



City of Nedlands

# Minutes

## Council Committee Meeting

**14 September 2021**

### **ATTENTION**

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

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## City of Nedlands

**Minutes of a meeting of the Council Committee held in the Council Chambers, 71 Stirling Highway, Nedlands on Tuesday 14 September 2021 at 7 pm. The meeting was livestreamed.**

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### **Declaration of Opening**

The Presiding Member declared the meeting open at 7 pm and drew attention to the disclaimer below.

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

<b>Councillors</b>	Mayor F E M Argyle	(Presiding Member)
	Councillor F J O Bennett	Dalkeith Ward
	Councillor A W Mangano	Dalkeith Ward
	Councillor N R Youngman	Dalkeith Ward
	Councillor B G Hodsdon	Hollywood Ward
	Vacant	Hollywood Ward
	Councillor J D Wetherall	Hollywood Ward
	Councillor R A Coghlan	Melvista Ward
	Councillor R Senathirajah	Melvista Ward
	Councillor B Tyson	Melvista Ward
	Councillor N B J Horley	Coastal Districts Ward
	Councillor K A Smyth	Coastal Districts Ward

<b>Staff</b>	Mr W R Parker	Chief Executive Officer
	Mr E K Herne	Director Corporate & Strategy
	Mr T G Free	Director Planning & Development
	Mr A D Melville	Acting Technical Services
	Ms M E Granich	Executive Manager Community
	Mrs N M Ceric	Executive Officer

**Public** There were 22 members of the public present and 0 online.

**Press** Nil.

**Leave of Absence (Previously Approved)** Nil.

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

## **Disclaimer**

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

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 who had 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 received registrations of interest determined the order of questions.

### **1.1 Ms Cilla de Lacy, Robinson Street, Nedlands**

These questions all relate to the DA for the proposed expansion of the Common Bakery into 29 Carrington Street:

#### **Question 1**

The PD report states at part 3 that the approved hours of operation for the shop only include Fridays, Saturdays and Sundays. Yet the Bread In Common shop at 27 Carrington St operates Mondays to Thursdays as well. Please confirm if the business is operating in accordance with its current approval.

#### **Answer 1**

Bread In Common at No 27 Carrington Street is operating in accordance with its approval of July 2016. The hours of operation are not restricted via the planning approval.

#### **Question 2**

Please explain how the traffic consultants report could conclude that the proposed DA will improve parking impacts in the local area (which are very clearly explained in submissions as being associated with 'customer' parking outside the current Bread in Common and Doggy Day Care on Carrington Street), when this proposal will only add bays to the rear of 29 Carrington St, on Government Road? We expect these new bays are most likely to be used by staff not customers and are very unlikely to be used by customers during the morning peak.

Answer 2

The adjacent business – “Doggy Day Care” currently attracts customers. The proposed change of use to a bakery, does not increase the retail floor space, nor does it involve an increase in the number of employees. Based on this, it is reasonable to conclude that the car parking situation will not be made worse.

Question 3

It is noted that 29 Carrington Street currently has 4 bays on site at the front of the building (not on the City's road reserve land) and these meet the relevant Australian Standard. In practice customers of the Doggy Day Care at 29 Carrington and Bread in Common at 27, use the City's road reserve outside 29 as parking despite it not being demarcated to do so. Will the City consider landscaping the road reserve outside 29 Carrington to stop this dangerous use of parking where cars reverse into a three-way intersection at the bottom of a hill?

Answer 3

The treatment of the Carrington Street car parking is most appropriately handled via a review of the traffic and parking safety of the street with the street being addressed in a holistic manner, rather than seeking to address these matters, via a change of use application.

Question 4

The applicant has indicated they are happy to work with the City to improve parking arrangements on land the City controls, this includes the four bays in the road reserve outside 27 Carrington St which present a significant public safety risk during the morning peak as explained in the submissions. The planning consultant's report indicates the applicant is happy to look at landscaping arrangements. Would the City consider landscaping two of the four bays (those two being on the western side) to reduce the impact of vehicles reversing into a busy three-way intersection and look at ways to provide two more bays on City land in the vicinity of 27 Carrington to alleviate this dangerous situation?

Answer 4

The City will be developing an Integrated Traffic Strategy over the next 12 months. This will identify and prioritise traffic concerns across the City, inclusive of Carrington Street. Councillors will be involved in this process with the first briefing session scheduled for 25 November.

**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.

Ms Catherine Evans, Murray Street, Perth  
(spoke in support of the recommendation)

PD28.21

Ms Cilla de Lacy, Robinson Street, Nedlands PD28.21  
(spoke in relation to the parking and safety issues)

Mr Giles Jones, HJ Architect, Subiaco PD29.21  
(spoke in support of the recommendation)

Councillor Coghlan left the meeting at 7.25pm and returned at 7.27pm.

Mrs Gisela Birch, Kingsway, Nedlands PD31.21  
(spoke in opposition to the recommendation)

Mr Tony Cumace, Gordon Street, Nedlands PD31.21  
(spoke in support of the recommendation)

Ms Lisa Engelbrecht, Boscombe Avenue, City Beach PD32.21  
(spoke in support of the recommendation)

Mr Brad Girdwood, Parry Street, Claremont CSD10.21  
(spoke in support of the recommendation)

Mr Tayne Evershead, Carrington Street, Nedlands PD28.21  
(spoke in support of the recommendation)

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

The Presiding Member reminded Council Members and Employees of the requirements of Section 5.65 of the *Local Government Act* to disclose any interest during the meeting when the matter is discussed.

There were no disclosures of financial interest.

**4. Disclosures of Interests Affecting Impartiality**

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

**4.1 Councillor Senathirajah – CSD11.21- Point Resolution Child Care Centre Financial Viability Review**

Councillor Senathirajah disclosed an impartiality interest in Item CSD11.21-Point Resolution Child Care Centre Financial Viability Review. Councillor Senathirajah disclosed that his daughter sends her son two days per week, and as a consequence, there may be a perception that his impartiality on the matter may be affected. Councillor Senathirajah declared that he would consider this matter on its merits and vote accordingly.

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

Councillor Horley declared that she had not had time to read all the papers.

The Presiding Member permitted the following additional public address:

Carlo Famiano, CF Town Planning, Mulgul Road, Malaga PD33.21  
(spoke in support of the recommendation)

**6. Confirmation of Minutes**

**6.1 Committee Meeting 10 August 2021**

Moved – Councillor Hodsdon  
Seconded – Councillor Youngman

**The Minutes of the Council Committee held 10 August 2021 be confirmed.**

**CARRIED UNANIMOUSLY 11/-**

**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.

Councillors were reminded that should they wish to discuss any content contained in confidential attachments these should be discussed behind closed doors.

**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's PD28.21 to PD33.21**

Planning & Development Report No's PD28.21 to PD33.21 to be dealt with at this point (copy attached yellow cover sheet).

<b>PD28.21</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>	14 September 2021
<b>Council</b>	28 September 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>	<ol style="list-style-type: none"> <li>1. Applicant Cover Letter</li> <li>2. Summary of Submissions</li> </ol>
<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>

**Regulation 11(da) - The Committee considered it important to address the carparking safety along Carrington Street, by clearing separating the private and public parking areas.**

Moved – Councillor Wetherall  
Seconded – Councillor Senathirajah

**That the Recommendation to Committee be adopted.**  
(Printed below for ease of reference)

Amendment

Moved - Councillor Coghlan  
Seconded - Councillor Mangano

**That a condition 10 be added as follows:**

- 10. Prior to the issue of a Building Permit the applicant prepare a plan in consultation with the City to formally demarcate via appropriate landscaping treatment, the privately owned land from the City's road reserve at the front of the current building at 29 Carrington Street, with a view also to line marking parking bays in the City's road reserve consistent with other parking bays so marked in the City's road reserve on Carrington Street.**

**The AMENDMENT was PUT and was**

**CARRIED 6/5**  
**(Against: Mayor Argyle Crs. Youngman**  
**Hodsdon Wetherall & Senathirajah)**

**The Substantive Motion was PUT and**

**CARRIED 10/1**  
**(Against: Cr. Wetherall)**

### **Committee Recommendation**

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.**
- 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.**
- 10. Prior to the issue of a Building Permit the applicant prepare a plan in consultation with the City to formally demarcate via appropriate landscaping treatment, the privately owned land from the City's road reserve at the front of the current building at 29 Carrington Street, with a view also to line marking parking bays in the City's road reserve consistent with other parking bays so marked in the City's road reserve on Carrington Street.**

## 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, 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.

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.

<b>PD29.21</b>	<b>Consideration of Development Application - 6 Grouped Dwellings at 29 Martin Avenue, Nedlands</b>
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<b>Committee</b>	14 September 2021
<b>Council</b>	28 September 2021
<b>Applicant</b>	HJ Architect
<b>Landowner</b>	J. Harden Jones
<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>	DA21/64480
<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 the application proposing 6 dwellings.
<b>Attachments</b>	<ol style="list-style-type: none"> <li>1. Aerial Image and Zoning Map</li> <li>2. Design Review Panel Assessment</li> </ol>
<b>Confidential Attachments</b>	<ol style="list-style-type: none"> <li>1. Plans</li> <li>2. Submissions</li> </ol>

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

Moved – Councillor Wetherall

Seconded – Councillor Senathirajah

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

(Printed below for ease of reference)

**CARRIED 7/4**  
**(Against: Crs. Bennett Mangano Coghlan & Tyson)**

## **Committee Recommendation / Recommendation to Committee**

In accordance with clause 68(2)(b) of the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015*, Council approves the development application received on 19 May 2021 in accordance with the plans date stamped 5 August 2021 (DA21/61309) for six (6) grouped dwellings at 29 Martin Avenue, Nedlands, subject to the following conditions:

1. This approval is for a 'Residential' (Grouped Dwellings) land use and development as defined under the City's Local Planning Scheme No.3 and the subject land may not be used for any other use without prior approval of the City.
2. Prior to occupation of the development, a notification pursuant to Section 70A of the *Transfer of Land Act 1893* shall be prepared at the expense of the owner and registered against the Certificate of Title to the land the subject of the proposed development advising the owners and subsequent owners of the land of the following matter(s):  
  
"This lot is situated in the vicinity of a transport corridor and is currently affected or may in the future be affected by transport noise. Additional planning and building requirements may apply to development on this land to achieve an acceptable level of noise reduction."
3. Prior to the lodgement of Building Permit, a Construction Management Plan shall be submitted and approved to the satisfaction of the City. The approved Construction Management Plan shall be observed at all times throughout the construction process to the satisfaction of the City. Adjoining landowners shall be notified in writing no less than 14 days prior to construction.
4. Prior to the lodgement of a Building Permit, a detailed Landscaping Plan, prepared by a suitably qualified person, shall be submitted to and approved by the City of Nedlands.
5. Prior to the lodgement of a building permit, a Landscape Management Plan, shall be submitted and approved by the City of Nedlands. It shall in addition to include a comprehensive maintenance plan for all proposed landscaping on the site and contingencies for replacement of dead and diseased plants. Landscaping shall 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 of Nedlands.

- 6. Prior to occupation of the development, all communal and private open space areas shall include a water tap for the purpose of irrigation.**
- 7. Prior to the commencement of excavation works, a Dilapidation Report prepared by a practising Structural Engineer should be submitted to the City of Nedlands for approval, and the owners of the adjoining properties listed below detailing the current condition and status of all buildings (both internal and external together with surrounding paved areas and rights of ways), including ancillary structures located upon these properties:**
  - a. Lot 423 (No.27) Martin Avenue, Nedlands;**
  - b. Lot 425 (No.31) Martin Avenue, Nedlands;**
  - c. Lot 436 (No.20) Broome St, Nedlands;**
  - d. Lot 435 (No.22) Broome St, Nedlands;**
  - e. Lot 434 (No.24) Broome St, Nedlands;**

**In the event that access for undertaking the dilapidation survey is denied by an adjoining owner, the applicant must demonstrate in writing to the satisfaction of the City of Nedlands that all reasonable steps have been taken to obtain access and advise the affected property owner of the reason for the survey and that these steps have failed.**

- 8. Prior to the lodgement of a Building permit a Sustainability Report prepared by a suitably qualified consultant shall be submitted and approved to the satisfaction of the City. Recommendations contained within the report are to be carried out and maintained for the lifetime of the development to the satisfaction of the City of Nedlands.**
- 9. All building works to be carried out under this development approval are required to be contained within the boundaries of the subject lot.**
- 10. Prior to occupation of the development, all visual privacy screens and obscure glass panels to major openings and unenclosed active habitable areas, as annotated on the approved plans, shall be screened in accordance with the Residential Design Codes by either:**
  - a. Fixed obscure or translucent glass to a height of 1.6 metres above finished floor level;**
  - 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 1.6 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 of Nedlands.**

- 11. Prior to occupation of the development the finish of the parapet walls is to be finished externally to the same standard as the rest of the development in:
  - 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 of Nedlands**

- 12. Prior to occupation, the parking bays and vehicle access areas shall be drained, paved and constructed in accordance with the approved plans and are to comply with the requirements of AS/NZS 2890.1:2004.**
- 13. A Waste Management plan shall be submitted to the City prior to the lodgement of a Building Permit. The development shall comply with the approved Waste Management Plan to the satisfaction of the City of Nedlands. Any modification to the approved waste management plan will require further approval by the City.**
- 14. All stormwater from the development, which includes permeable and impermeable areas shall be contained onsite.**
- 15. Prior to occupation of the development, all external fixtures including, but not limited to, TV and radio antennae, satellite dishes, plumbing vents and pipes, air conditioners, hot water systems and utilities shall be integrated into the design of the building and not be visible from the primary street to the satisfaction of the City.**
- 16. Prior to occupation, each grouped dwelling is to have an adequate area set aside for clothes drying screened so as to not be highly visible from any adjacent public place in accordance with the requirements of the Residential Design Codes to the satisfaction of the City of Nedlands.**
- 17. The pergola shall remain with an open-framed roof, permeable to water.**
- 18. 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.**

<b>PD30.21</b>	<b>Consideration of Development Application - Single House at 67 Dalkeith Road, Nedlands</b>
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<b>Committee</b>	14 September 2021
<b>Council</b>	28 September 2021
<b>Applicant</b>	Residential Building WA Pty Ltd
<b>Landowner</b>	L & D Marshall
<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. 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.
<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>	DA21/62397
<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>Attachments</b>	1. Aerial image and zoning plan
<b>Confidential Attachments</b>	1. Plans 2. Submissions

**Regulation 11(da) - The Committee had concerns with respect to the location of the driveway relative to the road intersection, separately the Committee expressed concerns with the open space provision.**

Moved – Councillor Coghlan  
Seconded – Councillor Tyson

That the Recommendation to Committee be adopted.  
(Printed below for ease of reference)

Councillor Bennett left the meeting at 9.01pm and returned at 9.03pm.

Lost 5/6  
(Against: Mayor Argyle Crs. Horley Bennett  
Mangano Youngman Senathirajah)

## 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 29 March 2021 in accordance with amended plans date stamped 20 August 2021 for a Single House at 67 Dalkeith Road, Nedlands, subject to the following conditions:

1. Prior to the lodgement of a Building Permit, a detailed Landscaping Plan, prepared by a suitably qualified person, shall be submitted to and approved by the City of Nedlands.
2. Landscaping shall be installed and maintained in accordance with the approved Landscaping Plan for the lifetime of the development thereafter, to the satisfaction of the City. Any modifications to the plans are subject to further approval by the City of Nedlands.
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. 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 of Nedlands.

5. All stormwater from the development, which includes permeable and non-permeable areas shall be contained onsite.
6. 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.

<b>PD31.21</b>	<b>Consideration of Development Application - Single House at 92 Kingsway, Nedlands</b>
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<b>Committee</b>	14 September 2021
<b>Council</b>	28 September 2021
<b>Applicant</b>	R. L. Cumace
<b>Landowner</b>	Y Qiu
<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>	DA21/64480
<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. Aerial image and zoning plan
<b>Confidential Attachments</b>	1. Plans 2. Submissions

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

Moved – Councillor Senathirajah  
 Seconded – Councillor Hodsdon

**That the Recommendation to Committee be adopted.**  
 (Printed below for ease of reference)

**CARRIED 7/4**  
**(Against: Crs. Bennett Mangano Youngman & Tyson)**

## **Committee Recommendation / Recommendation to Committee**

**In accordance with Clause 68(2)(b) of the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015*, Council approves the development application received on 17 May 2021 in accordance with amended plans date stamped 27 July 2021 for a Single House at Lot 31 (No.92) Kingsway, Nedlands:**

- 1. Prior to the lodgement of a Building Permit, a detailed Landscaping Plan, prepared by a suitably qualified person, shall be submitted to and approved by the City of Nedlands.**
- 2. Landscaping shall be installed and maintained in accordance with the approved Landscaping Plan for the lifetime of the development thereafter, to the satisfaction of the City. Any modifications to the plans are subject to further approval by the City of Nedlands.**
- 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. 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 of Nedlands.**

- 5. All stormwater from the development, which includes permeable and non-permeable areas shall be contained onsite.**
- 6. 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.**

<b>PD32.21</b>	<b>Consideration of Development Application (Single House) at 20A Vincent Street, Nedlands</b>
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<b>Committee</b>	14 September 2021
<b>Council</b>	28 September 2021
<b>Applicant</b>	Broadway Homes Pty Ltd
<b>Landowner</b>	S Boughton and A Basu
<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>	DA21/64295
<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. Aerial Image and Zoning Map
<b>Confidential Attachments</b>	1. Plans 2. Submissions

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

Moved – Councillor Tyson  
 Seconded – Councillor Senathirajah

**That the Recommendation to Committee be adopted.**  
 (Printed below for ease of reference)

**CARRIED 8/3**  
**(Against: Crs. Bennett Mangano & Tyson)**

## **Committee Recommendation / Recommendation to Committee**

**In accordance with Clause 68(2)(b) of the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015*, Council approves the development application received on 13 May 2021 in accordance with amended plans date stamped 13 August 2021 for a Residential - Single House at 20A Vincent Street, Nedlands, subject to the following conditions:**

- 1. All footings and structures to retaining walls shall be constructed wholly inside the site boundaries of the subject lot.**
- 2. 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 of Nedlands.****
- 3. All stormwater from the development, which includes permeable and non-permeable areas shall be contained onsite.**
- 4. In the event that the windows to the upper storey stairwell and landing are deleted to meet Building Code requirements, an alternative façade treatment that provides visual articulation to the northern boundary wall is to be submitted and approved by the City of Nedlands prior to construction commencing.**
- 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.**

<b>PD33.21</b>	<b>Consideration of Development Application – 5 Grouped Dwellings at 25 Mountjoy Road, Nedlands</b>
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<b>Committee</b>	14 September 2021
<b>Council</b>	28 September 2021
<b>Applicant</b>	CF Town Planning and Development
<b>Landowner</b>	Willem Investments One 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>	DA21-65012
<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 the application proposing 5 dwellings.
<b>Attachments</b>	1. Aerial Image & Zoning Map
<b>Confidential Attachments</b>	1. Plans

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

Moved – Councillor Tyson  
 Seconded – Councillor Senathirajah

**That the Recommendation to Committee be adopted.**  
 (Printed below for ease of reference)

Councillor Smyth left the meeting at 9.56pm and returned at 9.58pm.

**CARRIED 8/3  
 (Against: Crs. Bennett Mangano & Tyson)**



## **Committee Recommendation / Recommendation to Committee**

In accordance with clause 68(2)(b) of the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015*, Council approves the development application received on 4 June 2021 in accordance with the amended plans date stamped 25 August 2021 for five (5) Grouped Dwellings at Lot 225 (No.25) Mountjoy Road, Nedlands, subject to the following conditions:

1. Prior to the issue of a Building Permit, a revised Waste Management Plan shall be submitted and approved to satisfaction of the City. The Waste Management Plan shall be complied with at all times to the satisfaction of the City.
2. The Acoustic Report dated 6 May 2021 prepared by Lloyd George Acoustics forms part of this development approval and shall be complied with at all times to the satisfaction of the City. Recommendations contained within the acoustic report to achieve compliance with the *Environmental Protection (Noise) Regulations 1997* are to be carried out and maintained for the lifetime of the development to the satisfaction of the City of Nedlands.
3. The Landscaping Plan forms part of this approval. Landscaping shall be installed and maintained in accordance with the approved landscaping plan prepared by Propagule dated 18 August 2021, or any modifications approved thereto, for the lifetime of the development thereafter, to the satisfaction of the City.
4. Prior to occupation, the applicant is to install a one (1) x 500 L tree located on Mountjoy Road verge, at the expense of the applicant and to the satisfaction of the City of Nedlands.
5. Prior to occupation, the parking bays and vehicle access areas shall be drained, paved and constructed in accordance with the approved plans and are to comply with the requirements of AS/NZS2890.1:2004.
6. Prior to the issue of a Demolition Permit or Building Permit, a Demolition and Construction Management Plan shall be submitted and approved to the satisfaction of the City. The approved Construction Management Plan shall be observed at all times throughout the construction process to the satisfaction of the City. The approved Construction Management Plan shall be observed at all times throughout the construction process to the satisfaction of the City. Adjoining landowners shall be notified in writing no less than 14 days prior to construction.
7. All stormwater from the development, which includes permeable and impermeable areas shall be contained onsite.

- 8. All building works to be carried out under this development approval are required to be contained within the boundaries of the subject lot.**
- 9. 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 located behind the street setback area shall satisfy the deemed to comply criteria of element 5.4.1 of the Residential Design Codes Volume 1. Screening referred to in c1.1(ii) of the Residential Design Codes Volume 1 is to be in the form of;**
  - a. Fixed obscured or translucent glass to a height of 1.60 metres above finished floor level;**
  - 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 of Nedlands.**

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

- 10. Prior to occupation of the development the finish of the parapet walls is to be finished externally to the same standard as the rest of the development in:**
  - 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 of Nedlands**

- 11. Prior to occupation of the development, all external fixtures including, but not limited to, TV and radio antennae, satellite dishes, plumbing vents and pipes, solar panels, air conditioners, hot water systems and utilities shall be integrated into the design of the building and not be visible from the primary street to the satisfaction of the City.**
- 12. 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.**

**8.2 Community Development Report No's CSD09.21 to CSD12.21**

Community Development Report No's CSD09.21 to CSD 12.21 to be dealt with at this point (copy attached orange cover sheet).

<b>CSD09.21</b>	<b>CSRFF Forward Planning Grants – Peak Trampoline Inc &amp; UWA Sports</b>
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<b>Committee</b>	14 September 2021
<b>Council</b>	28 September 2021
<b>Applicant</b>	City of Nedlands
<b>Employee Disclosure under section 5.70 of the Local Government Act 1995</b>	Nil.
<b>Officer</b>	Marion Granich - Executive Manager Community
<b>Attachments</b>	Nil.
<b>Confidential Attachments</b>	Nil.

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

Moved – Councillor Youngman  
 Seconded – Councillor Hodsdon

**That the Recommendation to Committee be adopted.**  
 (Printed below for ease of reference)

**CARRIED UNANIMOUSLY 11/-**

**Committee Recommendation / Recommendation to Committee**

**Council:**

1. advises Department of Local Government, Sport and Cultural Industries that it has ranked and rated the application to the Community Sport and Recreation Facilities Fund Forward Planning Grant round as follows:
  - a. Peak Trampoline Inc for construction of the UWA Peak Community Gymsports facility - A Rating: Well-planned and needed by municipality; and
  - b. UWA Sports for UWA Sports Park western precinct amenities development - A Rating: Well-planned and needed by municipality;

- 2. endorses each of the above applications to Department of Local Government, Sport and Cultural Industries, conditional on the projects receiving the necessary statutory approvals.**

<b>CSD10.21</b>	<b>CSRFF Club Night Lights Grant Applications - Collegians Amateur Football Club &amp; UWA Sports</b>
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<b>Committee</b>	14 September 2021
<b>Council</b>	28 September 2021
<b>Applicant</b>	City of Nedlands
<b>Employee Disclosure under section 5.70 of the Local Government Act 1995</b>	Nil.
<b>Officer</b>	Marion Granich - Executive Manager Community
<b>Attachments</b>	Nil.
<b>Confidential Attachments</b>	Nil.

**Regulation 11(da) – The Committee does not support the upgrading of lights for the Collegians Football & Sporting Club as they were concerned about the light spill and how it would affect the local residents.**

Moved – Councillor Wetherall

Seconded – Councillor Senathirajah

Council:

1. advises Department of Local Government, Sport and Cultural Industries that it has ranked and rated the applications to the Community Sport and Recreation Facilities Fund Club Night Lights Grant round as follows:
  - a. Collegians Football & Sporting Club – Upgrade of Lights at David Cruickshank Reserve - A Rating: Well, planned and needed by Municipality; and
2. endorses the application from Collegians Football & Sporting Club to Department of Local Government, Sport and Cultural Industries conditional on:
  - b. all necessary statutory approvals being obtained by the applicant; and
  - c. the project receives DLGSC funding.

Lost 4/7

(Against: Mayor Argyle Crs. Smyth Bennett Mangano Youngman Coghlan & Tyson)

Moved – Councillor Tyson  
Seconded – Councillor Youngman

- 3. advises Department of Local Government, Sport and Cultural Industries that it has ranked and rated the applications to the Community Sport and Recreation Facilities Fund Club Night Lights Grant round as follows:**
  - a. University of WA - Upgrade of Lighting at UWA Sports Park Tennis Centre - A Rating: Well planned and needed by Municipality; and**
- 4. endorses the application from UWA to Department of Local Government, Sport and Cultural Industries for its tennis court lighting project, conditional on all necessary approvals being obtained by the applicant.**

**CARRIED UNANIMOUSLY 11/-**

### **Committee Recommendation**

**Council:**

- 1. advises Department of Local Government, Sport and Cultural Industries that it has ranked and rated the applications to the Community Sport and Recreation Facilities Fund Club Night Lights Grant round as follows:**
  - a. University of WA - Upgrade of Lighting at UWA Sports Park Tennis Centre - A Rating: Well planned and needed by Municipality; and**
- 2. endorses the application from UWA to Department of Local Government, Sport and Cultural Industries for its tennis court lighting project, conditional on all necessary approvals being obtained by the applicant.**

## Recommendation to Committee

### Council:

1. advises Department of Local Government, Sport and Cultural Industries that it has ranked and rated the applications to the Community Sport and Recreation Facilities Fund Club Night Lights Grant round as follows:
  - a. Collegians Football & Sporting Club – Upgrade of Lights at David Cruickshank Reserve - A Rating: Well, planned and needed by Municipality; and
  - b. University of WA - Upgrade of Lighting at UWA Sports Park Tennis Centre - A Rating: Well planned and needed by Municipality;
2. endorses the application from Collegians Football & Sporting Club to Department of Local Government, Sport and Cultural Industries conditional on:
  - a. all necessary statutory approvals being obtained by the applicant; and
  - b. the project receives DLGSC funding; and
3. endorses the application from UWA to Department of Local Government, Sport and Cultural Industries for its tennis court lighting project, conditional on all necessary approvals being obtained by the applicant.

<b>CSD11.21</b>	<b>Point Resolution Child Care Centre Financial Viability Review</b>
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<b>Committee</b>	14 September 2021
<b>Council</b>	28 September 2021
<b>Applicant</b>	City of Nedlands
<b>Employee Disclosure under section 5.70 of the <i>Local Government Act 1995</i></b>	Nil.
<b>Director</b>	Marion Granich – Executive Manager Community
<b>Attachments</b>	Nil.
<b>Confidential Attachments</b>	Nil.

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

Moved – Councillor Youngman  
 Seconded – Councillor Horley

**That the Recommendation to Committee be adopted.**  
 (Printed below for ease of reference)

**CARRIED UNANIMOUSLY 11/-**

**Committee Recommendation / Recommendation to Committee**

**Council agrees to the continued provision of childcare services at Point Resolution Child Care Centre.**



<b>CSD12.21</b>	<b>Strategic Active Sports Facilities Plan 2020-2050</b>
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<b>Committee</b>	14 September 2021
<b>Council</b>	28 September 2021
<b>Applicant</b>	City of Nedlands
<b>Employee Disclosure under section 5.70 of the Local Government Act 1995</b>	Nil.
<b>Officer</b>	Marion Granich – Executive Manager Community
<b>Attachments</b>	Nil.
<b>Confidential Attachments</b>	Attachment 1 - Draft Strategic Active Sports Facilities Plan 2020 – 2050

**Regulation 11(da) - The Committee was concerned that the plan in its current form may raise Community expectations particularly in the absence of a Long Term Financial Plan.**

Moved – Councillor Wetherall  
 Seconded – Mayor Argyle

That Council:

1. receives the Draft Strategic Active Sports Facilities Plan 2020 – 2050; and
2. resolves to release the Draft Strategic Active Sports Facilities Plan 2020-2050 to be advertised for community comment.

Put Motion

Moved - Councillor Bennett  
 Seconded - Councillor Tyson

**That the Motion be put.**

**CARRIED UNANIMOUSLY 11/-**

The Motion was PUT and was

Lost 1/10  
 (Against: Mayor Argyle Crs. Horley Smyth Bennett Mangano Youngman  
 Hodsdon Wetherall Coghlan & Tyson)

**Recommendation to Committee**

That Council:

1. receives the Draft Strategic Active Sports Facilities Plan 2020 – 2050; and
2. approves the Draft Strategic Active Sports Facilities Plan 2020-2050 to be advertised for community comment.

**8.3 Corporate Strategy Report No's CPS16.21 to CPS17.21**

Corporate & Strategy Report No's CPS16.21 to CPS17.21 to be dealt with at this point (copy attached green cover sheet).

<b>CPS16.21</b>	<b>Rate Exemption Approval – Religious Organisation</b>
<b>Committee</b>	14 September 2021
<b>Council</b>	28 September 2021
<b>Applicant</b>	City of Nedlands
<b>Employee Disclosure under section 5.70 Local Government Act 1995</b>	Nil.
<b>Director</b>	Ed Herne – Director Corporate & Strategy
<b>Attachments</b>	<ol style="list-style-type: none"> <li>1. Statutory Declaration, Application for Rates Exemption and ATO Endorsement for Charity Tax Concession</li> <li>2. Financial Statement, Independent Auditor Report and Auditor Declaration</li> <li>3. Extract of Local Government Act 1995 Section 6.26 (2)(d)</li> </ol>
<b>Confidential Attachments</b>	Nil.

**Impartiality Interest – Councillor Coghlan**

Councillor Coghlan disclosed that she attends the church from time to time, and as a consequence, there may be a perception that her impartiality on the matter may be affected. Councillor Coghlan declared that she would consider this matter on its merits and vote accordingly.

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

Moved – Councillor Wetherall

Seconded – Councillor Tyson

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

(Printed below for ease of reference)

**CARRIED 7/4**  
**(Against: Crs. Smyth Bennett Mangano & Senathirajah)**

**Committee Recommendation / Recommendation to Council**

**That Council approves the rates exemption application by the Perth Diocesan Trustees for 58, Tyrell Street, Nedlands under the Local Government Act 1995 for 2021-22.**

<b>CPS17.21</b>	<b>List of Accounts Paid – August 2021</b>
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<b>Committee</b>	14 September 2021
<b>Council</b>	28 September 2021
<b>Applicant</b>	City of Nedlands
<b>Employee Disclosure under section 5.70 Local Government Act 1995</b>	Nil.
<b>Director</b>	Ed Herne – Director Corporate & Strategy
<b>Attachments</b>	1. Creditor Payment Listing – August 2021; and 2. Credit Card and Purchasing Card Payments – August 2021
<b>Confidential Attachments</b>	Nil.

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

Moved – Councillor Hodsdon  
 Seconded – Councillor Youngman

**That the Recommendation to Committee be adopted.**  
 (Printed below for ease of reference)

**CARRIED 10/1**  
**(Against: Cr. Coghlan)**

**Committee Recommendation / Recommendation to Committee**

**Council receives the List of Accounts Paid for the month of August 2021 as per attachments.**

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

**9.1 Review of Various Council Policies**

<b>Committee</b>	14 September 2021
<b>Council</b>	28 September 2021
<b>Applicant</b>	City of Nedlands
<b>Employee Disclosure under section 5.70 Local Government Act 1995</b>	Nil.
<b>Officer</b>	Nicole Ceric, Executive Officer
<b>CEO</b>	Bill Parker
<b>Attachments</b>	<ol style="list-style-type: none"> <li>1. Record Keeping for Council Members Council Policy</li> <li>2. Legal Representation for Council Members &amp; Employees Council Policy</li> <li>3. Council Member Fees, Expenses, Allowances and Other Provisions Council Policy</li> <li>4. Council Member and CEO Attendance at Events Council Policy</li> <li>5. Council Member Professional Development Council Policy</li> </ol>
<b>Confidential Attachments</b>	Nil.

**Regulation 11(da) – The Committee wanted more time to consider these policies.**

Moved – Councillor Horley  
 Seconded – Mayor Argyle

**Committee Recommendation**

**That the item be adjourned to March 2022.**

**CARRIED UNANIMOUSLY 11/-**

**Recommendation to Council**

That Council:

1. by Simple Majority, adopts the following policies:
  - a. Record Keeping for Council Members Council Policy (previously named Management of Information for Elected Members Council Policy), as per attachment 1; and

- b. Legal Representation for Council Members & Employees Policy, as per attachment 2;
2. by Absolute Majority, adopts the following policies:
    - a. Council Member Fees, Expenses, Allowances and Other Provisions Policy (previously named Elected Member Expenses and Equipment Council Policy), as per attachment 3;
    - b. Council Member & CEO Attendance at Events Policy (previously named Council Member and Employee Training and Conference Attendance Council Policy), as attachment 4; and
    - c. Council Member Professional Development Policy (previously names Council Member and Employee Training and Conference Attendance Council Policy), as per attachment 5.

## **Executive Summary**

All Council Policies are required to be reviewed regularly every five years as per Council's Policy and approved by Council. The purpose of this report is to present five policies which have been reviewed and updated and require formal Council adoption.

## **Discussion/Overview**

### **Background**

Several Council Policies need to be reviewed and updated, either to reflect new legislative provisions, or contemporary practices.

Regard has been had for the approach taken by other similar Councils (especially those in Band 2 of the SAT) in proposing draft Policies.

All the draft Policies have been canvassed with Council Members over several workshops, and changes made to the drafts to reflect requests for changes at the workshops.

### **Record Keeping for Council Members Council Policy**

There is a need to ensure compliance by Council Members with the *State Records Act 2000* and the City of Nedlands Record Keeping Plan.

The State Records Office policy regarding the records of local government Council Members requires the creation and retention of records of the:

“...communications and transactions of elected members which constitute evidence affecting the accountability of the Council and the discharge of its business.”

The Policy describes a range of matters which constitute Council Member's records, and which must be retained and lodged with the City.

### **Legal Representation for Council Members & Employees Council Policy**

The Department of Local Government in 2006 released guidelines to assist Councils in determining the basis on which legal representation might be provided to Council Members and employees.

This Policy sets the parameters and conditions for payment of legal representation for Council Members and employees.

There are four criteria for determining whether the City of Nedlands may pay the legal representation costs of a Council Member or employee. These are:

- the legal representation costs must relate to a matter that arises from the performance, by the Council Member or employee, of his or her functions,
- the legal representation costs must be in respect of legal proceedings that have been, or may be commenced,
- in performing his or her functions, to which the legal representation relates, the Council Member or employee must have acted in good faith, and must not have acted unlawfully or in a way that constitutes improper conduct; and
- the legal representation costs do not relate to a matter, unrelated to the roles and responsibilities of a Council Member, or employee.

The Policy proposes specific circumstances and processes which would govern consideration of a request for legal representation to be paid by the City and provides for the CEO to be able to approve assistance of up to \$10,000, in an urgent situation.

### **Council Member Fees, Expenses, Allowances and Other Provisions Council Policy**

This Policy outlines the entitlements of Council Members as per the Salary & Allowance Act 1975 and when and how they are to be paid.

The Policy maintains the prior position of the Council that the Mayor and Councillors will all be paid at 100% of the relevant SAT Band (currently Band 2).

All Council Members will be paid the maximum IT and Communications Allowance of \$3,500 pa, no equipment will be provided by the City to Council Members, as per the Salary & Allowances Act 1975.

The Salary & Allowances Tribunal have confirmed that:

Part 9.1(3) outlines the range of factors the Tribunal considered in setting the allowance range. Specifically:

- the intent of the allowance to reflect the extent and nature of the expenses incurred and not to result in a windfall gain for council members; and
- the particular practices of local governments in the use of information and communication technology (e.g. laptop computers, iPads).

Therefore, supplying ICT equipment on top of the allowance would contradict the intention of the allowance.

Council Members will be able to purchase whatever specification of equipment that suits them with the allowance provided.

Administration is recommending a significant change to this policy to pay elected members in arrears, not in advance. Payment in advance of work performed is not in keeping with modern accepted business practice. Payment in arrears, while possible, creates problems after an election or resignation of an elected member, since the local government is required to seek reimbursement of unused advanced payment.

The Policy also addresses gifts to retiring, or defeated Council Members, and seating for Council meetings.

### **Council Member Attendance at Events Council Policy**

There is a statutory requirement that Council adopt such a Policy (s5.90A LGA 1995) in situations where tickets are not given to the Council Member or CEO by name and specifically.

The Policy proposes a range of "approved events" - attendance at Approved Events are not treated as gifts and do not need to be included on the City's public Register of Gifts, as they are "excluded gifts" in accordance with section 5.62(1B) of the Act.

Attendance at Approved Events does not trigger a conflict of interest if a matter comes before Council or the CEO for consideration. Where there is a cost for attending an "Approved Event" the City will pay for the ticket or reimburse the case of same.

Where tickets are provided under a sponsorship agreement the CEO will determine the allocation of the tickets.



Proposed attendance at a “non” approved event will require the approval of the CEO, or the Mayor in the case of the CEO.

### **Council Member Professional Development Policy**

There is a statutory requirement that Council adopt such a Policy (s5.128 LGA 1995) to describe the entitlements, and process for Council Members to access professional development.

The Policy identifies the mandatory 5 modules that all new Council Members must complete within 12 months of being elected, as well as a range of other training subject matters and service providers to deliver same.

Limits are proposed on the cost and location of such training, where the CEO, in consultation with the Mayor, may approve same. In situations where the cost exceeds \$2000 or the training is provided interstate, or overseas, the request will be determined by Council.

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

Ordinary Council Meeting 23 February 2021 (extract):

“Council Resolution

Council:

1. refers the following policies to a Councillor workshop:
  - Elected Member Fees, Expenses, Allowances and Other Provisions
  - Legal Representation for Elected Members and Employees Council Policy
  - Management of Information for Elected Members Council Policy
  - Professional Development and Attendance at Events.”

### **Consultation**

Reviews are done in accordance with Council’s Review of Council Policies Policy.

Consideration has been given to approaches taken by other local governments in guiding drafting of proposed policies.

The listed policies were presented to Council at its Ordinary Meeting of Council on the 23 February 2021 where Council deferred these policies to a workshop.

Council Members workshopped these policies on Tuesday 29 June 2021 and 3 August 2021.

## **Strategic Implications**

It is the Role of Council to determine the Local Government's policies.

Council policies are reviewed periodically to ensure they reflect the strategic direction and responsibilities of Council and are kept up to date.

## **Budget/Financial Implications**

No specific financial implications arise from the adoption of the draft Policy; however, care and planning will need to occur in the lead up to local government elections to ensure the Policy is not contravened in relation to types of decisions.

## **Conclusion**

It is timely for Council to regularly review Policies for compliance and consistency with contemporary practice.

It is envisaged that additional Policies will be reviewed by Council during future Council meetings.



**Record Keeping by Council Members**

<b>Status</b>	Council
<b>Responsible Division</b>	Corporate & Strategy
<b>Objective</b>	To provide for the compliance by Council Members with the <i>State Records Act 2000</i> and the City of Nedlands <a href="#">Record Keeping Plan 2018</a> .

**Context**

Council Members' records must be created, kept, and lodged with the City, in a way which properly and adequately record the performance of Council Member functions arising from their participation in the decision-making processes of Council and Committees of Council and arising from their role as Council Members.

**Commented [NC1]:** Added to reflect advice provided at Council Member workshop.

This requirement should be met through the creation and retention of records of meetings of local government and other communications and transactions of Council Members which constitute evidence affecting the accountability of the Council and the discharge of its business.

Political and personal records of Council Members are exempt.

Any correspondence produced or received by Council Members as part of their duties should be periodically returned to the City for registration into the approved record keeping system.

**Statement**

The State Records Office policy regarding the records of local government Council Members requires the creation and retention of records of the:

“...communications and transactions of elected members which constitute evidence affecting the accountability of the Council and the discharge of its business.”

This applies regardless of a record's format or where it was received.

The City will file and archive any public records that are created or received by Council Members in the course of their duties that are required by the *State Records Act 2000*, or the *City's Record keeping Plan* to be retained.



Examples of records related to local government projects or business activities to be retained include – communications; lobbying; telephone, meetings, and other verbal conversations; social media posts; work diaries; allowances, benefits and gifts records; and addresses/ speeches / presentations.

Examples of records that are NOT required to be retained include – duplicate copies; draft or working documents; publications; invitations; telephone, meetings and other verbal conversations NOT related to local government projects or business activities; electioneering; and personal records.

All records created by Council Members must be returned to the City to be captured, retained and, when authorised, legally destroyed.

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#### **Related Documentation**

City of Nedlands [Record Keeping Plan 2018](#)

State Records Office - Local Government Elected Members' Records: Which records to capture? (2019)

#### **Related Local Law / Legislation**

[Freedom of Information Act 1992](#)

[State Records Act 2000](#)

#### **Related Delegation**

Nil.

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#### **Review History**

14 December 2010 (Report CM29.10)

9 July 2019

05 June 2020

## Legal Representation for Council Members and Employees

<b>Status</b>	Council
<b>Responsible Division</b>	Corporate & Strategy
<b>Objective</b>	To determine when it is appropriate to pay legal representation costs for Council Members or employees.

### Context

This policy sets the parameters and conditions for payment of legal representation for Council Members and employees.

There are four criteria for determining whether the City of Nedlands may pay the legal representation costs of a Council Member or employee. These are:

- the legal representation costs must relate to a matter that arises from the performance, by the Council Member or employee, of his or her functions,
- the legal representation costs must be in respect of legal proceedings that have been, or may be commenced,
- in performing his or her functions, to which the legal representation relates, the Council Member or employee must have acted in good faith, and must not have acted unlawfully or in a way that constitutes improper conduct; and
- the legal representation costs do not relate to a matter, **unrelated to the roles and responsibilities of a Council Member, or employee.**

### Rationale

The Department of Local Government addressed this issue in Local Government Operational Guidelines Number 14 – April 2006 – “...*Today there is an increased risk of legal action being taken or threatened against individual Council Members and employees.*”

*Council Members and employees may require legal advice and representation and expect their local government to provide financial assistance to meet the cost of the advice or representation.*

**Commented [NC1]:** Added for further clarity, in context of discussions at Council Member Workshop.

**Commented [NC2]:** Requested some broader rationale regarding need for Policy – quote is from DLG publication – reference included at end of policy.



*For example, Council Members or employees may be threatened with legal action when an aggrieved party believes that they will not, or have not, carried out their legislative functions or responsibilities in the correct and appropriate manner. Legal action may also be threatened where it is anticipated that such action will influence a vote or a recommendation.*

*Council Members and employees may feel inhibited in undertaking their roles in a full, frank, and impartial manner if they do not have an assurance that they are protected from threats and will be given proper legal representation if any legal action is taken against them.*

*Local governments have a legislative duty of care to their employees to provide a safe working environment and morally have the same duty to council members. Accordingly, it is appropriate and prudent for local governments to assist council members and employees by adopting a policy to fund or partly fund the cost of providing legal representation in appropriate circumstances...*

#### **Definition**

Approved lawyer is to be:

- a 'certified practitioner' under the *Legal Practice Act 2003*,
- from a law firm on the City of Nedlands' insurance provider's panel of legal service providers,
- approved by the Council or the Chief Executive Officer under delegated authority.

Council Member or employee means a Council Member of the Council of the City of Nedlands or an employee of the City of Nedlands.

Legal proceedings may be civil, criminal, or investigative.

Legal representation costs are the costs, including fees and disbursements, properly incurred in providing legal representation.

Legal services include advice, representation or documentation that is provided by an approved lawyer.

Payment by the City of Nedlands of legal representation costs may be either by:

- a direct payment to the approved lawyer (or the relevant firm); or
- a reimbursement to the Council member or employee.
- If a reimbursement is to be paid, the amount must be agreed in advance of the costs being incurred.



## **Statement**

### **Examples of legal representation costs that may be approved**

The City of Nedlands may approve the payment of legal representation costs for the following reasons:

- where proceedings are brought against a Council Member or employee in connection with his or her functions – for example, an action for defamation or negligence arising out of a decision made or action taken by the Council Member or employee; or
- to enable proceedings to be commenced and/or maintained by a Council Member or employee to permit him or her to carry out his or her functions – for example where a Council Member or employee seeks to take action to obtain a restraining order against a person using threatening behaviour to the Council Member or employee; or
- in the event of a local government inquiry or complaint lodged against a Council Member or employee, to permit him or her to provide a proportionate response – for example when questioned by a member of the legal profession; and
- where exceptional circumstances are involved – for example, where a person or organisation is lessening the confidence of the community in the local government by publicly making adverse personal comments about Council Members or employees.

The City of Nedlands will not approve, unless under exceptional circumstances, the payment of legal representation costs for a defamation action, or a negligence action, instituted by a Council Member or employee.

### **Application for payment**

A Council Member or employee who seeks assistance under this policy is to make an application(s), in writing, to the Chief Executive Officer.

For payment to be made, the written application for payment of legal representation costs is to give details of:

- the matter for which legal representation is sought,
- how that matter relates to the functions of the Council Member or employee making the application,
- the lawyer (or law firm) who is to be asked to provide the legal representation,



- the nature of legal representation to be sought (such as advice, representation in court, preparation of a document etc),
- an estimated cost of the legal representation; and
- why it is in the interests of the City of Nedlands.

The application is to contain a declaration by the applicant that he or she has acted in good faith and has not acted unlawfully or in a way that constitutes improper conduct in relation to the matter to which the application relates.

As far as possible the application is to be made before commencement of the legal representation to which the application relates.

The application is to be accompanied by a signed statement by the applicant that he/she:

- has read, and understands, the terms of the policy,
- acknowledges that any approval of legal representation costs is conditional on the repayment provisions and any other conditions to which the approval is subject; and
- undertakes to repay to the City of Nedlands any legal representation costs not consistent with this policy.

When a person is to be in receipt of such monies the person should sign a document which requires repayment of that money to the local government as may be required by the local government and the terms of the policy.

An application is also to be accompanied by a report prepared by the Chief Executive Officer or where the Chief Executive Officer is the applicant by an appropriate employee.

#### **Legal representation costs – Limit**

The Council in approving an application in accordance with this policy shall set a limit on the costs to be paid based on the estimated costs in the application.

A Council Member or employee may make a further application to Council in respect of the same matter.





### **Council's powers**

The Council may:

- refuse,
- grant; or
- grant subject to conditions

an application for payment for legal representation costs.

Conditions may include, but are not restricted to, a financial limit and/or a requirement to enter into a formal agreement, including a security agreement, relating to the payment, and repayment, of legal representation costs where required under this policy.

In assessing an application, the Council may have regard to any insurance benefits that may be available to the applicant under the City of Nedlands' Council Members or employee's insurance policy or its equivalent.

The Council may at any time revoke or vary an approval, or any conditions of approval, for the payment of legal representation costs.

The Council may determine that a Council Member or employee whose application for legal representation costs has been approved has, in respect of the matter for which legal representation costs were approved:

- not acted in good faith, or has acted unlawfully or in a way that constitutes improper conduct; or
- given false or misleading information in respect of the application.

If a determination is made by the Council, it can only be based on, and consistent with, the findings of a court, tribunal, or inquiry.

Where the Council decides, the legal representation costs paid by the City of Nedlands are to be repaid by the Council Member or employee.

### **Delegation to Chief Executive Officer**

In cases where a delay in the approval of an application will be detrimental to the legal rights of the applicant, the Chief Executive Officer may exercise, on behalf of the Council, approval to a maximum of \$10,000 in respect of each application.

An application approved by the Chief Executive Officer is to be submitted to the next ordinary meeting of the Council. Council may exercise any of its powers under this policy.



### **Repayment of legal representation costs**

A Council Member or employee whose legal representation costs have been paid by the City of Nedlands is to repay the City of Nedlands:

- all or part of those costs in accordance with a determination by the Council,
- as much of those costs as are available to be paid by way of set-off – where the Council Member or employee receives monies paid for costs, damages, or settlement, in respect of the matter for which the City of Nedlands paid the legal representation costs.

The City of Nedlands may act in a court of competent jurisdiction to recover any monies due to it under this policy.

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### **Related documentation**

[Legal Representation for Council Members and Employees \(dlgsc.wa.gov.au\)](http://dlgsc.wa.gov.au)

### **Related Local Law / Legislation**

Sections 3.1, 6.7(2) and 9.56 of the Local Government Act 1995

### **Related delegation**

Add from Delegations register once approved.

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### **Review History**

24 September 2013 (Report CPS28.13)

24 August 2010 (Report CM21.10)

## Council Member Fees, Expenses, Allowances and Other Provisions

<b>Status</b>	Council
<b>Responsible Division</b>	Office of the Chief Executive Officer
<b>Objective</b>	To determine discretionary elements of fees, expenses, allowances, and other provisions provided to Council Members.

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### Context

Council Members are entitled to receive fees, expenses, and allowances in performing their duties. This policy determines the extent of those fees, expenses and allowances that are subject to Council's discretion.

Upon election Council Members are entitled to receive the necessary other provisions, including allocated seating, a gift at the conclusion of office, training, and conference attendance, in performing their role.

### Definitions

**Determination** – means the Western Australia Salaries and Allowances Act 1975 Determination of The Salaries and Allowances Tribunal for Local Government Chief Executive Officers and Council Members, pursuant to Section 7A and 7B of the Local Government Act 1995,

**ICT expenses** – means:

- (a) rental charges in relation to one telephone and one facsimile machine, as prescribed by regulation 31(1)(a) of the LG Regulations; or
- (b) any other expenses that relate to information and communications technology (for example, telephone call charges and internet service provider fees) and that are a kind of expense prescribed by regulation 32(1) of the LG Regulations.

### Statement

#### 1. Fees

The Mayor, Deputy Mayor and Council Members shall be paid the 100<sup>th</sup> percentile of the applicable annual fee range of the determination (6.4), to be confirmed in the annual budget each year (s5.98(1) & 5.99). The annual fee shall be paid monthly, in arrears, unless a Council Member requests that the allowance be paid monthly, in advance, in which case, it shall be so paid.



## 2. Expenses and Allowances

The Mayor, Deputy Mayor and Council Members shall be paid expenses as annual allowances, as per the Determination (s5.98(2)(a), 5.98A, 5.99A, reg31 & reg32).

The Mayor shall be paid the annual allowance range maximum under s7.1 & 7.2 of the Determination (s.5.98(5)).

The Deputy Mayor shall be paid the annual allowance percentage provided under section 7.3 of the Determination (s.5.98A).

The Mayor, Deputy Mayor and Council Members shall be paid the annual allowance range maximum of the information and communications technology (ICT) allowance (s5.99A(1)).

As from October 2021 Ordinary Elections no IT or communications equipment will be provided by the City. Equipment provided by the City to Council Members prior to October 2021 may be kept by the Council Member if the equipment is 3 years old or more when the Council Member terminates their membership of Council.

The annual allowances are to be confirmed in the annual budget each year.

The annual allowances shall be paid monthly, in arrears, with newly elected Council Members to be paid the \$3500 ICT allowance on the first payment of their first year only, then paid monthly, in arrears, in subsequent years.

**Commented [NC1]:** Modified given discussion at Council Member workshop.

## 3. Induction

Newly Elected Council Members will be required to undertake a comprehensive induction process including:

- Mandatory 5 Modules (within 12 months of election)
- External training for newly elected council members
- Internal training provided by Administration. This may involve evening and weekend sessions.

**Commented [NC2]:** Modified given discussion at Council Member workshop.

## 4. Provision of Information

All agendas, reports, minutes, and other relevant materials will be provided electronically to Council Members. Hard copies may be provided upon request to the CEO.

Council Members will be provided with a City of Nedlands email address which is to be used for all Council related email correspondence.

Council Members will be provided with access to a Council Member portal.



#### 5. **Seats in Council Chambers.**

Council Members will occupy the seats in the Council Chambers allocated to them based on the ward represented and alphabetical placement. In exceptional circumstances, by resolution of Council, a Council Member may be allowed to occupy another seat.

#### 6. **Gift at conclusion of term of office.**

Council may recognise the service given by Council Members when they retire or are unsuccessful in seeking re-election, by presenting them with a gift to the value of \$100 per year of office, up to the maximum prescribed amount. The Council Member must have served at least one full 4-year term of office to be eligible for a gift (s5.100A & reg34AC). The Mayor in consultation with CEO will determine the gift.

**Commented [NC3]:** Amended to align with Reg 34AC which specifies \$100 per year.

#### 7. **Disability Provisions**

The requirements of the Disability Discrimination Act 1992 ensure equal access is provided where disability of a Council Member imposes limitations on their ability to perform their duties. The City will provide information and equipment, as needed, in addition to that listed in this policy to support Council Members with disabilities.

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#### **Related documentation**

Professional Development & Attendance Policy

#### **Related Local Law / Legislation**

Salaries & Allowances Tribunal Act 1975

*Local Government Act 1995, sections 5.98, 5.98A, 5.99, 5.99A, & s5.100A.*

*Local Government (Administration) Regulations 1996 reg31, reg32& reg 34AC).*

*Disability Discrimination Act 1992 (Federal)*

#### **Related delegation**

Nil.

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#### **Review History**

20 December 2016 (Report CPS33.16)

24 September 2013 (Report CPS26.13)

25 May 2010 (Report CM10.10)

27 August 2013 (Report CPS26.13)

## Council Member and CEO Attendance at Events

<b>Status</b>	Council
<b>Responsible Division</b>	Office of the Chief Executive Officer
<b>Objective</b>	To establish the requirements around the attendance at events where tickets are offered to Council Members and the CEO.

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### Context

s5.90A of the Local Government Act 1995 requires Council to adopt a Policy on Council Member and CEO attendance at events.

This policy applies to invitations or tickets to events that are provided to the City (for example to the City of Nedlands Council /Council Member or City of Nedlands CEO).

An invitation or ticket to an event provided directly to an individual (which means personally to a Council Member or the CEO) is to be treated as a gift (gift as defined in section 5.57 of the Act).

Council Members or the CEO may accept these invitations, subject to disclosing the acceptance of the invitation / ticket as a gift (if valued at over \$300, in accordance with the provisions of the City's Code of Conduct for Council Members, Committee Members, and Candidates for Election, and the relevant gift provisions in the Local Government Act, as they apply to Council Members and the CEO, if they have not provided appropriate consideration for the ticket/ invitation. The gift will be disclosed on the City's public Register of Gifts.

A Council Member or the CEO may attend an event and not disclose it as a gift if they have purchased the ticket themselves.

### Statement

#### 1. Attendance at Approved Events

The following events are considered Approved Events for the purpose of this policy:

Where the Council Member is attending an event in an official capacity, such as:

- performing a speaking role or some other welcoming role
- participating as a member of a discussion panel or judging panel
- presenting at the event as part of the event program

- representing the City of Nedlands at a sponsorship acknowledgement event or award ceremony, where the primary purpose of attendance is not for the entertainment of the individual Council Member, but enable the City to fulfil its role, and exercise its rights and benefits, as a sponsor
- presenting awards or prizes to others on behalf of the City
- attending an exhibition or display where the City, its programs or services are being showcased at the event.

Where the ticket is offered by:

- the Western Australian Local Government Association
- the Australian Local Government Association
- Local Government Professionals WA
- a department of the Public Service
- a government department of another State, a Territory or Commonwealth
- a State or Federal Member of Parliament, other than for party political events or fundraisers
- a local government or regional local government
- major professional or industry association(s) relevant to local government activities
- a stakeholder partner of the City
- a civic / cultural / community organisation within the City of Nedlands
- educational institutions or
- a not-for profit organisation.

Council Members or the CEO may at their discretion attend an Approved Event on behalf of the City, where the invitation or ticket is provided to the City and no fee is payable for attending.

If a fee is payable for attendance at an Approved Event, the Mayor and CEO will seek expressions of interest from Council Members or the CEO to attend the Approved Event, provided the cost of attendance is within the approved budget.

Attendance at Approved Events are not treated as gifts and do not need to be included on the City's public Register of Gifts, as they are "excluded gifts" in accordance with section 5.62(1B) of the Act.

Attendance at Approved Events does not trigger a conflict of interest if a matter comes before Council or the CEO for consideration.

## **2. Attendance at Non-Approved Events**

Unless otherwise addressed in this Policy, the acceptance and subsequent use of a ticket by a Council Member for an event that is not a pre-approved event must be approved by the CEO (or by the Mayor for the CEO).

In deciding to approve the attendance at an event, the Chief Executive Officer (or the Mayor) is to consider:

- (a) who is providing the ticket to the event (the organiser of the event, or a third party)
- (b) the location of the event in relation to the City's district
- (c) the role of the Council Member when attending the event (i.e., presenter, participant, or observer)
- (d) whether the event is sponsored by the City
- (e) the Council Member's justification of the benefit to the City and the City's community through the attendance at the event
- (f) how many people should be authorised to attend the event
- (g) any costs associated in attending the event
- (h) whether advice following the attendance at the event is required under this Policy.

Council Members who attend paid events may be required to provide advice to the CEO (at the CEO's discretion) on the outcomes of their attendance and the benefits to them and the City in attending the event. The advice may cover the following topics:

- The nature of the event.
- The stated benefits to the City or the Nedlands community in attending the event.
- What the Council Member observed by attending the event.
- Any networking links that were made or stakeholder interactions.
- How attendance benefited the Council Member's role at the City generally

### **3. Free tickets to the City for events**

Where tickets are given to the City as opposed to a Council Member directly, the CEO may allocate the tickets as he / she sees fit if attendance is deemed to satisfy the approval criteria detailed within this policy.

The CEO may allocate a ticket to a Council Member where the purpose of attendance is to enable the Council Member to perform their role as a community representative and to network and liaise with community individuals / groups within the district.

### **4. Complimentary tickets and benefits under sponsorship agreements**

Where the provision of complimentary tickets or a benefit exists under a current sponsorship agreement or arrangement between the City and a third party, the management and allocation of tickets or benefits (unless expressly stated) shall be determined by the CEO and disclosed in accordance with this policy.



A Council Member may be allocated a ticket or benefit by the CEO under this Policy on the basis that attendance would enable the Council Member to perform their role as a community representative and to network and liaise with community individuals / groups within the City's district.

## **5. Costs for tickets**

Where there is ticket cost for the Council Member to attend a pre-approved event or non-approved event, the Council Member will be reimbursed the cost of the ticket.

Where a ticket can be purchased for a non-approved event, and in the opinion of the CEO it is in the interests of the City for one or more Council Members to attend to assess and understand any possible impacts on the Nedlands community or City business, then one or more tickets for that event may be purchased by the City, at full cost, on behalf of the Council Member.

Tickets for accompanying persons (such as spouse, family member or relative) will not be purchased by the City, however the Council Member may purchase a paid ticket at their own expense.

## **6. Travel and accommodation costs**

The City may pay or reimburse reasonable travel and accommodation costs for a Council Member to attend an event.

Accommodation costs may be paid for events outside the Perth metropolitan area, interstate or internationally.

Documentary evidence is required for all expenses or costs claimed by a Council Member and original Tax invoices and receipts are required for audit purposes and to enable G.S.T to be claimed.

## **7. Exemptions**

The requirements of this policy do not apply to any training or conference event attended by a Council Member in accordance with the City's Professional Development for Council Members Policy.

The requirements of this policy do not apply where a Council Member is the City's representative on a board or external organisation where the Council Member is required to attend an event for the purposes of fulfilling their role on the board or external organisation.

## 8. Reporting

The disclosure information for tickets received by Council Members that are deemed a gift, will be listed within the City's Gift Register(s).

In accordance with the s5.62(1B) of the Local Government Act 1995 attendance at an event in accordance with this policy will exclude the Council Member from the requirement to disclose an interest when the donor of the ticket has a matter before Council (or a committee).

## 9. Definitions

**CEO** means the Chief Executive Officer of the City.

**Event** has the meaning given to it under the Local Government Act 1995

Note: s5.90A (1) of the Act states the following:  
event includes the following:

- (a) a concert;
- (b) a conference;
- (c) a function;
- (d) a sporting event;
- (e) an occasion of a kind prescribed for the purposes of this definition.

**Gift** has the meaning given to it under the Local Government Act 1995

**Note:** s5.57 of the Act states the following:

gift means:

- (a) a conferral of a financial benefit (including a disposition of property) made by 1 person in favour of another person unless adequate consideration in money or money's worth passes from the person in whose favour the conferral is made to the person who makes the conferral; or
- (b) a travel contribution.

For the purposes of the above definition:

- travel includes accommodation incidental to a journey;
- travel contribution means a financial or other contribution made by 1 person to travel undertaken by another person.

**Ticket** includes an admission ticket to an event, or an invitation to attend an event, or a complimentary registration to an event, that is offered by a third party

### **Related documentation**

Attendance at Events Policy - Local Government Operational Guidelines (December 2019)

### **Related local law, legislation, and compliance requirements**

LGA s5.62(1B) – defines excluded gifts.

LGA s5.90A(2) – requires local governments to adopt a policy in respect to event attendance by Council Members and the CEO.

LGA s5.90A(5) - The CEO must publish an up-to-date version of the policy on the local government's official website.

### **Related delegation**

Nil.

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### **Review History**

Adopted by Council xxxx

## Council Member Professional Development

<b>Status</b>	Council
<b>Responsible Division</b>	Office of the Chief Executive Officer
<b>Objective</b>	<p>To provide guidance to Council Members with respect to meeting their legislative requirements to undertake compulsory training and the entitlements associated with the attendance of the Mayor and Council Members at ongoing professional development opportunities.</p> <p>This policy also outlines the Chief Executive Officer's requirement to report on the training and development undertaken by each Council Member as required by the Local Government Act 1995</p>

### Context

The Local Government Act 1995 requires that Council Members undertake compulsory training within 12 months of being elected and requires that the City adopt a policy, and report on training and development undertaken by its Council Members each year.

In the interest of ensuring Council Members understand their obligations as Council Members, make well informed decisions and effectively represent their constituents, the City provides support for Council Members to attend compulsory training and conferences, seminars, and other professional development opportunities in order to develop and enhance their knowledge pertaining to their role.

Training and conference attendance are important to Council Members in performing the functions of their roles. This policy sets out Council's express authority and terms of approval for attendance at training and conferences, in addition to mandatory training.

### Statement

#### 1. Training and Professional Development

##### 1.1 Mandatory Training

Commencing October 2019, in accordance with s 5.126 of the Act and Reg 35 of the Local Government (Administration) Regulations 1996, a Council Member is to complete the course titled 'Council Member Essentials' within 12 months from the day on which the Council Member is elected.



The Council Member Essentials Course consists of five core modules:

- Understanding Local Government,
- Serving on Council,
- Meeting Procedures,
- Conflicts of Interests; and
- Understanding financial reports and budgets.

The Council and CEO will determine which of the 3 approved providers will be engaged to deliver the mandatory training to Council Members.

Council's preferred provider of such training is WALGA, but the CEO may make alternative arrangements with the other approved providers, having regard to costs and the City's procurement policy, as well as any other relevant factors.

Costs to undertake mandatory training are determined by the approved Training Providers. The City will meet the costs of all mandatory training courses for Council Members, including reasonable travel and parking expenses (if required), as determined by the Chief Executive Officer (or nominee).

## 1.2 Professional Development

To assist Council Members to perform their duties efficiently and effectively, the following training and development opportunities will be available to Council Members:

- Attendance at the Annual Western Australian Local Government Association conference and/or Annual General Meeting,
- Attendance of the Mayor or Deputy Mayor or delegate at the Annual Local Government Professionals Australia National Congress,
- Attendance of the Mayor or Deputy Mayor or delegate at the Annual Australian Local Government Association Conference,
- Council Member training arranged by the CEO for Council Members to be inducted into the role of Council Member and further training to keep up to date with their obligations and duty of care responsibilities as contained in the Local Government Act 1995 and other relevant legislation and guidelines relevant to their role, including, but not limited to:
  - Professional Speaking
  - Planning Practices – The Essentials
  - Planning Practices – Advanced
  - Integrated Strategic Planning – The Essentials
  - Integrated Strategic Planning – Policy
  - Infrastructure Asset Management
  - Effective Community Leadership
  - CEO Performance Appraisals
  - Better Planning Decisions



- Decision Making at a Governing Board Level
- Dealing with Conflict
- Land Use Planning

The CEO is authorised to approve requests from Council Members for professional development opportunities, and make the associated arrangements (including registration, air fares, accommodation, sustenance, and reimbursement of approved expenses) subject to:

- the total cost of the proposed training being no more than \$1000
- the proposed training NOT requiring interstate or international travel to attend,
- the training, development or conference is organised by an identified, industry recognised training provider,
- the number of Council Members attending a particular conference, seminar or training does not impact the quorum required for Council or Committee meetings; and
- sufficient funds being available in the relevant Budget item.

Where the total cost is between \$1,001 and \$2,000 then the CEO in consultation with the Mayor may approve attendance if there are sufficient unallocated funds within the budget.

Where training or conferences total cost is more than \$2,000, the request must be referred to Council for determination.

A Council Member refused permission by the CEO or Mayor to attend a training course or conference may refer the matter to Council for determination.

When considering any application by a Council Member to attend a training course or conference, the CEO, the Mayor or Council shall consider the training needs of the Council Member and any issues of equity between Council Members regarding access to training.

#### 1.2.1 Accompanying Persons

No allowances or entitlements will be provided by the City in respect of accompanying person costs. Any additional costs resulting from a Council Member being accompanied by their partner, or another person will not be paid by the City.



### 1.2.2 Reports

A written report on the travel and event/s attended shall be made available to Council by the person who travelled no later than the second Council meeting after return from the travel. The Report need not form part of the Council meeting agenda but will be included at the City website regarding Professional Development by Council Members.

A Council Member may request an opportunity to present on the learnings from an event to an appropriate Council forum, or Council may request same.

The CEO will publish a report on the City website, within one month of the end of the financial year, providing the details of the training completed by each Council Member during the financial year.

## **2. International, interstate and intrastate travel**

All proposals for City funded interstate or international travel for Council Members requires the approval of Council, when recommended by the CEO. In the case of CEO interstate or international travel, the proposal shall be presented to Council without recommendation.

Air travel will be arranged by the City (unless otherwise agreed under this Policy) and shall be based on an economy class fare with standard baggage allowance. Wherever possible, these will be booked in advance to take advantage of advance purchase discounts.

Accommodation arrangements shall be based on an appropriate room in an appropriate standard hotel recommended by the conference organisers, or one located within proximity to the conference facility. Any upgrades or extensions shall be at the expense of the Council Member.

All proposals for approval of travel covered by this provision should be in writing and show the reason for the request.

## **3. Reimbursement requests**

Travel, accommodation, and registration arrangements shall be made by the City; however, where a Council Member has approval from the CEO to make their own arrangements in respect to accommodation and travelling, reimbursement will be made in accordance with this policy on presentation of appropriate receipts. Council Members must obtain the necessary approvals required by this policy prior to making any financial or other commitments.

The extent to which a Council Member may be reimbursed for intrastate or interstate travel and accommodation costs incurred in any of the circumstances referred to in regulation 32(1) of the LG Administration Regulations is at the same

rate applicable to the reimbursement of travel and accommodation costs in the same or similar circumstances under the Public Service Award 1992 issued by the Western Australian Industrial Relations Commission as at the date of the e determination current at the time of the event.

Reimbursement requests must be provided to the CEO and are to include all receipts and a completed reimbursement form.

#### 4. **Cancellations**

Where cancellations occur the Council Member, in conjunction with the CEO, should endeavour to find a replacement Council Member. When no replacement is secured the non-refundable portion will accrue to the Council member's or value of conference attendance.

#### 5. **Definitions**

Act - Local Government Act 1995

CEO – the Chief Executive Officer of the City

Council - Council of the City (the elected body)

Council Member - A person elected under the Local Government Act 1995 as a member of the council of the local government

Regulations - Local Government (Administration) Regulations 1996

#### **Related documentation**

Council Member Fees, Expenses Allowances and Other Provisions Policy

#### **Related local law and legislation, compliance requirements.**

Local Government Act 1995, section 5.98(2)(b), 5.126

Local Government (Administration) Regulations 1996, reg.(32)

Under Section 5.127 of the Act, the CEO must publish a report on the local government's website within one (1) month of the end of the financial year detailing the training completed by Council Members.

Under Section 5.128 of the Act, a local government must prepare and adopt a Policy (by Absolute Majority) in relation to the continuing professional development of Council Members.

#### **Related delegation**

Nil





### **Review History**

23 February 2021 (CEO Report 13.1)

20 December 2016 (Report CPS33.16)

**9.2 Use of the Common Seal and Execution of Documents Council Policy**

<b>Committee</b>	14 September 2021
<b>Council</b>	28 September 2021
<b>Applicant</b>	City of Nedlands
<b>Employee Disclosure under section 5.70 Local Government Act 1995</b>	Nil.
<b>Officer</b>	Nicole Ceric, Executive Officer
<b>CEO</b>	Bill Parker, Chief Executive Officer
<b>Attachments</b>	1. Use of the Common Seal and Execution of Documents Council Policy
<b>Confidential Attachments</b>	Nil.

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

Moved – Councillor Tyson  
 Seconded – Councillor Hodsdon

**That the Recommendation to Committee be adopted.**  
 (Printed below for ease of reference)

**CARRIED UNANIMOUSLY 11/-**

**Committee Recommendation / Recommendation to Committee**

**That Council adopt the Use of the City of Nedlands Common Seal and Execution of Documents Council Policy as per attachment 1.**

**Executive Summary**

Local Government Act 1995, section 9.49A – Execution of documents and Part 19 City of Nedlands Standing Orders Local Law 2016 address and envisage a process for authorising the application of the Common Seal of the City of Nedlands, and in relation to the execution of documents, by and on behalf of the City.

A Policy will ensure that separate authority does not need to be sought from Council every time the Seal needs to be applied, or certain documents executed.

The attached Policy seeks to describe the circumstances, and processes in which the Seal of the City of Nedlands is to be applied, and regarding the execution of documents.

## **Discussion/Overview**

### **Background**

The Local Government Act s9.49A requires documents needing to be sealed, to be witnessed by the Mayor and the CEO and the Policy describes a range of documents that are to be sealed accordingly.

Section 9.49A permits the local government to authorise the CEO, or another employee, or an agent, to sign documents, on behalf of the City.

It is proposed that the CEO and Directors be authorised to sign documents but with certain limits attaching to each authority, detailed within the Policy.

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

Part 19 City of Nedlands Standing Orders Local Law 2016 refers to the use of the Common Seal, but only by reference to the Local Government Act.

### **Consultation**

Consideration was given to approaches taken by other local governments.

A workshop was held on the 3 August 2021 with Council Members.

## **Strategic Implications**

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

The introduction of this Policy aligns with the 'Great Governance and Civic Leadership' value as outlined within the Strategic Community Plan.

### **Who benefits?**

The City's customers will benefit from the efficient execution of documentation.

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

Most executed documentation is a result of a Council decision. Therefore, minimal risk is associated with the introduction of this policy.

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

A number of local governments have introduced similar policies. The City has reviewed the incorporated elements from other local governments.

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

N/A.

## **Budget/Financial Implications**

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

## **Conclusion**

Council adopting a Policy on the use of the Common Seal of the City of Nedlands and in relation to the execution of documents, will provide clear guidance about circumstances and conditions which apply and will reduce the number of occasions when formal authority of Council needs to be sought in relation to the execution of documents.

## Use of City of Nedlands Common Seal and Execution of Documents

<b>Status</b>	Council
<b>Responsible Division</b>	Corporate & Strategy
<b>Objective</b>	To establish procedures for: <ul style="list-style-type: none"> <li>a) Affixing the City's common seal; and</li> <li>b) Determining whether a document is executed by way of common seal or signed by an authorised employee.</li> </ul>

### Context

In accordance with s9.49A of the Local Government Act 1995 (WA), a document is duly executed by a local government if the common seal is affixed to it or it is signed by an employee authorised to do so.

The execution requirements, including the making, varying or discharge of documents pursuant to s9.49B of the Local Government Act, shall be as outlined in this Policy.

### Definitions

### Statement

#### Documents Requiring the Common Seal

The Common Seal shall be affixed to certain documents in accordance with s9.49A of the Local Government Act 1995 (WA):

- a) Local Laws adopted by Council,
- b) Notifications in accordance with s70A of the Transfer of Land Act 1893,
- c) Lodgement, modification, and withdrawal of caveats,
- d) Town Planning Scheme (including amendments),
- e) The sale of City owned land for which a Council resolution is required expressly stating that the final document is to be signed and sealed,
- f) Leases (including extensions, renewals, and modifications),
- g) Contracts,
- h) Deeds,
- i) Documents relating to land matters including memorials, transfers, licences, covenants, and easements; and
- j) New funding or contracts of agreement between the City and State or Commonwealth Government agencies, where required by the other party.

### **Procedure for Affixing the Common Seal**

The Mayor and Chief Executive Officer are authorised to affix and sign all documents to be executed under the common seal; however, in the absence of the Mayor and/or the Chief Executive Officer, the Deputy Mayor and/or an employee authorised in accordance with the provisions of the Local Government Act 1995 (WA) may do so.

In the event the Mayor is on a Leave of Absence the Deputy Mayor is authorised to affix the common seal.

### **Procedure for Execution by Authorised Officers**

The CEO and Directors are authorised under s9.49A of the Local Government Act 1995 (WA), and in accordance with this Policy may sign documents.

Directors may only execute documents relevant to matters within the scope of the activity of their Directorate/Branch. Documents relevant to the activities of multiple Directorates may only be executed by the Chief Executive Officer.

### **Limitation on Authorities**

The authorities are limited by the following conditions:

1. Chief Executive Officer
  - a) Unlimited \$500,000; and/or
  - b) Commitment period is specifically resolved by Council or in any other case, no greater than a 5-year period; and/or
  - c) Moderate or lesser financial risk, legal complexity, or political sensitivity, unless specifically resolved by Council.
2. Director
  - a) <\$250,000p/a; and/or
  - b) Commitment is no greater than 3-year period; and/or
  - c) Moderate or lesser level of financial risk, legal complexity, or political sensitivity.

### **Deputising or Signing on Behalf of Another Person**

In accordance with section 9.49A(4) of the Local Government Act 1995 (WA), which requires authority for execution of documents to be resolved by Council, a document may only be executed by a person who holds a position authorised by Council's adoption of this Policy.

In the absence of a person authorised by this policy another person may deputise where they have been appointed in writing to act in the authorised person position.

## Register of documents executed under Common Seal

The Chief Executive Officer shall maintain a register of all documents executed with the Common Seal.

The register is to record each Common Seal transaction and include an identification number, date, the nature of the document and the parties to the document being executed.

The Common Seal identification number is to be recorded on the document being executed as per the examples below.

### Method of Affixing the Common Seal

Below are examples of how documents should be executed under the common seal:

Example A – Where the Common Seal is Affixed by Resolution of Council

DATED: \_\_\_\_\_ 20\_\_

The Common Seal of the City of Nedlands is affixed.

\_\_\_\_\_  
 [INSERT NAME OF MAYOR]  
 MAYOR

\_\_\_\_\_  
 [INSERT NAME OF CEO]  
 CHIEF EXECUTIVE OFFICER



Example B: Other Documents

DATED: \_\_\_\_\_ 20\_\_

The Common Seal of the City of Nedlands was affixed in the presence of:

\_\_\_\_\_  
 [INSERT NAME OF MAYOR]  
 MAYOR

\_\_\_\_\_  
 [INSERT NAME OF CEO]  
 CHIEF EXECUTIVE OFFICER





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**Related documentation**

Nil

**Related Local Law / Legislation**

s9.49A of the Local Government Act 1995 (WA)  
Part 19 City of Nedlands Standing Orders Local Law 2016

**Related delegation**

Nil.

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**Review History**

Adopted by Council xxxx



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

Any urgent business to be considered at this point.

Nil.

**11. Confidential Items**

Any confidential items to be considered at this point.

Nil.

**Declaration of Closure**

There being no further business, the Presiding Member declared the meeting closed at 11.13pm.