaway coffee and pastries early in 2020 on 27 Carrington Street.</li> <li>2. Why is there no traffic management plan to manage the increased traffic for this site.</li> </ol>	<p>3, 4, 5, 6</p>	<p><u>In response to Points 1-2</u> Traffic management is further detailed in the Council Report.</p>	<ul style="list-style-type: none"> <li>• Consideration of the current DA by Council is for No 29 Carrington Street only - approval for the operation of the Bakery at No 27 Carrington was previously granted in 2016, and will continue to operate.</li> <li>• The current proposal will alleviate the space constraints at No 27. More space is required for the current operation of the Bakery. There is the need for more room to move equipment such as large baking trolleys around the premises, and to provide temperature controlled areas for storage and logistics – the space is very constrained at No 27 at the present.</li> <li>• The number of staff remains materially the same for the business, and what is being produced from the bakery is the same. This results in the opportunity to utilise and provide more parking (at No 29) for the same operation across the two sites. An additional 11 bays are being provided at No 29 Carrington for the</li> </ul>




Comments Raised	Respondents who raised issue	Planning Response	Applicant Response
			<p>Bakery, in addition to the current provision at No 27.</p> <ul style="list-style-type: none"> <li>• The shop component of the business is not being expanded. The business is 90% wholesale and 10% shop. The shop turnover has been stable for the past 12 months. The use and works proposed to be carried out at No 29 Carrington is to support the current wholesale operation, noting that it would be not commercially viable to undertake the proposed works to support the shop component.</li> <li>• The provision of parking is being provided in accordance with the requirements of the City – all required bays are on site.</li> <li>• The existing business at No 29 Carrington (Doggy Day Care) currently have customers visiting the premises throughout the day (morning/midday and evening) – it is noted that the use of No 29 will not generate any visits form customers, rather provide additional parking for the existing business at No 27.</li> <li>• The majority of customers purchasing takeaway coffee are local residents, or those coming to the bakery for to purchase bakery goods. The coffee service is</li> </ul>

Comments Raised	Respondents who raised issue	Planning Response	Applicant Response
			<p>incidental, and customers have never had an issue with access to parking.</p> <ul style="list-style-type: none"> <li>• Further parking will now be provided as a result of the utilisation of the premises at No 29. Takeaway coffee is only 20-24% of total sales from the shop, and the shop is only 10% of the overall business at Common Bakery.</li> <li>• The parking and traffic situation referred to by the submitter is not a result of the operation of Common Bakery. Often, the current parking in front of No 27 is being used by customers of other businesses, such as the lunch bar next door. Parking and traffic along Carrington Street is one that needs to be holistically considered by the Council, as much of the parking sits on Council owned land.</li> <li>• In the long term, there needs to be a strategic review of the parking and traffic of the Service Commercial area along Carrington Street. The current proposal at No 29 will assist the overall operation of the Bakery by the provision of additional parking. The proposal will not add to the traffic along Carrington Street.</li> </ul>

Comments Raised	Respondents who raised issue	Planning Response	Applicant Response
			<ul style="list-style-type: none"> <li>The owner is happy to work with Council on any proposals to improve traffic management along Carrington Street.</li> </ul>
<p><b>Vehicles Reversing</b></p> <p>Cars reversing out from the parking bays is considered to be:</p> <ol style="list-style-type: none"> <li>Unsafe when reversing on to oncoming traffic along Carrington Street especially during peak hours in the morning.</li> <li>Dangerous when cars have reversed out across both lanes of traffic.</li> <li>All vehicles should be reversing out in forward gear on to Carrington Street.</li> </ol>	3, 4, 5, 6	<p><u>In response to Points 1-3</u></p> <p>Administration has reviewed manoeuvring of the four (4) car bays located at the front of 29 Carrington Street to be in accordance the Australian Standards AS2890.1.</p>	<ul style="list-style-type: none"> <li>The location of the carbays for both 27 and 29 Carrington have been in place prior to the current use as a Bakery.</li> <li>The carbays for the proposed application at No 29 is set back 10.45 metres from the street, ensuring there is adequate area to reverse and exit in a forward direction.</li> <li>The carbays allocated and approved for No 27 are located on Council land.</li> <li>The owner is happy to work with Council on alternative arrangement for parking, and as part of a broader review of parking along Carrington Street.</li> </ul>
<p><b>Car Parking Management</b></p> <ol style="list-style-type: none"> <li>Vehicles are parking illegally on the verge and making illegal U-turns which makes driving along Carrington Street unsafe especially when pedestrians are crossing across the road.</li> </ol>	3, 4, 5, 6	<p><u>In response to Point 1</u></p> <p>Noted. Rangers can be called out on site to issue infringements to vehicles parked illegally outside of 29 Carrington Street.</p> <p><u>In response to Points 2 and 3</u></p>	<ul style="list-style-type: none"> <li>Car parking bays have been provided at the rear of No 29 Carrington Street, and all deliveries are proposed to be from the rear, accessed from Government Road. This will result in all deliveries being relocated from the laneway abutting</li> </ul>

Comments Raised	Respondents who raised issue	Planning Response	Applicant Response
<p>2. During peak hours customers are parked in front of cars already parked in at 29 Carrington Street resulting in congestion.</p> <p>3. Vehicles parked illegally along Carrington Street results in poor visibility when vehicles are trying to turn right on to Carrington Street from Robison Street directly opposite 27 and 29 Carrington Street.</p> <p>4. All car parking should be move to rear of the site and accessed from Government Road and away from Carrington Street.</p> <p>5. Why is car parking approved in front of Bread in Common Bakery which is unsafe.</p>		<p>Traffic management is further detailed in the Council Report.</p> <p><u>In response to Points 4 and 5</u> The four (4) existing car bays located at the front of 29 Carrington Street with vehicle access from Carrington Street was approved previously under the “doggy day care” development application by Council at the 6 September 2018 Council Meeting.</p>	<p>No 27 Carrington, to the rear of the site, adjacent to the cemetery.</p> <ul style="list-style-type: none"> <li>• The proposal at No 29 will improve the operational aspects of the Bakery at No 27, improving logistics for deliveries and pick ups.</li> <li>• It is noted that the parking and traffic situation referred to by the submitter is not a result of the operation of Common Bakery. Refer comments above re: the use of parking bays in front of No 27 being used by customers of other businesses, such as the lunch bar next door. Parking and traffic along Carrington Street is one that needs to be holistically considered by the Council, as much of the parking sits on Council owned land.</li> <li>• In the long term, there needs to be a strategic review of the parking and traffic of the service commercial area along Carrington Street, however, the impact of the current proposal at No 29 will provide the opportunity for additional parking, and will not add to the existing traffic along Carrington Street.</li> <li>• To assist, the owner has instructed all staff and service vehicles to park at the rear.</li> </ul>

Comments Raised	Respondents who raised issue	Planning Response	Applicant Response
			<ul style="list-style-type: none"> <li>The owner is happy to work with Council on any proposals to improve traffic management along Carrington Street.</li> </ul>
<p><b>Car Parking Reconfiguration</b></p> <ol style="list-style-type: none"> <li>The car parking configuration currently along Carrington street is chaotic and confusing for motorists and unsafe for pedestrians.</li> <li>The carparking area within the lot boundaries of 29 Carrington Street and adjoining council road reserve being reconfigured so that the car bays are parallel to Carrington Street. This will enable cars to enter and exit the site in forward gear, which will contribute to the safe operation of parking. Currently the parking configuration requires cars to reverse back into an increasingly busy road. This will require the awning at the front of the building to be removed.</li> <li>The four perpendicular carparking bays in front of 27 Carrington Street being reconfigured to be parallel to the street. As these four car bays are within the council road reserve it is entirely within the power and authority of the council to make / require this change to improve the safety of these bays.</li> <li>Better signage, clearer bay markings and time limits should be applied to reduce the number of vehicles along Carrington Street.</li> </ol>	1, 4, 5	<p><u>In response to Points 1-4</u> Traffic management and kerbing arrangements/reconfiguration is further detailed in the Council Report.</p>	<ul style="list-style-type: none"> <li>The parking and traffic situation referred to by the submitter is primarily located on Council land along Carrington Street, abutting the service commercial zoned land that stretches from Lock Street through to Broome Street.</li> <li>There needs to be a strategic review of the parking and traffic of the service commercial area along Carrington Street by Council, to holistically consider the traffic and parking for all businesses in the Service Commercial area.</li> <li>The current traffic situation referred to by the submitter cannot be resolved by one owner. It is noted that the current proposal at No 29 will only assist in improving the current allocation by the provision of additional parking for the business.</li> <li>The owner is happy to work with Council on any proposals to improve traffic management along Carrington Street, including the orientation of car bays for No 27 located on Council land.</li> </ul>

Comments Raised	Respondents who raised issue	Planning Response	Applicant Response
			<ul style="list-style-type: none"> <li>The average customer only spends a few minutes at the premises, picking up baked goods – customers are not consuming goods at the premises. Time limits for parking would therefore not impact the operation of the Bakery, however, other businesses along Carrington Street may be affected, and therefore, it is recommended Council holistically address all traffic and parking management along Carrington Street.</li> </ul>
<p><b>Bread in Common Bakery Takeaway Coffee</b></p> <p>Take away coffee from Bread in Common Bakery was not approved by Council. Why is Common Bakery allowed to operate?</p>	3, 5,	<p>The takeaway drinks approval was issued by the City on August 2020 under the notice of exemptions from planning requirements during the State of emergency under Clause 78H of the Planning and Development (Local Planning Schemes) Regulations 2015 during Covid-19.</p>	<ul style="list-style-type: none"> <li>The business has all the required approvals in place to provide take away coffee.</li> <li>Takeaway coffee is a small proportion of the overall business at Common Bakery.</li> <li>It is common for customers to buy a coffee from a Bakery business.</li> </ul>
<p><b>Local Business Support</b></p> <p>1. As a proximal resident, I support the proposal for Bread in Common Bakery to expand into the next door premises previously occupied by the Canine Lounge.</p>	2, 5	<p><u>In response to Points 1-2</u> Noted.</p>	<ul style="list-style-type: none"> <li>There needs to be a strategic review of the parking and traffic of the service commercial area along Carrington Street by Council, to holistically consider the traffic and parking for all businesses in the Service Commercial area.</li> </ul>

Comments Raised	Respondents who raised issue	Planning Response	Applicant Response
<p>2. Supportive of supportive of local business but this proposal does not address car parking and traffic safety.</p>			<ul style="list-style-type: none"> <li>The current traffic situation referred to by the submitter cannot be resolved by one owner. It is noted that the current proposal at No 29 will only assist in improving the current allocation by the provision of additional parking for the business.</li> </ul>
<p><b>Noise</b></p> <p>The noise as a result of the Bread in Common Bakery business is unacceptable as follows:</p> <ol style="list-style-type: none"> <li>Bread in Common has been able to operate 7 days a week, 24 hours a day there is no reprieve from the noise.</li> <li>Alarms left unattended for extended periods of time or occurring briefly in the early hours of the night/morning.</li> <li>Engines of trucks being left on or excessive revving as employees leave.</li> <li>Reversing alarms from trucks and delivery vans;</li> <li>Delivery vans loading in the early hours of the morning.</li> <li>Loud conversations between employees or from Bread in Common customers at early hours of the morning.</li> </ol>	<p>6</p>	<p><u>In response to Points 1-2</u>            The City has not received a complaint regarding alarms from this site based on records so far. Audible security alarms can be deactivated by Police if they have been emitting unreasonable noise for 30 minutes or more. Complaints regarding re-occurring alarms can be lodged with the City's Environmental Health Services to investigate.</p> <p><u>In response to Points 3-5</u>            The City has received noise complaints in the past regarding deliveries at the premises prior to 7:00 am. In these instances, the City has requested deliveries occur between the hours of 7:00 am-7:00 pm Monday to Saturday and 9:00 am-7:00 pm Sundays and Public Holidays where there are noise sensitive residences nearby.</p>	<ul style="list-style-type: none"> <li>The owner is happy to discuss the matters raised with the submitter with the aim of addressing any concerns</li> <li>The proposal at No 29 includes the relocation of all deliveries to the rear, accessed from Government Road (currently deliveries are received from the laneway abutting No 27 Carrington)</li> <li>The relocation of deliveries to the rear off Government Road will address the concerns raised in the submission.</li> <li>The business is one of many in the Service Commercial area that operate early in the morning.</li> <li>Note that Common Bakery does not have an audible alarm.</li> <li>Common Bakery does not have any equipment that is noisy beyond the</li> </ul>

Comments Raised	Respondents who raised issue	Planning Response	Applicant Response
<p>7. The banging sound of the Bread in Common Barista when clearing the coffee beans from their machine.</p>		<p>The development application as proposed includes a new loading bay and staff car parking area to the rear of the property with access from Government Road. The current loading area is understood to be contained within the laneway between Carrington Street and Government Road, and at the front of the property on Carrington Street. The proposed relocation of the loading bay and employee parking to Government Road, is considered to alleviate potential noise concerns from loading/unloading of vehicles at the premises.</p> <p><u>In response to Points 6-7</u> Noted. Not a Planning consideration.</p>	<p>premises, consistent with uses within service commercial areas</p> <ul style="list-style-type: none"> <li>It is noted that the matters raised by the submitter are matters that will be addressed by the proposed works at 29. It is noted that previously, on the very rare occasion in the past that any issue has been brought to the attention of the owners and operators of Common Bakery that they have immediately engaged to resolve. The business has strong local support and considers itself to be part of the local community, and a responsible local citizen.</li> </ul>
<p><b>Air Quality</b></p> <p>The bakery smoke when there is a lack of wind present impacts upon residents living within the vicinity of Carrington Street and Robinson Street.</p>	<p>6</p>	<p>This Development Application does not propose any increase in the number or use of the wood fired ovens.</p> <p>The Health (Miscellaneous Provisions) Act 1911, and the City of Nedlands Health Local Laws 2017 require an owner or occupier of a premises to prevent the escape of smoke in such a quantity or of such a nature as to be offensive to the public or injurious or dangerous to health. Complaints regarding smoke can be directed to the</p>	<ul style="list-style-type: none"> <li>The owners of Common Bakery note that the business has experience an occasional issue with wood ovens not being lit correctly, resulting in smoke for a short period. This has been addressed through training and maintenance of flumes.</li> <li>The proposal for No 29 does not include increasing the current capacity of the wood ovens, located at No 27. No 29 will be utilised for additional area required for rolling,</li> </ul>



Comments Raised	Respondents who raised issue	Planning Response	Applicant Response
		City's Environmental Health Services for investigation.	preparation and storage of pastries and breads only.
<p><b>Operation Hours</b></p> <ol style="list-style-type: none"> <li>Why is bakery business allowed to operate before 7am, on weekends and public holidays?</li> <li>The business runs 24 hours a day, 7 days a week.</li> <li>Customers are also arriving earlier and earlier.</li> <li>The business should not operate on public holidays and Sundays. A monitored 7am starting time for the shop component of the Bread in Common Bakery business at 27 Carrington Street should be required by the business.</li> </ol>	6	<p><u>In response to Points 1-4</u></p> <p>The hours of operation are not set by the City.</p> <p>The premises is required to comply with the requirements of the <i>Environmental Protection (Noise) Regulations 1997</i>.</p>	<ul style="list-style-type: none"> <li>All bakeries operate before 7am – this is common practice due to preparation requirements</li> <li>Approval for the Bakery was granted in 2016 by the Council and is not the subject of this application.</li> <li>The DA being considered is to enable the utilization of additional space at No 29, to ease space constraints at No 27, and will result in an approved outcome for the logistics of the existing business.</li> </ul>

**Submissions**

	Respondents	Total
<b>Objection</b>	3, 4, 5, 6	<b>4</b>
<b>Support</b>	2	<b>1</b>
<b>Support subject to modifications</b>	1	<b>1</b>
	<b>TOTAL</b>	<b>6</b>

<b>PD25.21</b>	<b>Consideration of Development Application - 6 Aged and Dependent Persons' Dwellings at Lot 100 Montgomery Avenue, Mt Claremont</b>
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<b>Committee</b>	13 July 2021
<b>Council</b>	27 July 2021
<b>Applicant</b>	Apex Planning
<b>Landowner</b>	Western Power
<b>Director</b>	Tony Free – Director Planning & Development
<b>Employee Disclosure under section 5.70 Local Government Act 1995</b>	<p>The author, reviewers and authoriser of this report declare they have no financial or impartiality interest with this matter.</p> <p>There is no financial or personal relationship between City staff and the proponents or their consultants.</p> <p>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.</p>
<b>Report Type</b> 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.
<b>Reference</b>	DA21-63578
<b>Previous Item</b>	Nil
<b>Delegation</b>	In accordance with the City's Instrument of Delegation, Council is required to determine the application as more than 4 dwellings are proposed
<b>Attachments</b>	1. Location Plan & Zoning Plan
<b>Confidential Attachments</b>	<ol style="list-style-type: none"> <li>Plans</li> <li>Submissions</li> </ol>

## 1.0 Executive Summary

The purpose of this report is for Council to determine a Development Application received on 27 April 2021, for six (6) Aged or Dependant Persons' Dwellings at Lot 100 Montgomery Avenue, Mt Claremont.

The application was advertised to adjoining neighbours in accordance with the City of Nedlands Local Planning Policy (LPP) – Consultation of Planning Proposals due to site works, retaining, plot ratio area and open space. At the close of the advertising period two (2) submissions neither supporting nor objecting to the development proposal were received.

As the application proposes more than 4 dwellings, this application is presented to Council for determination.

It is recommended that the application be approved by Council as it is considered to satisfy the design principles of the Residential Design Codes (R-Codes) and is unlikely to have a significant adverse impact on the local amenity.

## **Recommendation to Committee**

**In accordance with Clause 68(2)(a) of the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015*, Council approves the development application received on 27 April 2021 in accordance with amended plans date stamped 10 June 2021 for six (6) Aged and Dependent Persons' Dwellings at Lot 100 Montgomery Avenue, Mt Claremont subject to the following conditions:**

- 1. This approval is for a 'Residential – Aged and Dependent Persons Dwelling' land use 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. Prior to the issue of a Building Permit, the owner must execute and provide to the City a notification pursuant to Section 70A of the *Transfer of Land Act 1893* (as amended) to be registered on the Certificate of Title advising prospective purchasers that the use of the land is subject to the Aged and Dependent Persons' restriction. The notification required by shall read as follows:**

**“This property is approved for use as an Aged or Dependent Persons' Dwelling. The dwelling restricted to be occupied by a person who:**

- i. Is aged 55 years or more; or**
  - ii. Has a recognised form of disability requiring special or supported accommodation; and**
  - iii. May also accommodate the spouse or carer of that person and in any case no more than one other person.”**
- 3. The Aged and Dependent Persons' dwelling internal design, external paths and car parking areas shall be constructed in accordance with Clause 5.5.2 of the Residential Design Codes and AS4299/1995 – Adaptable Housing.**
  - 4. 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 or in:**
    - a. Face brick;**
    - b. Painted render;**
    - c. Painted brickwork; or**
    - d. Other clean material as specified on the approved plans and maintained thereafter to the satisfaction of the City.**
  - 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 and overlook any part of any other residential property behind its street setback line shall be setback,**

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 screened in accordance with the Residential Design Codes by either;

- a. fixed obscured glazing or translucent glass to a height of 1.60 metres above finished floor level; or
- b. Timber screens, external blinds, window hoods and shutters to a height of 1.6m above finished floor level that are at least 75% obscure;
- c. a minimum sill height of 1.60 metres as determined from the internal floor level; or
- d. an alternative method of screening approved by the City.

The required screening shall be thereafter maintained to the satisfaction of the City.

6. Prior to commencement of development, a detailed landscaping plan shall be submitted to and approved by the City of Nedlands and is to be installed and maintained in accordance with that plan, or any modifications approved thereto, for the lifetime of the development thereafter, to the satisfaction of the City.
7. Prior to the occupation of the development, all structures within 1.5m visual truncation areas abutting vehicle access points shall be truncated or reduced to 0.75m height to the satisfaction of the City.
8. Prior to occupation, each 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.
9. Prior to the occupation of the development, the car parking designated for visitors shall be clearly marked or signage provided to the specification and maintained thereafter by the landowner to the satisfaction of the City.
10. 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.
11. All stormwater from the development, which includes permeable and non-permeable areas shall be contained onsite.
12. The location of any bin stores shall be behind the street alignment so as not to be visible from a street or public place and constructed in accordance with the City's Health Local Law 1997.
13. All building works to be carried out under this development approval are required to be contained within the boundaries of the subject lot; and

- 14. 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.**

## Voting Requirement

Simple Majority

## 2.0 Background

### 2.1 Land Details

<b>Metropolitan Region Scheme Zone</b>	Urban
<b>Local Planning Scheme Zone</b>	Residential
<b>R-Code</b>	R30
<b>Land Use</b>	Current – Vacant Proposed - Aged or Dependant Persons' Dwellings
<b>Use Class</b>	'P' Permitted Use

### 2.2 Locality Plan

The subject site is located at Lot 100 Montgomery Avenue, Mt Claremont and is zoned 'Urban' by the Metropolitan Region Scheme and 'Residential' by the City of Nedlands Local Planning Scheme No.3 (the Scheme). The site has a residential density code of R30.

There are five two-storey houses which directly abut the site to the north and north-west and are also zoned 'Residential' R30. To the west is Biara Gardens, a managed reserve located within the Town of Cambridge. To the south is vacant land zoned 'Residential'. Refer to Attachment 1 – Aerial & Zoning Plan.

## Background

The site was previously owned by Western Power and has recently been sold. A subdivision application has been lodged with the Western Australian Planning Commission for two free-hold lots in a side-by-side configuration.

The owners intend to develop the site in a staged approach. The Aged or Dependent Persons dwellings are considered to be part of Stage 1. Stage 2 is proposed to be a Child Care Centre, located further south (annotated on the plans as 'future development').

An application for pre-lodgement Design Review has been lodged with the City for the Child Care Centre. Once lodged, Stage 2 will be determined by the Metro Inner North Joint Development Assessment Panel.

### 3.0 Application Details

The application seeks development approval for six (6) single storey Aged or Dependent Persons' Dwellings. Each dwelling proposes three bedrooms and two bathrooms across a single floor level. The proposed dwellings are serviced by a common property driveway, located at the centre of the development proposal and includes two visitor bays.

### 4.0 Consultation

The applicant is seeking assessment under the Design Principles of the R-Codes for the following:

- Open Space
- Site Works and Retaining
- Plot Ratio Area

The Development application was advertised in accordance with the City's Local Planning Policy - Consultation of Planning Proposals to 5 adjoining landowners and occupiers. The application was advertised for a period of 14 days from 4 June 2021 to 18 June 2021. At the close of the advertising period two (2) submissions were received. The main concerns raised within the submissions were:

- Request that the western dividing fence be constructed of 1.8m rendered brick lieu of colourbond fencing.
- The development site is bushfire prone and inadequate separation distance is provided from the adjoining reserve.
- Request for a dilapidation report be prepared for all properties located to the north of the subject site.

*Note: A full copy of all relevant consultation feedback received by the City has been given to the Councillors prior to the Council meeting and can be found in Confidential Attachment 2.*

The following is a summary of the concerns/comments raised and the City's response and action taken in relation to each issue:

1. Request for brick dividing fence.

The applicant has been advised of the request and is encouraged to discuss the request with the neighbour. Neither the Residential Design Codes nor the City's Local Planning Policies require that the boundary fence be constructed of brick, thus it is not a condition of Administration's recommendation.

2. The development site is bushfire prone.

The subject site was previously identified as 'bushfire prone' under *State Planning Policy 3.7: Planning in Bushfire Prone Areas* prior to 2019. The 2019 review of the bushfire prone area mapping completed by the Department of Fire and Emergency Services reclassified the subject site as 'not-bushfire prone'. As a result, the subject site is not currently classified as bushfire prone.

3. Request for a dilapidation report to be prepared.

In the event of substantial excavations works being proposed it is appropriate to require that a dilapidation report be undertaken. In the case of the proposed development, no significant excavation is proposed. The applicant has been advised of the request for a dilapidation report.

## **5. Assessment of Statutory Provisions**

### **5.1 Planning and Development (Local Planning Schemes) Regulations 2015**

Schedule 2, Clause 67(2) (Consideration of application by Local Government) – identifies those matters that are required to be given due regard to the extent relevant to the application. Where relevant, these matters are discussed in the following sections. Overall, the development is considered to meet these objectives, particularly in regards to height, scale, bulk and appearance, and the potential impact it will have on the local amenity.

### **5.2 State Planning Policy**

#### **5.2.1 State Planning Policy 7.3 - Residential Design Codes – Volume 1**

State Planning Policy 7.3 Residential Design Codes Volume 1 (R-Codes) apply to all single and grouped dwelling developments. An assessment under the R-Codes can be undertaken in one of two ways. This is by either meeting the deemed-to-comply provisions or via a Design Principle assessment pathway. The applicants are seeking a Design Principle assessment pathway for a part of this proposal. An assessment is sought under the Design Principles for the R-Codes for Open Space, Site Works & Retaining and Plot Ratio. All other areas are fully compliant with the deemed-to-comply provisions.

#### **Clause 5.1.4 Open Space**

The development proposes the following open space percentages in lieu of 45% under the deemed-to-comply provisions.

- Unit 1 – 41% (4% shortfall 10.7m<sup>2</sup>)
- Unit 2 & 3 – 42% (3% shortfall 8.2m<sup>2</sup>)
- Unit 5 – 40% (5% shortfall 13.35m<sup>2</sup>)
- Unit 6 – 44% (1% shortfall 2.83m<sup>2</sup>)

It is noted Unit 4 achieves 45% open space.

Open Space is considered to meet the Design Principles as:

- The proposed dwellings are considered to maximise access to natural light through the northern aspect of the site through windows and openings to habitable rooms and outdoor living areas.
- All dwellings meet the deemed-to-comply lot boundary setback and building height. The scale of the development proposal is consistent with the existing established streetscape character of Mt Claremont.

- The primary street frontage is appropriately landscaped with 2 medium trees and various ground covered foliage. The proposal includes 8 medium sized trees and landscaping within the communal areas.
- The proposed outdoor living areas provides opportunities for residents to use external space for outdoor pursuits, including a covered entertaining area.
- The open space shortfall is limited to between 1-4 percent of each individual lot's area, with the parent lot proposing 43% site cover, producing an overall 3% open space shortfall.

### **Clause 5.3.7 & Clause 5.3.8 – Site Works & Retaining Wall**

The development proposes the following cut, fill and retaining that is above and/or below the 0.5m deemed-to-comply.

- Unit 3 – 0.6m retaining/fill on the western lot boundary
- Unit 4 – 0.7m retaining/cut on the southern lot boundary.
- Unit 5 – 0.9m retaining/cut on the southern lot boundary.
- Unit 6 – 0.9m retaining/cut on the western lot boundary & 1m retaining/cut proposed on the southern lot boundary.

The development is considered to meet the Design Principles as:

- Other than Unit 3, all retaining is because of 'cutting into' the site in order to respond to the natural contours of the site and provide for a 'level' finish floor level. Where cutting is proposed it means that it is below natural ground level, not visible to neighbours and does not result in any overlooking of neighbouring properties.
- Unit 3 proposes fill and retaining up to 0.6m. This is in order to provide for a level outdoor living area, without steps under AS4299. Due to the location of the fill and retaining, it does result in any direct overlooking under the deemed-to-comply provisions.
- Overall, the design has considered and responded to the natural contours of the site. The excavation and fill is necessary to address AS4299.

### **Clause 5.5.2 – Aged or Dependant Person's Dwellings**

The development proposes the following plot ratio areas per unit in lieu of a maximum 100m<sup>2</sup> under the deemed-to-comply:

- Unit 1 – 121m<sup>2</sup>
- Unit 2 – 120m<sup>2</sup>
- Unit 3 – 123m<sup>2</sup>
- Unit 4 – 119m<sup>2</sup>
- Unit 5 – 125m<sup>2</sup>
- Unit 6 – 118m<sup>2</sup>



The development is considered to meet the Design Principles as:

- The low scale of the development and interface with adjoining residential properties to the north of the site does not impact on the adjoining neighbour's amenity, as noted through the submissions.
- The development is considered to appropriately interface with the streetscape.
- The development area is responding to the demand for larger Aged Persons' dwellings to be provided within the community.
- The development meets the deemed to comply provisions relating to height, setbacks, visual privacy and parking.
- The development appropriately responds to the site's context and topography.

### **5.3 Local Planning Policies**

#### **5.3.1 City of Nedlands Residential Development Local Planning Policy**

The LPP modified provisions of the City of Nedlands Local Planning Scheme No. 3 and the R-Codes in relation to street setbacks, lot boundary setbacks, street walls and fences and building height. Where relevant, these matters have been considered in Administration's assessment.

#### **5.3.2 - City of Nedlands Waste Management Local Planning Policy**

Clause 3.1.5 of the Waste Management Guidelines recommends a maximum of 4 x 240L waste bins and 4 x 240L recycling bins to be placed on the verge for kerbside collection, in which more than 8 bins would require internal service arrangements. The intent of this provision is to preserve the amenity of the streetscape and avoid a proliferation of bins on collection day. The development proposes a maximum of 12 bins to be placed on the verge for collection. The bin area (as shown on the proposed site plan) successfully demonstrates that the bins can be accommodated on the verge for safe collection without negatively impacting the areas amenity.

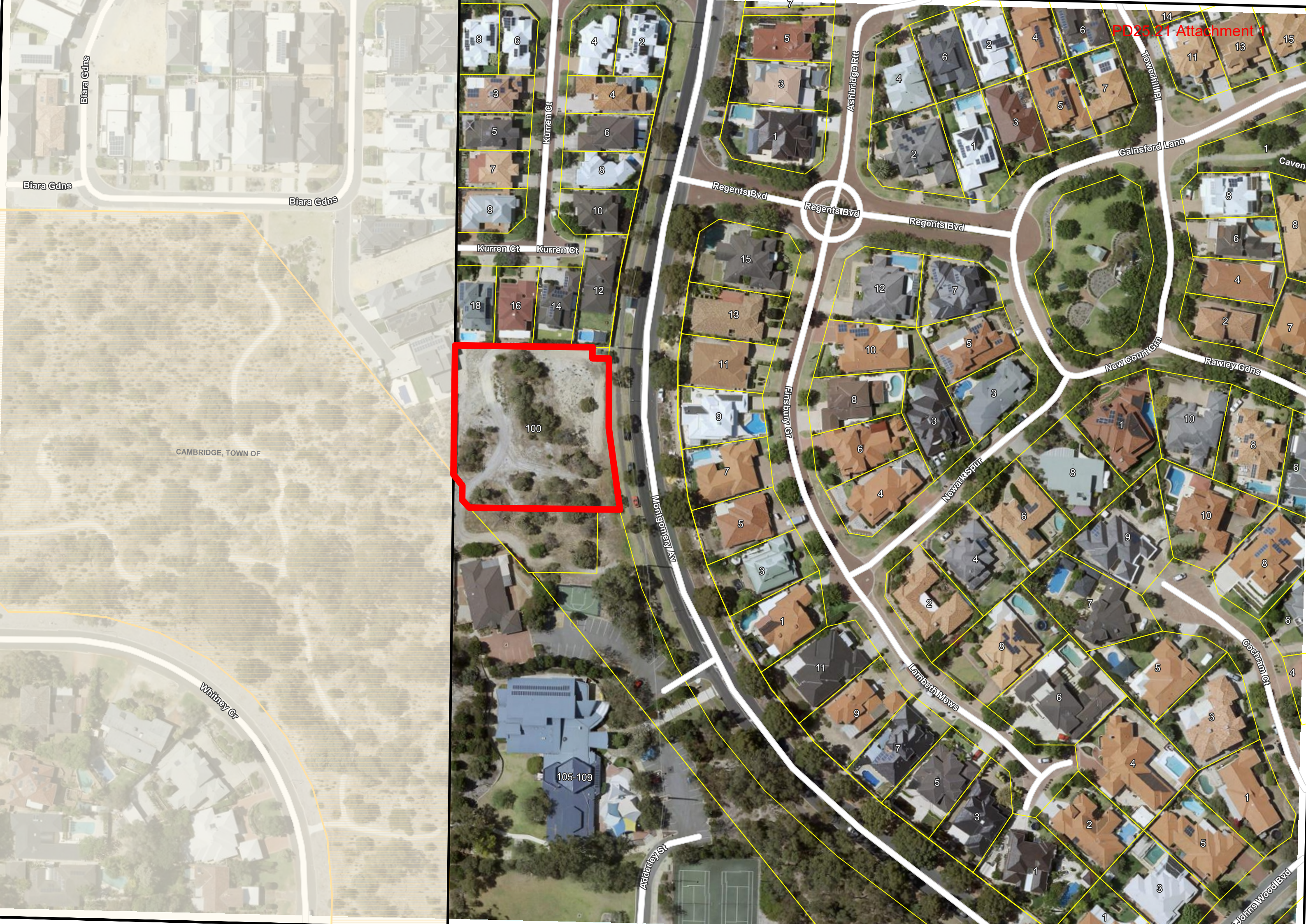
## **6. Conclusion**

Council is requested to make a decision in accordance with clause 68(2) of the Deemed Provisions. Council may determine to approve the development without conditions (cl.68(2)(a)), approve with development with conditions (cl.68(2)(b)), or refuse the development (cl.68(2)(c)).

The application for 6 Aged or Dependant Persons' Dwellings has been presented for Council consideration due to Council's Instrument of Delegation, requiring all grouped dwelling proposals with 5 or more dwellings to be determined by Council. The proposal is considered to meet the key amenity related elements of R-Codes Volume 1 and as such is unlikely to have a significant adverse impact on the local amenity of the area. The proposal has been assessed and satisfies the design principles of the Residential Design Codes.

Accordingly, it is recommended that the application be approved by Council, subject to conditions of Administration's recommendation (Above).





CAMBRIDGE, TOWN OF

105-109

100

Biara Gdns

Biara Gdns

Biara Gdns

Whitney Cr

Kurren Ct

Kurren Ct

Kurren Ct

Adderley St

Regents Blvd

Regents Blvd

Regents Blvd

Hinsbury Ct

Ashbridge Rte

Gainsford Lane

Newark Spur

Rawley Gdns

Lambeth Mews

Cochran Ct

Johns Wood Blvd

<b>PD26.21</b>	<b>Consideration of Street Tree Removal at 22 Pine Tree Lane, Mt Claremont</b>
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<b>Committee</b>	13 July 2021
<b>Council</b>	27 July 2021
<b>Applicant</b>	Bellagio Homes Pty Ltd
<b>Landowner</b>	B.D. Slater
<b>Director</b>	Tony Free – Director Planning & Development
<b>Employee Disclosure under section 5.70 Local Government Act 1995</b>	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.
<b>Report Type</b>  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.
<b>Reference</b>	DA21-59818
<b>Previous Item</b>	Nil
<b>Delegation</b>	The application may require a recommendation for refusal where discretion exists for Council to approve the variations under the City's Local Planning Scheme No. 3, policies and/or the Residential Design Codes.
<b>Confidential Attachments</b>	1. Plans

## 1.0 Executive Summary

The purpose of this report is for Council to consider the removal of a 7m jacaranda street tree at 22 Pine Tree Lane, Mt Claremont.

A development application submitted to the City proposes a new single house on the site. Council is not required to consider the approval of the single house itself, which can be approved under delegated authority. The application includes a garage and crossover to Camelia Avenue which requires the removal of a 7m jacaranda street tree.

The applicant provided a Traffic Statement in support of the proposal to the remove the 7m jacaranda street tree. The Traffic Statement maintains that although there are alternative locations for the crossover, the safest and most practical location is in front of the 7m jacaranda street tree.

Council is requested to consider three options: the relocation of the street tree at the applicant's expense, the removal and replacement of the street tree at the applicant's expense or resolving to not support the removal of the street tree. If the street tree's removal is not supported, it will result in the refusal of the development application.

It is recommended that the street tree be relocated further west along Camelia Avenue at the applicant’s expense as it will preserve the character of the locality while facilitating a safe and practical design for the proposed single house.

## Recommendation to Committee

**Council grants approval to relocate the 7m Jacaranda street tree (ID #11720) located abutting the Camelia Avenue frontage of 22 Pine Tree Lane, Mt Claremont to a location further west on Camelia Avenue at the applicant’s expense and to the satisfaction of the City of Nedlands.**

## Voting Requirement

Simple Majority

## 2.0 Background

### 2.1 Land Details

<b>Metropolitan Region Scheme Zone</b>	Urban
<b>Local Planning Scheme Zone</b>	Residential
<b>R-Code</b>	R20
<b>Land area</b>	665sqm
<b>Land Use</b>	Residential
<b>Use Class</b>	'P' - Permitted

### 2.2 Locality Plan

The subject property is located at 22 Pine Tree Lane in Mt Claremont and is currently vacant. It is a corner lot with frontage to Pine Tree Lane and Camelia Avenue. There are no existing vehicle crossovers on site. The property has an irregular shape with an east – west orientation. The lot is bound by residential properties with single houses to the north and east. Across Pine Tree Lane to the west is Pine Tree Park. Camelia Avenue features jacaranda street trees along its northern verge for 250m.



The lot has a density coding of R20. Surrounding properties are coded R20 north of Camelia Avenue and coded R25 south of Camelia Avenue.

### 2.3 History

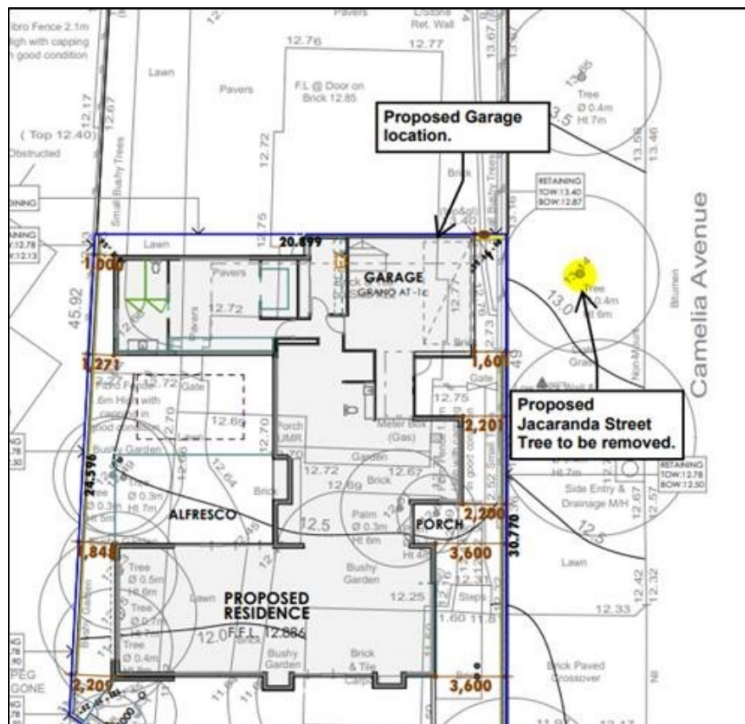
The current lot at 22 Pine Tree Lane is the result of a two-lot subdivision approved in 2014. Prior to the subdivision, the site was a single lot with a single house. Vehicle access for the single house was facilitated by a crossover from Camelia Avenue, encircled in red on the image below.



### 3.0 Application Details

#### 3.1 Proposal

The applicant seeks development approval for a new two storey single house. The proposal includes a garage and crossover to Camelia Avenue. The proposed location of the garage requires the removal of a 7m jacaranda street tree (ID #11720). The image below depicts the intended location of the garage and street tree to be removed. A full set of development plans can be viewed as confidential Attachment 1.



Development approval for the single house itself can be determined under delegated authority and does not require Council consideration at this time. The purpose of this report is solely for Council to consider the proposed removal of the street tree as it relates to the development.

### 3.2 Street Tree

The subject street tree is a jacaranda tree 7m in height. The City's asset database lists the tree's condition as 'good.' The tree is pictured below.



### 3.3 Traffic Statement

By way of justification in support of the tree's removal the applicants have provided a Traffic Statement. The Traffic Statement outlines the available locations for a crossover along each street frontage, depicted below:



Despite other available locations, the Traffic Statement maintains that the removal of the street tree is acceptable and preferable for the reasons summarised below:

- The intended garage placement facilitates access from the secondary street as recommended by the Residential Design Codes Volume 1 (R-Codes).
- The best place for the crossover and garage is in front of the jacaranda street tree on Camelia Avenue due to the amount of traffic on Pine Tree Lane, the location of drainage pits and infrastructure and the requirement for safe distance from an intersection.
- The City's Street Tree policy allows for the removal of street trees where it is unreasonable to redesign the development proposal to enable tree retention.

## **4.0 Assessment of Council Policy Provisions**

### **4.1 State Planning Policy 7.3 Residential Design Codes – Volume 1**

State Planning Policy 7.3 R-Codes applies to all single and grouped dwelling developments. An assessment against the R-Codes can be undertaken in one of two ways. This is by either meeting the deemed-to-comply provisions or via a Design Principle assessment pathway. The applicants seek a Design Principle assessment for the provision that relates to street tree removal.

Clause 5.3.5 Vehicle access of the R-Codes Volume 1 includes the following deemed to-comply provision:

- C5.3 – Driveways shall be located so as to avoid street trees, or, where this is unavoidable, the street trees replaced at the applicant's expense or re-planting arrangements to be approved by the decision maker.

Clause 5.3.5 Vehicle access of the R-Codes Volume 1 includes the following Design Principle:

- P5.1 Vehicular access provided for each development site to provide: vehicle access safety; reduced impact of access points on the streetscape; legible access; pedestrian safety; minimal crossovers; and high quality landscaping features.

The proposal, which involves either relocating or removing and replacing the jacaranda street tree, is considered to meet the design principle as:

- The crossover is proposed to be located as far east along Camelia Avenue as possible. This location was selected to achieve the maximum distance between the crossover and the intersection of Camelia Avenue and Pine Tree Lane. Distance from the intersection will reduce the conflict between exiting vehicles from 22 Pine Tree Lane and vehicles turning onto Camelia Avenue.
- The number of crossovers proposed on site is one. This is the minimum amount required and, accordingly, will have minimal impact on the streetscape.
- The pedestrian footpath is located on the south side of Camelia Avenue. The crossover proposed will not interact with this footpath and helps ensure pedestrian safety.
- The applicants are willing to relocate or replace the subject jacaranda street tree to retain Camelia Avenue's 'leafy green' character and appeal.



## 4.2 Street Trees Council Policy

The City's Street Tree policy allows for tree removal in the following circumstances:

- The tree poses a hazard whether to persons or property and pruning or other techniques cannot effectively remedy that hazard; and
- To facilitate private development where, following consultation between the City and the developer, it is not considered reasonable to redesign or amend the development proposal to enable retention of the street tree.

Administration considers it unreasonable to redesign the single house for the following reasons:

- It would be impractical to locate the garage in the middle of the house.
- Due to the irregular shape of the lot, it would be impractical to shift a portion of the bottom floor west to move the garage further west along Camelia Avenue. This design may also result in 'wasted space' along the eastern boundary.
- Vehicle safety may be reduced as the crossover would be closer to the road intersection.

The policy also considers how a tree will be replaced if it is removed with the following provisions:

- Where a development is approved that necessitates the removal of a street tree the developer shall replace the tree and bear 100% of the cost for the City to remove the tree and plant two suitable replacement trees from the preferred species list.
- Removal and replacement of street trees upon request, if approved, is conditional to the property owner agreeing to accept all associated costs for tree removal and establishment of a replacement tree or trees, as is the case, in the City's standard planting size

## 5.0 Options

In considering the above information, there are three options that can be pursued. These options are as follows:

### 1. Recommended (Relocation of tree)

The 7m jacaranda street tree (ID# 11720) can be relocated further west along Camelia Avenue at the applicant's expense. This will result in delegated authority approval of the single house as currently proposed, subject to conditions. The cost of tree relocation is approximately \$15,000 - \$20,000. This is the recommended option.

### 2. Alternate Recommendation (Refusal of removal)

Council:

1. Refuses the application to remove the jacaranda mimosifolia street tree located at No. 22 (Lot 302) Pine Tree Lane, Mt Claremont (ID #11720).

2. In accordance with clause 68(2)(c) of the Deemed Provisions, Council refuses to grant development approval for a single house at No. 22 (Lot 302) Pine Tree Lane, Mt Claremont, for the following reason:

a) Non-compliance with the Design Principles of R-Codes Vol. 1 in relation to 5.3.5 P5.1 vehicular access (i.e. access requires removal of a street tree).

3. Alternate Recommendation (Approval of removal)

Council grants approval for the removal of the 7m high jacaranda mimosifolia street tree (ID #11720) located abutting the Camelia Avenue frontage of 22 Pine Tree Lane, Mt Claremont and requires the planting of two suitable replacement trees from the preferred species list at the applicant's expense and to the satisfaction of the City of Nedlands.

## **6.0 Conclusion**

There are several things to consider regarding the retention of the street tree at 22 Pine Tree Lane, Mt Claremont. These matters include the location of the previous crossover on the site pre-subdivision, the availability of other crossover locations, the maximisation of safety by locating the crossover as far east along Camelia Avenue as possible and the value of the tree to the locality.

There are three options for Council consideration. Relocating the street tree further west along Camelia Avenue at the applicant's expense or supporting the removal and replacement of the street at the applicant's expense will result in the delegated authority approval of the single house, subject to conditions. Resolving not to support the removal of the street tree will result in the refusal of the development application for the single house as currently proposed.

In order to retain the jacaranda street tree while ensuring safety and well-designed development, it is recommended that the jacaranda street tree be relocated further west along Camelia Avenue at the applicant's expense.

**8.2 Corporate & Strategy Report No's CPS14.21 to CPS15.21**

Corporate & Strategy Report No's CPS14.21 to CPS15.21 to be dealt with at this point (copy attached green cover sheet).

CPS14.21 Lease to Floreat Community Pre-Kindy Inc.

CPS15.21 Procurement of Goods and Services Council Policy Review



City of Nedlands

# Corporate & Strategy Reports

Committee Consideration – 13 July 2021  
Council Resolution – 27 July 2021

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<b>CPS14.21 Lease to Floreat Community Pre-Kindy Inc.</b>	
<b>Committee</b>	13 July 2021
<b>Council</b>	27 July 2021
<b>Applicant</b>	City of Nedlands
<b>Employee Disclosure under section 5.70 Local Government Act 1995</b>	Nil.
<b>Director</b>	Andrew Melville – Acting Director Corporate & Strategy
<b>Attachments</b>	1. Floreat Community Pre-Kindy Inc. – Proposal and Business Plan; and 2. Letter of Support – Floreat Toy Library
<b>Confidential Attachments</b>	Nil.

## Executive Summary

The Business Owner of Annie's Playschool ('Annie's') who currently lease the Strickland Street Infant Health Clinic, located on Strickland Street, Mount Claremont has advised the City that she intends to terminate her lease which expired on 30 June 2021.

In order for the valued service which is currently being offered to the community to continue, in May 2021, the three-teachers (the 'Applicants') currently employed at Annie's formed the Floreat Community Pre-Kindy Inc. ('FCPK') as a not-for-profit incorporated association.

Due to the ongoing constraints at the 25 Strickland Street site and regulations imposed on Annie's by the Education and Care Regulatory Unit ('ECRU'), the FCPK committee have submitted a formal proposal to the City requesting to undertake a lease at the recently vacated Hackett Play Centre site which is located on Draper Street in Floreat.

Council is now asked to consider a new lease being awarded to FCPK for the exclusive use of the Hackett Play Centre consistent with the key terms as noted within this report.

## Recommendation to Committee

### Council:

- 1. approves an exclusive use lease for the Hackett Play Centre site between the City of Nedlands and Floreat Community Pre-Kindy Inc. consistent with the key terms as noted within this report;**
- 2. subject to the Minister for Lands Consent, authorises the CEO and Mayor to execute the lease agreement and apply the City's Common Seal; and**

- 3. requests the CEO to provide a further report detailing options for the future use of the Strickland Street Infant Health Centre.**

## **Voting Requirement**

Simple Majority

## **Discussion/Overview**

### **Background**

Cherie Lewis, ('Business Owner') of Annie's Playschool ('Annie's') entered into a lease agreement with the City for exclusive use of the Strickland Street Infant Health Clinic located on Strickland Street in Mount Claremont on 1 July 2014. The lease agreement expired on 30 June 2021 and the City has now invoked the 'holding over' provision within the lease agreement.

At the Ordinary Council Meeting of September 2020 (Item 16.1), Council endorsed an 18-month extension of the lease to the Business Owner. However, when working through the finer details of that decision, in April 2021, the three teachers employed by Annie's (the 'Applicants') advised City officers that discussions had taken place over the past few months between the Business Owner and the Applicants about the Business Owner's intent to cease her involvement with the business.

On 14 April 2021, officers had verbal confirmation of the above discussions with the Business Owner as the leaseholder, and this was later confirmed in writing on 3 May 2021. In this correspondence, the Business Owner advised that her heart was 'bursting to know that the playschool service may continue' and that she was willing to continue the lease on a 'holding over' provision until a transition takes place.

In the time since, the Applicants have investigated numerous options available to ensure the service remains available to the local community.

### **The Service**

The service currently being offered to the community by Annie's is much valued. The service provides the community with education and care which assists young children with their transition into a formal school curriculum.

The demands of the modern school curriculum mean that parents are frequently looking for an early education service which is a beneficial alternative to long form day-care.

The learning programs offered are led by qualified and experienced primary and early learning teachers and are guided by the National Quality Framework which provides a national approach to regulation, assessment and quality improvement for early childhood education and care across Australia.

The activities offered are based upon a 'learning through play' philosophy which focuses on each child's learning journey through real life experiences in nature and social interaction in a relaxed and intimate setting. The service is also unique in that it offers flexibility of days and hours.

## Strickland Street Infant Health Clinic

The Strickland Street Infant Health Clinic is currently leased to provide the playschool service. The facility is not purpose built and is considered an ageing asset. The facility is located within a parcel of land owned in freehold by the City which also includes a public playground. Although this playground is not part of the current lease area and is strictly not for 'exclusive use' by the tenant, it is acknowledged that the playground is used most days by the members of the playschool and the greater community.



The Department of Communities' Education and Care Regulatory Unity ('ECRU') are the regulatory body for all education and care services under the State of WA's *Education and Care Services National Law (WA) Act 2012* and the *Education and Care Services National Regulations 2012*. Throughout the current lease term, the tenant has battled with ECRU about the site's suitability given the non-exclusive nature of the playground area and lack of fencing which could provide exclusive use. Each year, the tenant is having to apply for exemptions, and this has proved more and more difficult each year.

The Business Owner has on numerous occasions over the years approached officers about the possibility of exclusive use of the playground in order to satisfy ECRU requirements. This has been declined each time on the basis that the playground and park area be available to the public.

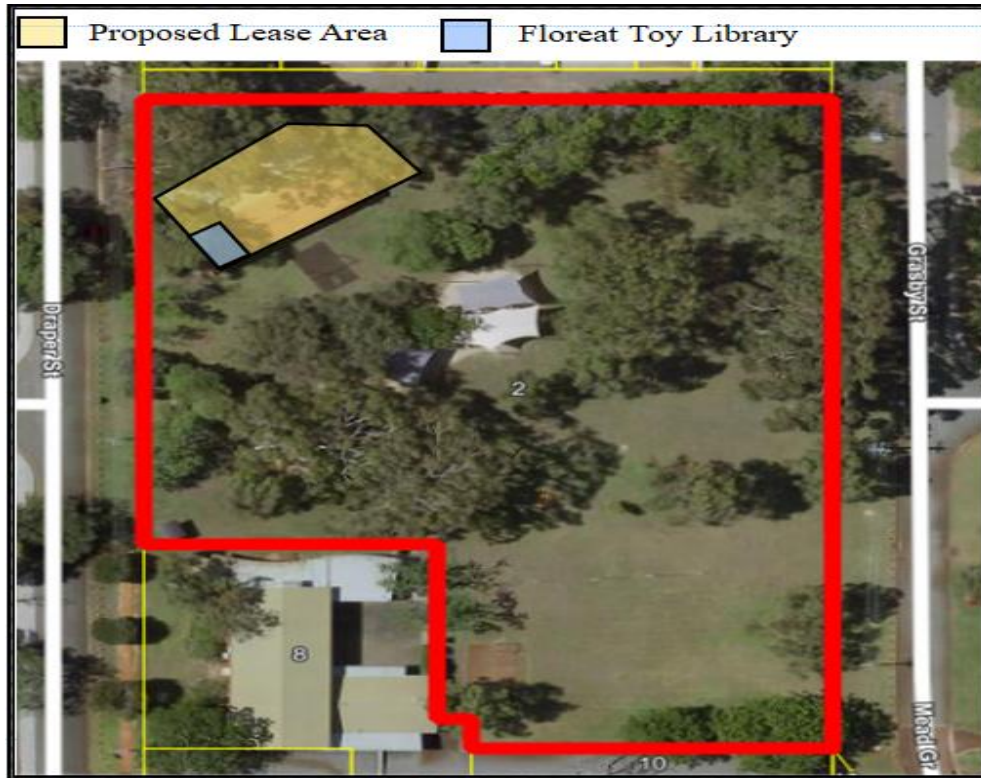
Without significant modifications to the lease arrangement (being fencing or exclusive use of the playground area), ECRU have advised the Applicants in writing on 10 March 2021 that similar exemptions as in the past would not be supported, ultimately deeming the Strickland Street site no longer suitable for playschool purposes if a transfer of business was to take place.

## Hackett Play Centre

Following discussions with City officers in April, and in conjunction with advice from ECRU, the Applicants began investigating alternate sites from which the service could continue to operate. The Hackett Play Centre in nearby Floreat was identified as

potential site given its purpose-built nature with its former use being a community preschool. Critically, this facility has a fenced playground area which could be used exclusively by any prospective tenant.

The Hackett Play Centre is one of three City-owned occupiable assets on what is known as Lawler Park. The land itself is vested to the City for care and control via Management Order for the purposes of 'Kindergarten, Infant Health Clinic, Children's Playground and Park'.



Hackett Play Centre has most recently been used by both the Hackett Playgroup and Floreat Toy Library. However, following the recent sewerage issue at the facility which rendered the building closed from July 2020 to March 2021, the Hackett Playgroup has since amalgamated with another playgroup outside the City of Nedlands, and no longer operates from the facility. The Floreat Toy Library have recently recommenced operations from one room of the facility, for 2-hours per week on a Saturday morning, one weeknight per month for committee meetings, and 2-days per year for stock-take purposes. At present, the facility remains vacant at all other times.



## Floreat Community Pre-Kindy Proposal

On 13 May 2021, the Applicants advised that they had officially formed an incorporated association under the *Associations Incorporations Act 2015* and were intending to seek Council's approval to operate from the Hackett Play Centre site as a not-for-profit entity offering the same playschool service as was previously offered at Strickland Street. The title of the incorporated association is Floreat Community Pre-Kindy Inc. ('FCPK')

On 4 June 2021, the above advice was followed by a formal proposal from FCPK to the City and included a detailed business plan (the 'Proposal'). The Proposal (Attachment 1) includes details of the FCPK structure, their aim for providing a valuable service to the community, their background, details about the service to be offered (including statutory obligations), projected profit and loss statements and overall, their commitment to the City and greater community should their proposal be acceptable.

### Due Diligence

The advantages and disadvantages associated with the proposal are described in the table below.

<b>Advantages</b>	<b>Disadvantages</b>
The playschool service being currently offered by Annie's would continue to be offered to the community (via FCPK)	Nil
Hackett Play Centre is purpose built and would be utilised at a greater capacity	Strickland Street Infant Health Clinic would become vacant
ECRU would be supportive of the change in site and exemptions to operate would not be necessary	Nil
Floreat Toy Library are excited at the opportunity to collaborate with FCPK and may benefit from increased numbers	Nil
Nil	The City would lose rental revenue from the Strickland Street Infant Health Clinic site which has been estimated at \$11,750* for 2021/22. <i>*Note, this revenue would not be realised if the Business Owner chose to terminate the lease anyway</i>
The City would no longer be liable for maintenance or cleaning costs at Hackett Play Centre (estimated savings of \$13,700pa)	Pending Council's decision on future use, the City may be liable for maintenance and cleaning costs at Strickland Street Infant Health Clinic (estimated costs \$10,000-\$15,000pa)
FCPK are a known entity. Although they are a new incorporation, their history with the City is lengthy and their understanding of the City's expectations of its tenants is strong.	Nil

Should Councillors choose to support the recommendation, the actions and details below are proposed to mitigate any disadvantage that has been identified.

- It is noted the Strickland Street Infant Health Clinic would become vacant. However, as part of the recommendation, Administration would be instructed to provide a further report to Council outlining future options for this site.
- It is noted that the City would lose approximately \$11,750 in rental revenue for the 2021/22 financial year. However, Councillors are advised that should the Business Owner choose to terminate the lease (as is her intention), this revenue would not be realised anyway.
- It is noted that the Strickland Street Infant Health Clinic, pending future use, may require maintenance and cleaning (at an estimated cost of \$10,000-\$15,000pa). Councillors are advised this cost would be offset by the savings the City would realise by not having to maintain the Hackett Play Centre estimated at \$13,700pa).
- In addition, generally, when Council's choose to enter into a new lease agreement with not-for-profit groups, they want to ensure the asset will be maintained. Although FCPK are a new incorporation, they are a known quantity to the City and they have a sound understanding of the City's expectations. Within their Proposal, FCPK have clearly identified the requirements to adequately budget for building maintenance and other costs associated with undertaking a lease from the City of Nedlands.

## **Consultation**

Once Hackett Play Centre was identified by FCPK as the site they wished to utilise in order to operate the service to the community, it was necessary that current occupants, Floreat Toy Library would need to be consulted. On 14 May 2021, officers arranged a meeting between Floreat Toy Library, FCPK and City representatives to discuss the opportunity. The meeting was positive and both parties were enthusiastic to create a new collaborative relationship. City officers advised that any agreement of tenure between FCPK and the City would need to acknowledge the current use of the site by Floreat Toy Library in and for safety of the children, any usage of the building by either group would need to be strictly exclusive (i.e. both groups would not be permitted to operate from the building at the same time).

Floreat Toy Library were welcoming of the opportunity and have provided documented support to both the City and FCPK of this arrangement. A copy of this can be viewed in Attachment 2.

In addition, FCPK have communicated the possible change to their current members, and City officers have been advised this information has been received with unanimous support. FCPK have also advised that 'parents are excited'. Without this support, the move would not be viable.

## **Key Terms**

Consistent with the City's '*Use of Council Facilities for Community Purposes*' Policy, should Council choose to support the recommendation, McLeod's Barristers and Solicitors can be asked to prepare a draft lease agreement based on the Key Terms following:

**Proposed Lease – Floreat Community Pre-Kindy Inc.**

<b>Key Terms</b>	
<b>Lease Term</b>	<b>Details</b>
Land	Part of Reserve 24029
Lease Area	As per Sketch below
Landlord	City of Nedlands
Tenant	Floreat Community Pre-Kindy Inc.
Commencement Date	To be determined following Council approval
Term of Lease	5-years with an additional 5-year option.
Permitted Purpose	Community Kindergarten and Ancillary Uses
Lease Fee	Peppercorn
Rent Reviews	N/A
Outgoings	All outgoings payable by Lessee
Insurance	<p><b>Building Insurance</b> – The City will insure the its interest in the building and will on-charge a pro-rata premium to the Lessee</p> <p><b>Public Liability</b> – The Lessee is responsible for Public Liability, however, the City will continue to hold its policy.</p>
Maintenance	All maintenance obligations to be undertaken by the Lessee, including structural maintenance.
Works and Fit Out	<p>The City will provide the facility on a clean and tidy basis, with no outstanding maintenance obligations, along with a condition report.</p> <p>Any further fit-out requirements will be undertaken by the Lessee following approval from the City.</p>
Special Conditions	<ul style="list-style-type: none"> <li>➤ Lessee will acknowledge Floreat Toy Libraries historical and future use of the facility and allow access during the lease term for the agreed times.</li> <li>➤ Lessee will be responsible for managing any other community hirers, but can absorb those hire fees as revenue.</li> <li>➤ Lessee will be responsible for paying outgoings which include, pro-rata waste service fee, pro-rata building insurance cost, and utilities which are determined via sub-meter.</li> <li>➤ City will arrange invoicing of all outgoings, including meter reading where applicable.</li> <li>➤ Lessee requests that any responsibility linked to the tree located in the north-east corner of the lease area will be undertaken by the City.</li> <li>➤ Lessee requests the City's Parks Team continue to install the shade sails over the play area each year when required.</li> </ul>



As noted in the Special Conditions, the only variation to Council's policy is the exclusion of the tree located on the western boundary of the lease premises and the continuation of shade sail erection each summer. Whilst the maintenance of this tree and the shade sails would normally be included as a tenant responsibility as it is within the lease area, FCPK have specifically asked for this tree to be removed from the proposed lease. The rationale for the request is due to the safety concern the tree presents when considering its proximity to the asset and the playground where children will frequent. FCPK have advised they would be comfortable in proceeding with a lease, should the City bear responsibility of this tree. The City's Parks service has advised they support the requests, as the City maintains the tree and shade sails as existing City assets.

### Key Relevant Previous Council Decisions

Item 16.1, 22 September 2020 – Council approved an 18-month extension on the Lease to Cherie Lewis. This extension was never executed due to a change of circumstances.

### Consultation

Upon receiving the Proposal from FCPK, consultation was completed with the City's internal teams to identify any risks and confirm that there are no concerns with the Proposal.

## **Planning Services**

The City's Planning Service has advised that based on the merits on what has been proposed, planning approval will not be required and there are no objections.

This is on the basis of:

- The Management Order for Reserve 24029, issued on 22 September 2014, has provided conditions. Those conditions relate to the site being used for 'Kindergarten, Infant Health Clinic, Children's Playground and Park'. The use proposed is consistent with the Management Order conditions and consistent with the zone objectives for the site.
- There is an existing building with parking, where there has historically been used for 'Kindergarten, Infant Health Clinic, Children's Playground and Park' purposes. The use is a continuation of that and is consistent.
- Based on the number of staff and parking to the north, the parking available will be able to accommodate the children, staff, parents during drop off and pickup times.

## **Community Development**

Community Development support of the proposal to enter into a lease with the Floreat Community Pre-Kindy at the Hackett Play Centre. It is acknowledged that the change will have an impact on the Floreat Toy Library who currently use the building.

To ensure the impact is minimal, the following conditions will be included in the Floreat Community Pre-Kindy's lease:

- The Floreat Toy Library's hours of use will be stated in the lease.
- The Floreat Toy Library will have access to the entire building for their hours of use.
- The Floreat Toy Library's fee will be set in Council's fees and charges.

The Floreat Toy Library have been consulted and are in support of the proposal.

## **Land and Property**

The City's Coordinator Land and Property has confirmed that there is no objection to the Proposal. With the exception of the minor variation surrounding one tree on the western boundary of the proposed lease area, the Key Terms as noted within this report are consistent with the City's '*Use of Council Facilities for Community Purposes*' Policy.

Most importantly, the agreement will protect the City's interest in the facility whilst acknowledging and protecting the interests of the current occupant, Floreat Toy Library.

## **Strategic Implications**

Councils support of this recommendation will ensure a community organisation operating within the district can strengthen its capacity to meet both its own, and the community's needs.

This aligns with the Great Governance and Civic Leadership Value within the City's Strategic Community Plan which values quality decision making by Council and involving the community in decision making.

### **Who benefits?**

The members of FCPK will benefit from this initiative. The approved change will also assist FCPK in engaging new members and increasing the services offered to the community. This will also assist the current occupants, Floreat Toy Library, to collaborate with another community group and widen their reach within the community.

### **Does it involve a tolerable risk?**

There is minimal risk associated with support of this recommendation. The Proposal is compliant with all planning regulations and is consistent with historical uses of the facility and the City's *Use of Council Facilities for Community Purposes*' Policy.

The cost of maintaining the Hackett Play Centre facility, estimated at \$13,700pa, which is currently being met by the City will be passed on to the tenant, however any savings will be offset by the City having to absorb the costs of maintaining the Strickland Street Infant Health Clinic which is estimated to cost between \$10,000 & \$15,000pa.

By supporting this recommendation, Council will also recognise a loss of rental income in 2021/22 of approximately \$11,750. It is important to note that this rental income is unlikely to have been realised, given the Business Owner's intent to terminate the lease.

The risk of losing the service to the community will be mitigated by supporting this recommendation.

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

Yes. All relevant information has been presented to Councillors.

## **Budget/Financial Implications**

Support of this recommendation will result in a loss of \$11,750 rental income. However, this rent is unlikely to have been realised regardless, given the Business Owners intent to terminate the lease.

**Can we afford it?**

The loss of rental income is considered minimal and is not something Council can control.

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

The impact on rates would be negligible.

**Conclusion**

The recommendation presented to Councillors supports the continuance of an important community service that the City is at risk of losing in the very near future (due to the Business Owner advising her intent to close the business) Essentially, the service is simply being shifted from one asset to another.

The Applicant in their Proposal has demonstrated that the ability to relocate the playschool service will have various advantages for the service itself and the greater community.

This recommendation will render a facility with long term occupation as vacant. It is important to note that Council has had a number of discussions previously on appropriate uses for this site, and this provides an opportunity for Council to investigate all options for the future use of this facility, and the site generally.

# **Floreat Community Pre-Kindy Inc. Business Plan**

**June 2021**



# Floreat Community Pre-Kindy Inc. Business Plan

## Structure:

The above-named Association was incorporated on 13 May 2021 in accordance with the provisions of the Associations Incorporation Act 2015 (the Act). IARN: A1040662A

## Aim:

To provide a not-for-profit community based education and care pre-kindergarten service with linkages to other like-minded organisations in the Nedlands (Floreat) area.

## Concept:

The Floreat Community Pre-Kindy is incorporated under the Associations Incorporation Act 2015 (the Act).

The concept is dependent on a nominal lease (managed under the Councils "Use of Council Facilities for Community Uses Policy) being provided the Nedlands City Council to provide a leased premises located at Hackett Play Centre (previously designed and built as a community pre-school) at the address: 2 Draper Street Floreat.

The Floreat Community Pre-Kindy Inc, is in the process of being accredited through the Department of Communities Education and Care Regulatory Unit and therefore administered under the state's Education and Care Services National Law (WA) Act 2012 and the Education and Care Services National Regulations 2012.

The Floreat Community Pre-Kindy is also required to meet the National Quality Standard (NQS) benchmarks for early childhood education and care services in Australia. The National Quality Framework (NQF) operates under an applied law system, comprising the Education and Care Services National Law and the Education and Care Services National Regulations.

The Floreat Community Pre-Kindy provides discerning parents in the local area and alternative to child care; with the provision of early childhood education and care provided by qualified and experienced early childhood teachers and educators at all times during the week. Parents choose sessions provided at the Floreat Community Pre-Kindy without access to the government Child Care Subsidy (CCS).

The Floreat Community Pre-Kindy supports services for 3 year old children, prior to accessing formal Kindergarten of 4 year old programs provided by the Western Australia education sector.

## Background

The Floreat Community Pre-Kindy Inc. (Association) was formed initially by the three teachers currently employed at the Annie's Pre Kindy, located in Strickland Street Mount Claremont.

The current (for-profit) owner of the business intends to terminate her lease of the site at the earliest date. The Nedlands Council have also indicated that the current lease for the site will only extend to the end of next year. ECRU have indicated the current site would not be suitable (unless significant modification were undertaken to create internal fencing arrangement to separate the building from the public play space) following a transfer of the current lease to another provider.

The experienced teaching group wish to maintain the ethos of the learning program however move to a community based / community benefit, not for profit model and commence operations at the site in October 2021, ready for Term 4.

Floreat Community Pre-Kindy Inc. provides early education and care services to assist young children to assist with their transition into a formal school curriculum.

Floreat Community Pre-Kindy Inc. is registered as a not-for-profit association in Western Australia and is not a commercial day care.

The learning program is led by qualified and experienced primary and early learning teachers guided by the National Quality Framework (NQF) which provides a national approach to regulation, assessment and quality improvement for early childhood education and care across Australia.

Floreat Community Pre-Kindy is accredited through the Department of Communities and monitored through the Education and Care Regulatory Unit.

## Learning environment

The demands of the modern school curriculum mean that 4 year-old kindergarten can be quite a transition for many children. Parents are increasingly looking for an early education service to provide an alternative to long form day care. Unlike child care services, our program provides a qualified early childhood teacher to lead the program 100% of the time the kindy operates.

The Floreat Community Pre Kindy is unique because it offers flexibility of days and hours with only small numbers of children. This approach is based on a 'learning through play' philosophy which focuses on each child's learning journey through real life experiences in nature and social interaction in a relaxed and intimate setting. The Pre Kindy prioritises early education and care services for three year old children prior to their entry to formal schooling.

## Program philosophy

We aim to provide an individually appropriate program which develops children's enthusiasm for learning, impart self-management skills to children, facilitate the development of higher order thinking and problem-solving skills, help children to establish satisfying and successful social relationships and develop in each child a healthy self-esteem. We want to foster these skills primarily through play and to help children have a love of learning and be able to learn invaluable life skills to be able to succeed.

As both parents and teachers, we have observed through our personal and work experiences the push down of formal learning in the younger years, to the detriment of developing important social, emotional and problem-solving skills. Therefore, we are advocates of the importance of play, helping these younger children develop these essential life skills and being able to survive in the workplace. There is a massive increase of troubled and anxious children due to these coping skills not being developed and nurtured in the younger years. We have a strong emphasis on language development and developmentally appropriate teaching and learning. Research suggests that at least half of all kindy children are attending a speech or occupational specialist due to their kindy program not being developmentally appropriate and too formal and focussing on reading and writing too early.

## Ongoing commitment to the community

In recent times, it is becoming increasingly apparent that the surrounding community is looking for opportunities to engage with one another, meaningfully connect and develop a sense of belonging. The Pre Kindy is uniquely positioned to facilitate resident led place making in this regard.

Floreat Community Pre-Kindy has strong long-term relationships with local businesses, residents and community groups beyond just families that attend. This includes many opportunities for intergenerational engagement. Members of the Claremont Showgrounds Men's Shed have supported us over many years and have recently agreed to collaborate with us on a number of future projects. Similarly, we have a special relationship with the residents of the Lisle Village residential aged care facility that includes visits, games and volunteering efforts.

Funding for community led placemaking projects will continue through grants, donations, busy bees, local fundraisers and community support. The aim is to use as much recycled and natural materials as possible.

All profits will be used to support upgrades and better services for the association, the benefit of members and building upkeep and improvements to outdoor play spaces.

## Local business

Floreat Community Pre-Kindy will be an important part of the community ecosystem and local economy that exists around the Draper Street Park, Floreat precinct. The Pre Kindy will be a critical part of businesses in the area – it means the local centre becomes somewhere people want to spend their time as well as their money.

## Projected Profit and Loss

### Floreat Community Pre-Kindy Inc Profit and Loss - Projected to June 2022

<b>Trading Income</b>	
Interest Income	\$0.00
Sales	\$160,000.00
Total Trading Income	\$190,800.00
Gross Profit	<b>\$190,800.00</b>
<b>Other Income</b>	
Grants	\$0.00
Total Other Income	\$0.00
<b>Operating Expenses</b>	
Advertising	\$50.00
Bank Fees	\$350.00
Bookkeeping fee	\$4,000.00
Cleaning of leased premises	\$4,000.00
Consulting & Accounting	\$5,000.00
Water	\$2,000.00
Electricity	\$2,000.00
<b>General Expenses</b>	

Income Tax Expense	
Insurance (PL)	\$7,000.00
Interest Expense	
Leased Asset Building Insurance	\$1,000.00
Motor Vehicle Expenses	
Office Expenses	\$900.00
Printing & Stationery	
Rates / ESL	\$1,000.00
Rent	
Repairs and Maintenance (Lease management)	\$7,000.00
Staff Training	
Sub-Contracting	
Subscriptions	
Superannuation 9%	\$8,500.00
Teaching resources	
Telephone & Internet	
Wages and Salaries	\$140,000.00
<b>Total Operating Expenses</b>	<b>\$182,800.00</b>
<b>Profit and Loss</b>	
Net Profit	<b>\$8,000.00</b>

## Assumptions

- Modelling is based conservatively on 80% enrolment capacity, 13 children and a mix and full day and part day attendance and based on fees set over the last two years with no increase.
- Sufficient funds have been set aside per year for ongoing maintenance and general upkeep of the site.
- It is assumed the general building structure is in good order. It is assumed the external play area of the site will be in usable condition in terms of safety standards (ie: surrounding trees checked) and any environmental health considerations (ie: any contaminated or unsafe materials removed).
- All profits will be used to support upgrades and better services for the association, the benefit of members and building upkeep and improvements to outdoor play spaces.

## Critical success factors

- 80% enrolment maintained
- High client satisfaction ratings from parents / caregivers
- Continued regulatory compliance - The Education and Care Regulatory Unit (ECRU)  
*Education and Care Services National Law (WA) Act 2012*
- Continue to obtain the standard: 'Meeting National Quality Standard' (The service provides quality education and care in all 7 quality areas) through national accreditation process through the Australian Children's Education & Care Quality Authority (ACECQA)  
*The National Quality Standard (NQS) sets a high national benchmark for early childhood education and care and outside school hours care services in Australia. The NQS includes 7 quality areas that are important outcomes for children. Services are assessed and rated by their regulatory authority against the NQS.*

## SWOT analysis

Strengths
<ul style="list-style-type: none"> <li>• Strong consumer support over four-year period</li> <li>• 'Excellent' ratings across all domains for the Commonwealth regulatory authority (ACECQA)</li> <li>• Fully qualified staff all registered with the WA College of Teaching</li> <li>• Discerning parents</li> </ul>
Weaknesses
<ul style="list-style-type: none"> <li>• Small scale (also a comparative advantage)</li> </ul>
Opportunities
<ul style="list-style-type: none"> <li>• Strong community links with like minded not for profit organisations</li> <li>• Strong community support and opportunities for development</li> </ul>
Threats
<ul style="list-style-type: none"> <li>• Funding support for new initiatives may be required.</li> <li>• Continuing site maintenance</li> </ul>

## Management - Committee of the Floreat Community Pre-Kindy Inc

The following individuals are members of the committee of the Floreat Community Pre-Kindy Inc (the Association) \* to be ratified at first AGM.

- 1) Ms Emily Dickson (Chairperson, Ordinary Committee Member)  
40 A Strickland Street Mount Claremont WA 6010  
Resident City of Nedlands
- 2) Ms Helen Heller (Deputy Chairperson, Ordinary Committee Member)  
8 Harley Terrace Mosman Park WA 6012
- 3) Ms Katherine Sanders (Secretary and Ordinary Committee Member)  
55 Loch Street Claremont WA 6010.
- 4) Mr Richard James Sanders (Treasurer, Ordinary Committee Member)  
55 Loch Street Claremont WA 6010.
- 5) Mr Noel Hickman (Ordinary Committee Member)  
17 Bushey Street Wembley Downs WA 6019
- 6) Ms Daisy Pope (Ordinary Committee Member)  
25 Lovegrove Close Mount Claremont WA 6010  
Resident City of Nedlands

## Compliance

The Floreat Community Pre-Kindy Inc. will have in place all professional indemnity and public liability insurance to cover daily operations.

The entity will be required to meet all compliance requirements under the state's Education and Care Services National Law (WA) Act 2012 and the Education and Care Services National Regulations 2012.

The entity will adopt the 'Model Rules' of a registered Association in Western Australia.

Lease management – "Use of Council Facilities for Community Uses Policy"

**From:** [floreattoylibrary@gmail.com](mailto:floreattoylibrary@gmail.com)  
**To:** [David Thomason](#)  
**Subject:** Floreat Community Pre-Kindy Inc.  
**Date:** Friday, 4 June 2021 5:29:41 PM

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Dear David

I have received an email from Kathy Sanders with a request for me to write to you in support of the Floreat Community Pre-Kindy Inc. using the Draper St, Hackett Hall site.

Although we have had only one meeting with the Pre Kindy staff, it was reassuring that I did know Kathy Sanders and hold her in high esteem. The hopes and wish list of the staff offer the opportunity for the Floreat Toy Library and the Pre-Kindy to become an early childhood hub for Floreat.

I am optimistic that we can work cooperatively in the shared space and therefore am supportive of the Floreat Community Pre-Kindy Inc. application to the City of Nedlands.

Kind Regards.

Vicki Moir  
President





<b>CPS15.21</b>	<b>Procurement of Goods and Services Council Policy Review</b>
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<b>Committee</b>	13 July 2021
<b>Council</b>	27 July 2021
<b>Applicant</b>	City of Nedlands
<b>Employee Disclosure under section 5.70 Local Government Act 1995</b>	Nil.
<b>Director</b>	Andrew Melville – Acting Director Corporate & Strategy
<b>Attachments</b>	1. Procurement of Goods and Service Council Policy
<b>Confidential Attachments</b>	Nil.

## Executive Summary

The Procurement of Goods & Services Council Policy has been reviewed and suggested updates included to the content as part of an annual review process. The current Policy was prepared and endorsed by Council in April 2020. That revised Policy was prepared with very short notice to reflect an emergency amendment to Local Government (Functions & General) Regulations published at that time.

Due to the short time available for the April 2020 review, the Policy was further reviewed after a twelve-month period to assess its efficacy over the preceding 12 months. A number of amendments were made, and a tracked copy of the Policy is attached identifying these for the Committee's consideration.

The report is presented to inform the Council of these amendments and enable Council to review and approve the updated policy.

## Recommendation to Committee

**Council adopts the updated Procurement of Goods and Services Policy, as per attachment 1.**

## Voting Requirement

Simple Majority.

## Discussion/Overview

Due to the haste in which the revised Policy was produced in April 2020, it was considered prudent to revise it again after a 12 months period in use to address any areas in which it was found to be lacking in content or in detail.

The review addresses all areas of the policy document, and the following amendments are recommended:

1. **Statement**  
The original policy Statement was inadequate and it has been expanded to better capture the principles and purposes the City wants from its procurement activities.
2. **Thresholds**  
The thresholds retain the same monetary values but the procedures within the spending limits have been altered to align with what is both current practice and expected efficiencies.
3. **Form of Quotation**  
The changes made reflect improvements made to the process for obtaining quotations from suppliers.
4. **Panels of Pre-Qualified Suppliers**  
Wording has been modified to reflect organisational expectations and provide improved alignment with the Regulations.
5. **Quotation Exemptions**  
The quotation exemption of *WALGA Preferred Suppliers* was excluded from the original Policy. This is due to the City not being a WALGA member at the time that the original Policy was written.
6. **Variations**  
The processing of Variations on contracts was unclear and was causing operational problems. The changes reflect a need to provide better definition and improved clarity on what is reasonable to approve and at what level it can be authorised.  
  
Contract variations are generally not large value transactions. The operational need to streamline these processes should align with the level of risk exposure to the City, ensuring contracts are managed effectively. Higher level transactions are captured with existing organisational procedures. In construction contracts there are often contractual obligations which require essential variations to be processed within “reasonable” timeframes so as not to incur additional costs or delays in contract delivery.  
  
The amendments made allows for the majority of variations to be processed quickly and with appropriate oversight.
7. **Value for Money**  
As this is the overarching principle for all public sector spending, extra definition has been provided.

### **Key Relevant Previous Council Decisions:**

Special Council Meeting, 14 April 2020

"Council Resolution

In response to the Coronavirus Disease 2019 (COVID 19), Council:

14. approves an amendment to the City of Nedlands Purchasing of Goods and Services Policy as per Attachment 2, on the condition that the Local Government (Functions and General) Regulations 1996 are amended to a \$250,000 tender limit;"

Audit & Risk Committee Meeting, 31 May 2021

"Committee Recommendation / Recommendation to Committee

The Audit and Risk Committee recommends that Council adopts the updated Procurement of Goods and Services Policy, as attached to this report."

### **Consultation**

Consultation not required.

### **Strategic Implications**

The revised Policy will contribute towards the delivery of good governance.

Improved operational efficiency and value for money outcomes will benefit all residents.

The revised Policy will contribute to a significant reduction in procurement associated risks.

City officers are satisfied that they have identified relevant issues and the revised Policy will deliver a benefit to the City.

### **Budget/Financial Implications**

The revised Policy will address the principles of best practice procurement and the delivery of value for money to the City and by extension deliver benefits to the community.

## **Conclusion**

The Procurement of Goods & Services Council Policy has been reviewed by the City's administration and a number of amendments are proposed. These are put to the Audit and Risk Committee for consideration.

## Procurement of Goods and Services

<b>Status</b>	Council
<b>Responsible Division</b>	Corporate and Strategy
<b>Objective</b>	This policy outlines Council's approach to the procurement of goods and services.

### Context

Regulation Part 4, Division 1(11A) of the *Local Government (Functions and General) Regulations 1996 (As at 07 November 2020)* requires a local government to prepare, adopt and implement a purchasing policy in relation to the supply of goods or services where the consideration under the contract is, or is expected to be \$250,000 or less. Purchases above \$250,000 must follow the process detailed in Division 2 of the *Local Government (Functions and General) Regulations 1996* and requires a local government to invite tenders.

Division 3 of the *Local Government (Functions and General) Regulations 1996* requires a local government to prepare, adopt and implement a policy in relation to establishing a panel of pre-qualified suppliers for the procurement of goods or services.

### Statement

The City is committed to establishing and implementing efficient, effective, economical and sustainable procedures for all procurement activities.

All procurement by the City of Nedlands shall: The purpose of this procurement policy is to:

- Provide the City with an efficient process for the procurement of goods and services
- Ensure that all procurement transactions are conducted in a transparent, fair, unbiased and equitable manner
- Strengthen the integrity and confidence in the procurement system
- Ensure effective and proper expenditure of public moneys based on achieving value for money
- Ensure that the City gives appropriate consideration to the environmental impact of its procurement through the lifecycle of goods and services.
- Ensure that the City, where value for money can be demonstrated, gives appropriate consideration to the use of recycled construction and demolition products including but not limited to recycled road base and drainage rock
- Ensure that the City, at all times, remains compliant with all statutory and regulatory obligations, City policies and code of conduct

- Promote effective governance, accountability and a clear definition of all City officers roles and responsibilities
- Uphold community and industry respect for the City's procurement practices
- Comply with relevant legislation, regulations and the City's policies and code of conduct;
- Be transparent, free from bias and fully documented in accordance with applicable policies and audit requirements; and
- Ensure effective and proper expenditure of public moneys based on achieving value for money.
- Uphold respect for the City's procurement practices.

### Procurement Thresholds:

The following table outlines the procedure for City procurement. The value for procurement is the expected value (excluding GST) of the contract over the full contract period (including options to extend).

Procurement value <u>ex GST</u>	Procedure
Up to \$1,500	Direct procurement from suppliers requiring only one <del>verbal</del> quotation or priced printouts from a reputable supplier's catalogue or website.
\$1,501 - \$10,000	Obtain at least three* <del>verbal-written</del> quotations or priced printouts from reputable supplier's catalogues or websites.
\$10,001 - \$40 000	Obtain at least three**_ written quotations <u>against a written specification / scope of services-</u>
\$40 001 - \$249 999	Obtain at least three* written quotations containing price and specification of goods and services and assess according to a pre-determined selection criteria. Where the lowest priced offer is not recommended a <u>detailed explanation for the supplier selection is retained on the procurement files</u> <del>subsequent explanation is provided to Council.</del>
\$250,000 and above	Conduct a public tender process <u>in accordance with the Regulations and City procurement procedures;</u> <u>Tender award</u> to be approved for acceptance by Council.

\*A minimum of one written quotation may be accepted in place of three at the discretion of the ~~CEO~~ responsible manager, where the selected supplier can be demonstrated to offer value for money to the City.

\*\*A minimum of one written quotation may be accepted in place of three at the discretion of the CEO on case by case basis, under where a compliant request for exemption from competitive bidding, based on adequate reasons identified, evaluated

, and documented ~~and~~ has been approved by the relevant Director of the business unit.

Where it is considered beneficial, tenders may be called in lieu of seeking quotations for procurements under \$250,000 (excluding GST). If a decision is made to seek public tenders for contracts of less than \$250,000 a Request for Tender process that follows the procedures for tendering outlined in Division 2 of the *Local Government (Functions and General) Regulations 1996* must be followed to the extent required of Regulation 13.

### Form of Quotation

The general principles for obtaining quotations are:

- The request for quotation must be processed through the Procurement team who will allocate a control RFQ number to the document and maintain a register of quotations issued by the City
- Ensure that the requirements/specification/scope of services is clearly understood by the Local Government employee seeking quotations;
- Ensure that the requirement is clearly, accurately and consistently communicated to each of the suppliers being invited to quote; and
- Ensure due diligence is performed in seeking-approaching sufficient number of quotes-suppliers to comply with the number of quotes required as per this policy. ~~In instances that the required number of quotes are not obtained from the selected suppliers, the number of requests for quote should be expanded to other suppliers.~~

### Details of quotation that must be recorded in the Online Requisition System

- The request for tender/quotation number
- Name of company and person contacted;
- Contact number of suppliers;
- Adequate product/service description, quantity, unit price and total value;
- In cases where the choice of supplier is a WALGA preferred supplier, the WALGA contract number must be stated in the Narration column;
- Written quotes obtained must at least include all of the above details and be captured in the City's Document Management System. Further, the applicable Document Management System reference number must be stated;
- In cases of inability to obtain sufficient number of quotes, the procurement may proceed and Procurement must the reason must be stated the reason in the narration column of the respective supplier contacted for a quote;
- Procurement without the required number of quotes may be made only with valid reasons as allowed in the Exemptions Allowed under this policy; and
- In cases where the lowest quote is not the choice of supplier, the reason must be clearly stated in the Narration column of the choice of supplier.

### **Panels of Pre-Qualified Suppliers:**

Where the City has a continuing need for any particular goods or services to be supplied by a panel of pre-qualified suppliers, the procedures for tendering outlined in Division 2 of the *Local Government (Functions and General) Regulations 1996* must be followed in full. This ensures that the process must be inclusive of clear and consistent information being made available to all suppliers and must include the release of specifications, selection criteria, price schedules, and conditions.

The number of pre-qualified suppliers successfully selected for a panel will be dependent on the number of conforming submissions received from potential suppliers, and their suitability to provide goods or services against applicable selection criteria.

Each pre-qualified supplier selected for a panel will be assessed for suitability and value for money to the City. Any procurement from the pre-qualified suppliers, including the process for obtaining quotations from them shall follow normal competitive procedures as stated in this policy.

All pre-qualified suppliers on a panel of pre-qualified suppliers will be invited to quote for the supply of the goods or services that the pre-qualified suppliers will be expected to supply.

All regular communications between the City and the pre-qualified suppliers shall be in writing to ensure clarity and consistency. All written communication in respect of quotations received and procurements made from the pre-qualified suppliers shall be recorded and retained in the City's records.

When sourcing work from the panel the City will engage-assess the supplier based on the following criteria, ~~price-quotes,~~ ~~their~~ availability, ~~familiarity-with~~ demonstrated understanding of the project, and ~~or-any~~ specialist requirements.

The City may elect to select a supplier not on the panel, subject to normal quotation and tendering requirements of the *Local Government (Functions and General) Regulations 1996*.

In accordance with Division 3 (24AJ) of the *Local Government (Functions and General) Regulations 1996* any individual contract with a pre-qualified supplier who is part of a panel will be for a term not exceeding 12 months and will not contain an option for renewing or extending the term beyond the 12 month period.



### Quote, Tender and Procurement Record Capture:

Written information and documents associated with quotes and procurement will be captured and retained as per the requirements of the General Disposal Authority for Local Government Records, under the *State Records Act 2000*.

### Quotation Exemptions

In any of the following instances, competitive quotations ~~s procedures~~ are not required, regardless of the value of the procurement:

- An emergency situation as defined by the *Local Government Act 1995*;
- The procurement is under auction which has been authorised by Council;
- The contract is for petrol, oil, or other liquid or gas used for internal combustion engines;
- The supply of goods or services is to be obtained through the WALGA Preferred Supplier Program.  
Note: quotations should still be sought from at least 3 of the WALGA preferred suppliers to ensure value for money is achieved.
- The supply of goods or services is to be supplied by or obtained through the government of the State through its Common Use Agreement program.  
Note: quotations should still be sought from at least 3 of the CUA preferred suppliers to ensure value for money is achieved.
- Within last six months the market testing was done for procuring the same type of goods and services and the quotations obtained are still valid (i.e. price per unit, total value and the level of service has not changed), then the direct procurement is allowed; or
- Any of the other exclusions under Regulation 11 (2)(e) to (h) of Local Government (Functions & General) Regulations 1996.

### Tender Exemptions

Regulation 11 of Local Government (Functions & General) Regulations 1996 stipulates the requirements for when the Tenders do not have to be publicly invited and the direct procurement can be made by the City. Accordingly, the determination can be made to procure goods and services which is expected to be more, or worth more, than \$250,000 excluding GST without performing a competitive Tender process.

The Regulation may change from time-to-time; hence reference is to be made to the aforementioned Regulation prior to considering procurement that are likely to exceed \$250,000 excluding GST.

When making a decision about whether to conduct a public tender or utilise a Tender Exempt arrangement, consideration and comparison should be made, where

reasonable and practical, on the cost and benefits of both processes. The chosen procurement method is shall be approved by the CEO.

### Variation to Tender Contracts

Regulation 20 & 21(A) of Local Government (Functions & General) Regulations 1996 stipulates the requirements for the variation to Tender Contracts prior to and post of awarding the contract. These requirements need to be addressed before any Tender Contract variation can be made.

For the purpose of clarity a 'minor variation' as detailed in Regulation 20(1) shall not exceed the lower of 5% of the total contract value or \$50,000 excluding GST

### Variations to Non-Tender Contracts

The City may make minor amendments to a contract only in the following instances:

- After the quotations have been received but before a contract is entered into; or
- After the contract has been entered into but before it has been completed.

Minor variation means a variation that the City is satisfied is minor having regard to the total goods or services that suppliers were invited to supply.

For the purpose of clarity a 'minor variation' for Non-Tender contracts shall not exceed the lower of 5% of the total contract value or \$25,000 excluding GST

Any major ~~amendments~~ variation to the ~~scope of a~~ contract must be ~~treated as a~~ separately costed and supported with detailed reasons for the amendment request. Variations deemed essential for the delivery of the contract requirements may be authorised by the City Officer with the appropriate level of delegation in accordance with this Procurement Policy ~~supply and dealt with under this policy as a new contract.~~

### Variation between Authorised Purchase Order and Invoice

It is not normal to observe variation between the total value of the Purchase Order and Invoice. However, when such instances occur the following needs to be executed:

- The requesting ~~staff officer~~ needs to provide appropriate explanation for the variance and get it approved by their Manager;
- If the variance is less than 10% or \$1,000 there is no need to raise a new Purchase Order for the variance amount; or
- If the variance is more than the above criteria, then a new Purchase Order has to be raised and issued to the supplier for the variation amount before the invoice can be processed and paid.

## Value for Money

“Value for money is an overarching principle governing procurement that allows the best possible outcomes to be achieved for the City.

It is important to note that compliance with the specification is more important than obtaining the lowest price, particularly taking into account end user requirements, quality standards, sustainability, life cycle costing and service benchmarks.

An assessment of the best value for money outcome for any procurement above \$1,500.00 shall consider:

- All relevant whole-of-life costs and benefits for goods and whole of contract life costs (for services). This consideration includes transaction costs associated with acquisition, delivery, distribution, as well as other costs such as but not limited to holding costs, consumables, deployment, maintenance and disposal;
- The technical merits of the goods or services being offered in terms of compliance with specifications, contractual terms and conditions and any relevant methods of assuring quality;
- The financial viability and capacity of the supplier to supply in the specified time without risk of default;
- A strong element of competition in the allocation of orders or the awarding of contracts. This is achieved by obtaining a sufficient number of competitive quotations wherever practicable; and
- Minimising the average social, environmental and economic impacts in procurement decision making.

## Contract Splitting Prohibited

It is a breach of this policy to enter into 2 or more contracts in circumstances such that the desire to avoid the requirements of this policy is a significant reason for not dealing with the matter in a single contract. In any circumstances, staff shall not cause two or more contracts to occur, or enter into multiple contracts to split the value of consideration below Tender threshold, thereby avoiding the need to call a public tender.

## Ethics and Integrity of Employees

It is the responsibility of all staff involved in procurement of goods or services for the City of Nedlands to ensure that any actual or perceived conflicts of interest are to be identified, disclosed and appropriately managed.

All officers and employees of the City of Nedlands shall observe the highest standards of ethics and integrity in undertaking procurement activity and act in an honest and professional manner that supports the standing of the City of Nedlands.

The City of Nedlands recognises the personal rights of all employees to engage in other activities, but strongly discourages such activities within the boundaries of City of Nedlands that may have the potential to create a perception of a conflict of interest or a conflict with the objectives of this policy or an employee's contract of employment. Accordingly, employees must disclose to the Chief Executive Officer any activity or interests (including indirect financial interests) that may create a conflict of interest when performing any of their duties including an activity or an interest by a person with whom they have a close association as provided for in section 5.62 of the *Local Government Act 1995*.

### **Authorisation of Expenditure**

Acceptance of tenders and quotations and the authorisation of expenditure is to comply with the City's procurement requirements, associated policies and procedures and within the relevant delegation or limit of authority.

All procurement of goods or services other than those goods or services deemed an emergency or those outside of normal business hours are only to be procured after the approval of an appropriate purchase requisition and the creation of a relevant purchase order.

The confirmation of any procurement after the completion of a quotation / tender process must be authorised by an officer to whom authority to incur a liability has been delegated ensuring that sufficient funds have been provided for in the City's annual budget.

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### **Related documentation**

Procurement of Goods and Services Procedure  
General Disposal Authority for Local Government Records

### **Related local law and legislation**

Local Government Act 1995  
Local Government (Functions and General) Regulations 1996  
State Records Act 2000

### **Related delegation**

Local Government Act 1995, sections 3.57(1), 3.58(2), 3.58(3).  
Local Government (Functions and General) Regulations, regulations 14(2a), 18(4), 18(5), 20(1) 20(2), 21(1), 21(3), 23(3) and 30(2)(a)(ii).

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### **Review History**



14 April 2020 (Item 6 – Special Council Meeting)  
25 June 2019 (CEO Report 13.9)  
25 May 2010 (Report CM12.10)  
25 March 2014 (Report CPS14.14)  
15 December 2015 (Report CPS29.15)  
Minor change approved by CEO 11 January 2018

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

Nil.

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

Any urgent business to be considered at this point.

**11. Confidential Items**

Any confidential items to be considered at this point.

**Declaration of Closure**

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