**AGENDA**

**Council Meeting Agenda Forum**

**8 November 2022**

**Notice of Meeting**

**To Mayor & Councillors**

A Council Meeting Agenda Forum of the City of Nedlands is to be held on Tuesday 8 November 2022 in the Council chambers at 71 Stirling Highway Nedlands commencing at 6pm.

This meeting will be livestreamed [Livestreaming Council & Committee Meetings » City of Nedlands](https://www.nedlands.wa.gov.au/council/council-meetings/livestreaming-council-committee-meetings.aspx)



Bill Parker

Chief Executive Officer

1 November 2022

**Information**

Council Meeting Agenda Forum are run in accordance with the City of Nedlands Governance Framework Policy. If you have any questions in relation to the agenda, procedural matters, addressing the Council or attending these meetings please contact the Executive Officer on 9273 3500 or [council@nedlands.wa.gov.au](mailto:council@nedlands.wa.gov.au)

**Public Question Time**

Public Questions are dealt with at the Ordinary Council Meeting.

**Deputations**

Members of the public may make presentations or ask questions on items contained within the agenda. Presentations are limited to 5 minutes. Members of the public must complete the online registration form available on the City’s website: [Public Address Registration Form | City of Nedlands](https://www.nedlands.wa.gov.au/public-address-registration-form)

**Disclaimer**

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

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# Declaration of Opening

The Presiding Member will declare the meeting open at 6.00 pm and will draw attention to the disclaimer on page 2.

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

**Leave of Absence** Nil.

**(Previously Approved)**

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

# Public Question Time

Public questions will be dealt with at the Ordinary Council Meeting.

# Deputations

Deputations by members of the public who have completed Public Address Registration Forms.

# Requests for Leave of Absence

Any requests from Council Members for leave of absence will be dealt with at the Ordinary Council Meeting.

# Petitions

Petitions will be dealt with at the Ordinary Council Meeting.

# Disclosures of Financial Interest

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

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

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

# Disclosures of Interests Affecting Impartiality

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

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

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

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

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

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

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

This item will be dealt with at the Ordinary Council Meeting.

# Confirmation of Minutes

This item will be dealt with at the Ordinary Council Meeting.

# Announcements of the Presiding Member without discussion.

This item will be dealt with at the Ordinary Council Meeting.

# Members Announcements without discussion.

This item will be dealt with at the Ordinary Council Meeting.

# Matters for Which the Meeting May Be Closed

For the convenience of the public, the following Confidential items are identified to be discussed behind closed doors, as the last items of business at this meeting.

Nil.

# En Bloc Items

This item will be dealt with at the Ordinary Council Meeting.

# Minutes of Council Committees and Administrative Liaison Working Groups

# Minutes of the following Committee Meetings (in date order) are to be received:

This is an information item only to receive the minutes of the various meetings held by the Council appointed Committees (N.B. This should not be confused with Council resolving to accept the recommendations of a particular Committee. Committee recommendations that require Council’s approval should be presented to Council for resolution via the relevant departmental reports).

This item will be dealt with at the Ordinary Council Meeting.

# Divisional Reports - Planning & Development Report No’s PD73.11.22 to PD76.11.22

# PD73.11.22 Consideration of Development Application – 5 Grouped Dwellings at 16 Tyrell Street, Nedlands

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting – 22 November 2022 |
| **Applicant** | Pinnacle Planning |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | The author, reviewers and authoriser of this report declare they have no financial or impartiality interest with this matter.  There is no financial or personal relationship between City staff involved in the preparation of this report and the proponents or their consultants. |
| **Report Author** | Roy Winslow – Manager Urban Planning |
| **Director** | Tony Free – Director Planning and Development |
| **Attachments** | 1. Aerial Image and Zoning Map 2. Development Plans 3. Landscaping Plan 4. Architectural Perspectives 5. Summary of Submissions 6. CONFIDENTIAL ATTACHMENT - Submissions |

**Purpose**

The purpose of this report is for Council to consider a development application for five, two storey grouped dwellings at 16 Tyrell Street, Nedlands. This proposal is being presented to Council for consideration due to the number of dwellings exceeding four and the proposal receiving objections within the consultation period.

**Recommendation**

**That Council, in accordance with Clause 68(2)(b) of the Deemed Provisions of the Planning and Development (Local Planning Schemes) Regulations 2015, approves the development application in accordance with the plans date stamped 6 October 2022 for five grouped dwellings at 16 Tyrell Street, Nedlands, subject to the following conditions:**

1. **This approval relates only to the development as indicated on the approved plans dated 5 October 2022. It does not relate to any other development on this lot and must substantially commence within 2 years from the date of the decision letter.**
2. **All works indicated on the approved plans shall be wholly located within the lot boundaries of the subject site.**
3. **Prior to the issue of a demolition permit and a building permit, a Demolition and Construction Management Plan (as appropriate) shall be submitted and approved to the satisfaction of the City. The approved Demolition and Construction Management Plans shall be observed at all times throughout the construction and demolition processes to the satisfaction of the City.**
4. **Prior to occupation, walls on or adjacent to lot boundaries are to be finished externally to the same standard as the rest of the development in:**
   1. **Face brick;**
   2. **Painted render;**
   3. **Painted brickwork; or**
   4. **Other clean finish as specified on the approved plans**

**And are to be thereafter maintained to the satisfaction of the City of Nedlands**

1. **Prior to occupation, all air-conditioning plant, satellite dishes, antennae and any other plant and equipment on the roof of the building shall be located or screened to the satisfaction of the City of Nedlands.**
2. **Prior to occupation of the development the visitor parking bay must be clearly marked or signage provided, and maintained thereafter by the landowner to the satisfaction of the City of Nedlands.**
3. **Prior to occupation, landscaping shall be completed in accordance with the approved plans dated 6 October 2022 or any approved modifications to the satisfaction of the City of Nedlands. All landscaped areas are to be maintained on an ongoing basis for the life of the development on the site to the satisfaction of the City of Nedlands.**
4. **The street tree(s) within the verge in front of the lot are to be protected and maintained through the duration of the demolition and construction processes to the satisfaction of the City of Nedlands. Should the tree(s) die or be damaged, they are to be replaced with a specified species at the owner’s expense and to the satisfaction of the City of Nedlands.**
5. **One (1) additional street tree shall be planted prior to occupation in the verge area to the specification and satisfaction of the City of Nedlands.**
6. **All stormwater discharge from the development shall be contained and disposed of on-site unless otherwise approved by the City of Nedlands.**

**Voting Requirement**

Simple Majority.

This report is of a quasi-judicial nature as it is a matter that directly affects a person’s rights 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.

The decision must be made in a manner that is impartial, free from bias, and in accordance with the principles of natural justice. The decision must be made in having regard to the facts of the matter under consideration, and in accordance with the relevant laws and policies as they apply to that matter.

Discretionary considerations and judgments in the decision must be confined to those permitted to be considered under the laws and polices applicable to the matter and given such weight in making the decision as the relevant laws and polices permit them to be given.

**Background**

**Land Details**

|  |  |
| --- | --- |
| **Metropolitan Region Scheme Zone** | Urban |
| **Local Planning Scheme Zone** | Residential |
| **R-Code** | R60 |
| **Land area** | 809m2 |
| **Land Use** | Residential Grouped Dwellings |
| **Use Class** | ‘P’ – Permitted Use |

The subject lot is located at 16 Tyrell Street, Nedlands and is 200m south of Stirling Highway. The site is located on the east side of Tyrell Street, north of Edward Street.

The site has a lot area of 809m2 and has an existing single house which is to be demolished. The site is relatively flat with a slight crossfall of around 0.7m from southwest (front) to northeast (rear). The lot is regular in shape, with a 20m frontage.

The area is surrounded by existing single residential houses that are predominantly one storey. The properties in this area are coded R60 (Attachment 1).

A grouped dwelling development has been approved at the site immediately to the south of the subject site, at 18 Tyrell Street, Nedlands. The development has received approval from the State Administrative Tribunal for five grouped dwellings (a combination of both two and three-storeys).

**Application Details**

The proposed five grouped dwellings are two-storeys in height and contain three bedrooms and two bathrooms each.

Unit 1 is proposed to have independent pedestrian and vehicle access directly from Tyrell Street, with the remaining four units obtaining access through a common property driveway. The total width of driveways at the street boundary is 6.0m.

The development includes a single visitor parking bay located towards the centre of the development, behind Unit 2. This has been located to reduce the visual impact of parking on the streetscape.

Amended plans were received on 6 October 2022 (Attachment 2) including the following changes to the original advertised plans:

* Increase to landscaping within the development, with an emphasis on the front setback area;
* Removal of the visitor parking bay from the front setback area and relocation to the rear (east) of Unit 2;
* Reductions to the primary street setback; and
* Removal of the existing hardstand from the verge.

**Discussion**

**Assessment of Statutory Provisions**

If a proposal does not satisfy the deemed to-comply provisions of the State Planning Policy 7.3: Residential Design Codes (R-Codes), Council is required to exercise a judgement of merit to determine the proposal against the design principles of the R-Codes. The R-Codes require the assessment to consider the relevant design principle only and to not apply the corresponding deemed-to-comply provisions. It is recommended that the application be approved by Council as it is considered to satisfy the design principles of the R-Codes. Further, it is considered unlikely that the development will have a significant adverse impact on the local amenity and character of the locality.

**Local Planning Scheme No. 3**

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

**Sustainability**

The development proposes multiple sustainability initiatives including:

* rainwater tanks to each unit;
* minimised western and eastern glazing; and
* waterwise plants are proposed to be planted throughout the development, including the use of Australian native tree and plant species.

It is important to note that the above exceed the planning framework for the R-Codes Volume 1 and cannot be ‘required’ but are encouraged.

**Landscaping**

The landscaping requirements for grouped housing have been exceeded throughout the development. The Residential Design Codes require the designation of a single tree planting zone for each residential lot, which would result in a minimum of 5 trees being planted across the development. The development proposes a landscaping outcome which includes the following:

* 7 small trees planted across the subject lots;
* 4 medium trees planted along the northern lot boundary;
* Shrubs and smaller plants installed throughout the development site;
* Shrubs installed within the verge to the west of the subject site; and
* Removal of hardstand within the verge and reinstatement of the verge with turf.

The existing verge tree is to be retained (refer to recommended Condition 8).

**Design Review Panel**

The application has not been presented to the Design Review Panel (DRP) for consideration as there was no trigger for a mandatory referral through to the DRP at the time of lodgement. The trigger for applications containing 4 or more grouped dwellings to be presented to the DRP was introduced after the application’s formal lodgement with the City.

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

The R-Codes apply to all single and grouped dwelling developments. An approval under the R-Codes can be obtained in one of two ways. This is by either meeting the deemed-to-comply provisions or via a design principle assessment pathway.

The proposed development is seeking a design principle assessment pathway for parts of this proposal relating to lot boundary setbacks and vehicle access. As required by the R-Codes, Council, in assessing the proposal against the design principles, should not apply the corresponding deemed-to-comply provisions.

**Clause 5.1.2 – Street Setback**

Units 3 and 4 propose a 0.5m – 2.1m setback to the common property. The design principles for communal street setbacks consider the streetscape, privacy site planning requirements, and building mass. The development meets the design principles as:

* No visual privacy impacts are created by the proposed setback reduction.
* Open space achieves the ‘deemed-to-comply’ development provisions of the R-Codes.
* The proposed design responds to site planning requirements including vehicle access, parking, landscaping, and utility services. These site planning requirements are appropriately screened from the street interface where possible.
* The development provides a functional 4.5m setback to the northern neighbouring lot.
* The variation is internal to the development and does not have an adverse impact on any external lots or the streetscape.
* Articulation of built form has been utilised to reduce the perceived impact of building bulk presented to adjoining lots.

**Clause 5.3.5 – Vehicle Access**

The development proposes independent vehicle access for Unit 1, in addition to a common property driveway located to the north of the development.

The design principles for vehicle access consider vehicle safety, the impact of the access points on the streetscape, legible access, and landscape features. The proposed vehicle access arrangements meet the design principles for the following reasons:

* The development has kept driveways and crossovers to a functional minimum width of 3.0m each. The combined access width is 6.0m fronting to Tyrell Street, across a 20m frontage.
* The development proposes the inclusion of landscaping within the front setback area of the front units and common property. Eleven new trees are proposed to be planted within the development, with 2 trees being planted within the front setback area. The inclusion of high quality landscaping at the front of the development and additional landscaping on the verge assists in minimising the impacts of additional vehicle access points from the development and softens the development’s interface to the street.

**State Planning Policy 5.4 – Road and Rail Noise**

As the site is located within 200m of Stirling Highway an assessment is required against this Policy. This is to identify if additional noise mitigation measures and/or management may be required as part of the development. Based on Table 2, no additional measures are needed as the proposal meets the acceptable noise levels.

**Consultation**

The application is seeking assessment under the design principles of the R-Codes for vehicle access.

The development application was advertised in accordance with the City’s Local Planning Policy - Consultation of Planning Proposals to 17 adjoining properties. The application was advertised for a period of 14 days from 19 August 2022 to 2 September 2022. At the close of the advertising period, 11 objections were received. 1 submission of support was received for the development proposal.

Submissions raised concerns in relation to setbacks, vehicle access, parking, traffic, building bulk and landscaping. Please see Attachment 6 for a summary of submissions and Administration’s response to the concerns raised.

**Strategic Implications**

This item relates to the following elements from the City’s Strategic Community Plan.

**Vision** Our city will be an environmentally-sensitive, beautiful and inclusive place.

**Values** **Great Natural and Built Environment**

We protect our enhanced, engaging community spaces, heritage, the natural environment and our biodiversity through well-planned and managed development.

**Priority Area** Urban form - protecting our quality living environment

**Budget/Financial Implications**

Nil.

**Legislative and Policy Implications**

Council is requested to make a decision in accordance with clause 68(2) of the [Deemed Provisions](https://www.dplh.wa.gov.au/getmedia/6e4785e3-d40f-45cd-95e8-85d3115ee32e/PD_LPS_Deemed_Provisions). Council may determine to approve the development without conditions (cl.68(2)(a)), approve with development with conditions (cl.68(2)(b)), or refuse the development (cl.68(2)(c)).

**Decision Implications**

If Council resolves to approve the proposal, development can proceed after receiving a Building Permit and necessary clearances.

In the event of a refusal, the applicant will have a right of review to the State Administrative Tribunal. The Tribunal will have regard to the R-Codes as a State Planning Policy. Similarly, should an applicant be aggrieved by one or more conditions of approval, this can be reviewed by the Tribunal.

**Conclusion**

The application for five grouped dwellings has been presented for Council consideration due to the number of dwellings exceeding four and the application receiving objections during the consultation period. The proposal is considered to meet the key amenity related elements of R-Codes Volume 1 and, as such, is unlikely to have a significant adverse impact on the local amenity of the area. The proposal appropriately interfaces with two other development sites to the south. The proposal has been assessed and satisfies the design principles of the R-Codes in relation to being consistent with the immediate locality, and future streetscape character.

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

**Further Information**

Nil.

# PD74.11.22 Consideration of Development Application – Four Multiple Dwellings at 5A & 5B Alexander Road, Dalkeith

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting – 22 November 2022 |
| **Applicant** | B Brackenridge |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | The author, reviewers and authoriser of this report declare they have no financial or impartiality interest with this matter.  There is no financial or personal relationship between City staff involved in the preparation of this report and the proponents or their consultants. |
| **Report Author** | Roy Winslow – Manager Urban Planning |
| **Director** | Tony Free – Director Planning and Development |
| **Attachments** | 1. Aerial Image and Zoning Map 2. Development Plans 3. R-Codes Volume 2 Assessment 4. CONFIDENTIAL ATTACHMENT - Submissions |

**Purpose**

The purpose of this report is for Council to consider a development application for four multiple dwellings at 5A and 5B Alexander Road, Dalkeith.

**Recommendation**

**That Council, in accordance with Clause 68(2)(b) of the Deemed Provisions of the Planning and Development (Local Planning Schemes) Regulations 2015, approves the development application in accordance with the plans date stamped 13 September 2022 for four multiple dwellings at 5A and 5B Alexander Road, Dalkeith, subject to the following conditions:**

1. **This approval relates only to the development as indicated on the approved plans dated 13 September 2022. It does not relate to any other development on this lot and must substantially commence within 2 years from the date of the decision letter.**
2. **All works indicated on the approved plans shall be wholly located within the lot boundaries of the subject site.**
3. **All stormwater discharge from the development shall be contained and disposed of on-site unless otherwise approved by the City of Nedlands.**

**Engineering and Design**

1. **Prior to the issue of a 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 and demolition processes to the satisfaction of the City.**
2. **Prior to the issue of a building permit, a minimum of 20% of units (1 unit) are to be designed at building permit stage to the Silver Level requirements as defined in the Liveable Housing Design Guidelines (Liveable Housing Australia) and implemented prior to occupation to the satisfaction of the City of Nedlands.**
3. **Prior to the issue of a building permit and the commencement of excavation works, a Dilapidation Report shall be submitted to the City of Nedlands 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 101 (No. 7A) Alexander Road, Dalkeith**

**b. Lot 1 (No. 3A) Alexander Road, Dalkeith**

**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.**

1. **Prior to occupation, walls on or adjacent to lot boundaries are 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 finish as specified on the approved plans**

**And are to be thereafter maintained to the satisfaction of the City of Nedlands**

**Landscaping**

1. **Prior to occupation, landscaping shall be completed in accordance with the plans dated 13 September 2022 to the satisfaction of the City of Nedlands. All landscaped areas are to be maintained on an ongoing basis for the life of the development on the site to the satisfaction of the City of Nedlands.**
2. **The street tree(s) within the verge in front of the lot are to be protected and maintained through the duration of the demolition and construction processes to the satisfaction of the City of Nedlands. Should the tree(s) die or be damaged, they are to be replaced with a specified species at the owner’s expense and to the satisfaction of the City of Nedlands.**
3. **Prior to occupation, all communal and private open space areas with landscaping shall include a tap connected to an adequate water supply for the purpose of irrigation.**
4. **One (1) street tree shall be planted prior to occupation in the Alexander Road verge area to the specification and satisfaction of the City of Nedlands.**

**Acoustics and Sustainability**

1. **Prior to the issue of a Building Permit the applicant is to lodge with the City of Nedlands an acoustic report prepared by a suitably qualified and licensed acoustic consultant demonstrating compliance of mechanical plants with the requirements of the Environmental Protection (Noise) Regulations 1997 to the satisfaction of the City of Nedlands.**
2. **Prior to occupation, the recommendations contained within the Kellett Design Group Energy Assessment Report dated 9 July 2021, or any approved modifications, are to be carried out and maintained for the lifetime of the development to the satisfaction of the City of Nedlands.**

**Waste**

1. **The development shall comply with the approved Waste Management Plan prepared by Instant Waste Management date stamped 21 April 2022 to the satisfaction of the City of Nedlands. Any modification to the approved Waste Management Plan will require further approval by the City.**
2. **Prior to occupation of the development, all car parking bays and visitor bicycle bays are to be clearly line marked, drained and with visitor car parking clearly marked or signage provided, and maintained thereafter by the landowner to the satisfaction of the City of Nedlands.**
3. **All car parking dimensions (including associated wheel stops and headroom clearance), manoeuvring areas, ramps, crossovers and driveways shall comply with Australian Standard 2890.1-2004 - Off-street car parking and Australian Standard 2890.6:2009 - Off-street parking for people with disabilities (where applicable) to the satisfaction of the City of Nedlands.**
4. **Prior to occupation, all bicycle racks shall be provided and installed to the satisfaction of the City of Nedlands and maintained for the lifetime of the development.**

**Screening and Lighting**

1. **Prior to occupation, all air-conditioning plant, satellite dishes, antennae and any other plant and equipment on the roof of the building shall be located or screened to the satisfaction of the City of Nedlands.**

**Voting Requirement**

Simple Majority.

This report is of a quasi-judicial nature as it is a matter that directly affects a person’s rights 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.

The decision must be made in a manner that is impartial, free from bias, and in accordance with the principles of natural justice. The decision must be made in having regard to the facts of the matter under consideration, and in accordance with the relevant laws and policies as they apply to that matter.

Discretionary considerations and judgments in the decision must be confined to those permitted to be considered under the laws and polices applicable to the matter and given such weight in making the decision as the relevant laws and polices permit them to be given.

**Background**

**Land Details**

|  |  |
| --- | --- |
| Metropolitan Region Scheme Zone | Urban |
| Local Planning Scheme Zone | Residential |
| R-Code | R40 |
| Land area | 948m2 (combined) |
| Land Use | Residential – Multiple Dwellings |
| Use Class | ‘P’ – Permitted Use |

The site is comprised of two lots, 5A and 5B Alexander Road, Dalkeith, 130m west of the Dalkeith Village Shopping Centre. The site is rectangular, has a 20m frontage and a total area of 948m2. The site has dual street access from Alexander Road to the east and Shrike Lane to the west. The site has an approximate fall of 0.5m from north to south. The site is currently vacant.

**Background**

Local Planning Scheme No. 3 (LPS3) was gazetted on 16 April 2019. From this time, a residential density coding of R60 was applicable to the western side of Alexander Road, including the subject site. On 4 February 2022, LPS3 was amended (Amendment No. 8) to reduce the density coding of the western side of Alexander Road, including the subject site, from R60 to R40.

The development application was lodged on 30 October 2020, when the density coding was R60. The proposal is now subject to the current applicable density coding of R40.

**Application Details**

The application seeks development approval for the construction of a two storey building consisting of four multiple dwellings with basement car parking. Vehicle access will be obtained from a ramped driveway off Shrike Lane. All resident parking, visitor parking and resident stores are located within the basement.

**Discussion**

**Assessment of Statutory Provisions**

The proposal has been assessed against all relevant legislative requirements including Local Planning Scheme No.3 (LPS3), Residential Design Codes Volume 2 – Apartments (R-Codes) and Local Planning Policies. The matters below have been identified as key considerations for the determination of this application:

* Street Setbacks
* Side & Rear Setbacks
* Plot Ratio
* Orientation

The development meets the Element Objectives for the above matters subject to conditions of approval and is supported. Please refer to the assessment provided below and as attached at Attachment 3.

**Local Planning Scheme No. 3**

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

**State Planning Policy 7.3 - Residential Design Codes – Volume 2 –** **Apartments**

The proposal has been assessed against all relevant design elements of the Residential Design Codes Volume 2 – Apartments (R-Codes) which provides a comprehensive basis for the control of residential development. Those elements which require key consideration are detailed below.

**Element 2.3 – Street setbacks**

The proposal meets the Acceptable Outcome for primary street setback on the ground floor. The primary street setback on the upper floor contributes to the existing streetscape and complements the proposed character of the street as:

* The upper floor setback is comparable to the setback of a single house in the R40 code. For R40 areas, the R-Codes Volume 1 establishes a deemed-to-comply primary street setback of 4m for single houses, with balconies able to be setback 2m as a deemed-to-comply outcome. The proposed building achieves these setbacks and would qualify as deemed-to-comply if it were a single house.
* The balcony projecting forward of the main building line achieves a desirable balance between privacy and street surveillance as the internal living spaces are setback sufficiently and partially screened while the balcony provides an uninterrupted visual outlook to the street.

**Element 2.4 – Side and rear setbacks**

The side setbacks to the north and south provide adequate separation to the neighbouring properties as:

* The setbacks proposed do not result in adverse building bulk as the development is not excessive in height. The setbacks are appropriate for a two storey design with a 7.0m maximum wall height.
* The building is well articulated to ensure that the separation between the development and adjoining houses is consistent with the expected built form of the R40 code. The development includes side setbacks that achieve or exceed the deemed-to-comply setbacks that would apply to a single house.
* The proposed boundary wall is a single storey in height. The majority of the boundary wall is built up to existing boundary walls on the adjoining northern lot.
* The setbacks from side boundaries enable the provision of deep soil zones, particularly in the northern half of the site.
* Due to the two storey height, future solar collectors on the neighbouring southern lot will not be affected by shadow cast from the development.

**Element 2.5 – Plot ratio**

The overall bulk and scale of the development is appropriate for the existing and future character of the area as:

* The proposed building footprint results in 19% of the site being deep soil area, which exceeds the Acceptable Outcome of 10%. This allows for extensive and attractive landscaped spaces, particularly towards the front of the site within view from the street.
* The plot ratio does not detrimentally impact other adjoining properties in terms of overshadowing, visual privacy or building bulk due to the building’s two storey height, articulated wall lengths and typical side boundary setbacks.
* The existing character of the western side of Alexander Road is typified by one and two storey single houses with varying architectural styles. The overall proposed scale and built form of the development results in a sympathetic design that presents as a two storey single house. The materiality and detail of the design appropriately reflects the existing context of low intensity residential development.

**Element 3.2 – Orientation**

The building design optimises solar access for the dwellings within the development and reasonably minimises overshadowing of neighbouring properties as:

* The built form design maximises the ability for light to penetrate habitable rooms through significant articulation of the northern wall and windows to the majority of rooms which permit northern light.
* Overshadowing to the alfresco area and family room of the adjoining house at 7A Alexander Road is minimal and for the majority of the year these rooms will be almost completely unaffected by overshadowing.
* Overshadowing of the dining room has been reasonably minimised as it would be impractical to design a development that completely avoids overshadowing of any adjoining major openings while still providing a functional, legible lift and services core as well as an adequate outdoor living space or internal living area for the upper floor units.

**Sustainability**

The following sustainability initiatives are incorporated in the development:

* Solar panels
* A minimum NatHERS rating of 5.9 stars and an overall average NatHERS rating of 6.1 stars.
* R4.0 insulation to external ceilings
* Waterwise, native plants
* Natural cross-ventilation
* Water efficient plumbing fixtures and fittings
* Electric vehicle charging stations

**Design Review Panel**

The application was reviewed by the City’s Design Review Panel (DRP) on 13 June 2022. A summary of the DRP advice is provided in the table following.

|  |  |
| --- | --- |
| **DRP Design Quality Evaluation** | |
|  | Supported |
|  | Further Information Required |
|  | Not supported |
| SPP 7.0 Principles | 13 June 2022 |
| 1. Context and Character |  |
| 1. Landscape Quality |  |
| 1. Built Form and Scale |  |
| 1. Functionality and Built Quality |  |
| 1. Sustainability |  |
| 1. Amenity |  |
| 1. Legibility |  |
| 1. Safety |  |
| 1. Community |  |
| 1. Aesthetics |  |

Amended plans were subsequently submitted in response to the specific recommendations by DRP. The proposal is considered to satisfy the SPP 7.0 design principles for the reasons below:

Context and Character

The amended design is considered to appropriately respond to the characteristics of the local area as the setback from the primary street has increased. The height and setback of the development in relation to the street is equivalent to that of a single house.

Landscape Quality

The proposal demonstrates an appropriate balance of hard features and soft landscaping which provides good external amenity as:

* The paved entry path is defined by a landscaping strip along the southern boundary.
* Landscaped areas incorporate native plants and provide a lawn for outdoor area use.

Built Form and Scale

The massing and height of the development complements the existing built form and does not adversely impact adjoining neighbours as:

* Overshadowing over the adjoining southern lot is reasonably minimised and equivalent to that of a single house.
* The southern wall is articulated to break up the bulk of the wall length.

Amenity

External and internal amenity is optimised for the occupants while reducing the impact on adjoining neighbours and the street as:

* Overlooking of outdoor living areas on the ground floor is minimised by horizontal privacy screens.
* Visitor parking is located in the basement. An additional parking bay at ground level would result in an unnecessary increase in paved surface and reduce the amount of landscaping on site.

Legibility

The design is intuitive and easy to navigate as:

* Front fencing provides a clear distinction between the public and private realm.
* The break in the front fencing and landscape strip along the southern boundary help delineate the entrance to the development.

Safety

The amened design ensures security as an intercom system has been added to the entrance of the basement carpark at the top of the vehicle entrance ramp.

Aesthetics

In the context of the locality, the design is coherent and integrated as the area is characterised by varied architectural styles. The proposal is a contemporary design lacking intricate detailing and finished in a smooth render. The façade also features a flat and skillion roof. The design largely complements the local area as it reflects other contemporary facades in close proximity – 4B Alexander Road, 7B Alexander Road and 8A Alexander Road directly across the street.

**Consultation**

The application was advertised for 28 days from 13 May 2022 to 10 June 2022 by the following:

* Letters posted to all landowners and occupiers within a 200m radius of the site;
* A sign on site was installed at the site’s street frontage for the duration of the advertising period;
* An advertisement was published on the City’s website with all documents relevant to the application made available for viewing during the advertising period;
* An advertisement was placed in *The Post* newspaper;
* Notice was given on the City’s social media platforms; and
* Community information session held on 1 June 2022.

Upon conclusion of advertising, a total of 17 responses were received. 14 submissions objected to at least one aspect of the development. 3 submissions stated support for the proposal. The key concerns raised by the objections related to:

* Traffic and parking
* Street setback
* Overshadowing
* Plot ratio

|  |  |
| --- | --- |
| **Issue Raised** | **Officer Comments** |
| **Traffic**  Increased traffic congestion | The Traffic Impact Statement accompanying the proposal states that the development will generate 3.2 vehicle trips during peak times. This is an amount of traffic that is consistent with and expected for the scale of the development and the site’s density coding. |
| **Parking**  Visitor parking is inadequate and should be directly accessible from the primary street | The development meets the Acceptable Outcomes in relation to parking by providing two bays for every unit and one visitor bay. An additional parking bay at ground level would result in an unnecessary increase in paved surface and reduce the amount of landscaping on site. |
| **Overshadowing**  The development will overshadow neighbouring properties. | The bulk, scale and height of the development is appropriate as it results in overshadowing that is commensurate with that of a two storey single house. |
| **Plot ratio**  Plot ratio should comply | The plot ratio achieves the Element Objective as the development is not considered to detrimentally impact other adjoining properties in terms of overshadowing, visual privacy or building bulk due to the building’s two storey height, articulated wall lengths and typical side boundary setbacks. |

**Strategic Implications**

This item relates to the following elements from the City’s Strategic Community Plan.

**Vision** Our city will be an environmentally-sensitive, beautiful and inclusive place.

**Values** **Great Natural and Built Environment**

We protect our enhanced, engaging community spaces, heritage, the natural environment and our biodiversity through well-planned and managed development.

**Priority Area** Urban form - protecting our quality living environment

**Budget/Financial Implications**

Nil.

**Legislative and Policy Implications**

Council is requested to make a decision in accordance with clause 68(2) of the [Deemed Provisions](https://www.dplh.wa.gov.au/getmedia/6e4785e3-d40f-45cd-95e8-85d3115ee32e/PD_LPS_Deemed_Provisions). Council may determine to approve the development without conditions (cl.68(2)(a)), approve with development with conditions (cl.68(2)(b)), or refuse the development (cl.68(2)(c)).

The City’s Primary Controls for Apartment Developments Local Planning Policy has not been used to assess this development application, due to the following reasons. The Policy attempts to fetter the exercise of discretion in a manner contrary to the R-Codes and the broader discretion available in clause 67(2) of the Deemed Provisions. A policy instrument that seeks to fetter the exercise of discretion as provided by the Deemed Provisions and R-Codes could not be considered to be based upon sound town planning principles. Clause 3(3) of the Deemed Provisions requires a local planning policy to be based on sound town planning principles.

**Decision Implications**

If Council resolves to approve the proposal, development can proceed after receiving a Building Permit and necessary clearances.

In the event of a refusal, the applicant will have a right of review to the State Administrative Tribunal. The Tribunal will have regard to the R-Codes as a State Planning Policy. Similarly, should an applicant be aggrieved by one or more conditions of approval, this can be reviewed by the Tribunal.

**Conclusion**

The application for four multiple dwellings has been presented to Council for consideration due to objections being received. The objections received relate to street setback, traffic and parking, plot ratio and overshadowing. An assessment against the relevant Element Objectives has identified that the proposal can be supported

The siting, mass, and scale of the development are sympathetic to the streetscape. The proposal presents with a similar bulk, scale and height to a two-storey single house as viewed from the street and adjoining lots. Accordingly, it is recommended that the application be approved by Council, subject to conditions of Administration’s recommendation.

**Further Information**

Nil.

# PD75.11.22 Consideration of Development Application – Single House at 5 Hobbs Avenue, Dalkeith

|  |  |
| --- | --- |
| **Meeting & Date** | 22 November 2022 |
| **Applicant** | Planning Solutions |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | The author, reviewers and authoriser of this report declare they have no financial or impartiality interest with this matter.  There is no financial or personal relationship between City staff involved in the preparation of this report and the proponents or their consultants. |
| **Report Author** | Roy Winslow – Manager Urban Planning |
| **Director** | Tony Free – Director Planning and Development |
| **Attachments** | 1. Aerial Image and Zoning Map 2. Development Plans and Perspectives 3. CONFIDENTIAL ATTACHMENT - Submissions |

**Purpose**

The purpose of this report is for Council to consider a development application for a two-storey single house at 5 Hobbs Avenue, Dalkeith.

**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 in accordance with the plans date stamped 13 October 2022 for a single house at 5 Hobbs Avenue, Dalkeith, subject to the following conditions:**

1. **This approval relates only to the development as indicated on the approved plans dated 13 October 2022. It does not relate to any other development on this lot and must substantially commence within 2 years from the date of the decision letter.**
2. **All works indicated on the approved plans shall be wholly located within the lot boundaries of the subject site.**
3. **All car parking dimensions (including associated wheel stops and headroom clearance), manoeuvring areas, ramps, crossovers and driveways shall comply with Australian Standard 2890.1-2004 - Off-street car parking to the satisfaction of the City of Nedlands.**
4. **Prior to occupation, new or modified vehicle crossovers shall be constructed to the City’s specification and thereafter maintained to the satisfaction of the City of Nedlands.**
5. **Prior to the issue of a demolition permit and a building permit, a Demolition or Construction Management Plan (as appropriate) shall be submitted and approved to the satisfaction of the City. The approved Demolition and Construction Management Plans shall be observed at all times throughout the construction and demolition processes to the satisfaction of the City.**
6. **All stormwater discharge from the development shall be contained and disposed of on-site unless otherwise approved by the City of Nedlands.**
7. **Tree protection measures to the satisfaction of the City of Nedlands are to be utilised during demolition and construction, including the engagement of a qualified arborist to monitor the health of the tree and to provide direction on any necessary measures to protect the tree during and after construction.**

**Voting Requirement**

Simple Majority.

This report is of a quasi-judicial nature as it is a matter that directly affects a person’s rights 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.

The decision must be made in a manner that is impartial, free from bias, and in accordance with the principles of natural justice. The decision must be made in having regard to the facts of the matter under consideration, and in accordance with the relevant laws and policies as they apply to that matter.

Discretionary considerations and judgments in the decision must be confined to those permitted to be considered under the laws and polices applicable to the matter and given such weight in making the decision as the relevant laws and polices permit them to be given.

**Background**

**Land Details**

|  |  |
| --- | --- |
| **Metropolitan Region Scheme Zone** | Urban |
| **Local Planning Scheme Zone** | Residential |
| **R-Code** | R10 |
| **Land area** | 1012m2 |
| **Land Use** | Residential (Single House) |
| **Use Class** | ‘P’ – Permitted Use |

The site is located at 5 Hobbs Avenue, Dalkeith, 70m south of Melvista Golf Course and tennis courts. The site is located on the western side of Hobbs Avenue and has an existing single storey house on the lot, which is to be demolished. The lot is regular in shape with a 20m frontage. The property has frontage to Hobbs Avenue to the east and Tern Lane to the west.

Hobbs Avenue is characterised by both single and two storey single houses along its length, with landscaped verges and gardens.

It is proposed to construct a new two-storey dwelling at the property.

**Discussion**

**Assessment of Statutory Provisions**

If a proposal does not satisfy the deemed to-comply provisions of the State Planning Policy 7.3: Residential Design Codes (R-Codes), Council is required to exercise a judgement of merit to determine the proposal against the design principles of the R-Codes. The R-Codes require the assessment to consider the relevant design principle only and to not apply the corresponding deemed-to-comply provisions.

**Local Planning Scheme No. 3**

Schedule 2, Clause 67(2) (Consideration of application by Local Government) – identifies those matters that are required to be given due regard to the extent relevant to the application. Where relevant, these matters are discussed in the following sections. Overall, the development fails to meet these objectives, particularly in regard to scale, bulk and appearance. The development is likely to have an adverse impact on neighboring lots and the locality.

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

The R-Codes apply to all single and grouped dwelling developments. An approval under the R-Codes can be obtained in one of two ways. This is by either meeting the deemed-to-comply provisions or via a design principle assessment pathway.

The proposed development is seeking a design principle assessment pathway for parts of this proposal relating to street setbacks and open space. As required by the R-Codes, Council, in assessing the proposal against the design principles, should not apply the corresponding deemed-to-comply provisions.

**Clause 5.1.2 Street Setbacks**

The application is seeking a design principles assessment of the street setbacks for the dwelling. A minimum street setback from Hobbs Avenue of 8.5m to the front wall and 7.8m to the eaves projection is proposed. Tern Lane acts as a secondary street to the development. A minimum setback of 2m to Tern Lane is proposed.

The design principles for street setback require setbacks that contribute to and are consistent with an established streetscape; provide adequate privacy and open space for dwellings; and accommodate parking, landscaping and utilities. The design principles also require the mass and form of buildings that use design features that affect the size and scale of buildings; use appropriate minor projections that do not detract from the streetscape character; and positively contribute to the prevailing or future development context and streetscape.

In relation to street setbacks, the street block along Hobbs Avenue is characterised by dwellings that are setback at least 9m. However, there are a number of properties where carports are located closer to the road. The proposed dwelling will have a main wall at 9m setback, with a 2.5m portion of wall at 8.5m setback. In addition to the wall, a ‘façade element’ will project 1.2m into the setback area by a maximum of 1.2m to provide an ‘effective setback of 7.8m.

The proposed building setback to Hobbs Avenue is assessed as consistent with the design principles in the following manner:

* The established streetscape provides for relatively large, landscaped front yards where vehicle parking is not dominant. The proposed dwelling will include landscaping with a number of trees. The proposed garage will be lower than road level, thereby reducing the dominance of the garage on the streetscape. The driveway and crossover has been designed to be the minimum width that is practical.
* The front yard provides for approximately 170m² of open space, which is the equivalent of approximately 15% of the total site area. The setback provides for the visual privacy of neighbouring properties given that the building line is slightly in front of the adjoining dwellings, with resultant views from front windows out onto the street and across the front yards of the neighbouring lots.
* Adequate provision is made for parking, landscaping and utilities within the front setback and on the façade of the dwelling.
* The dwelling is located away from any service corridors, including power, water and sewer.
* The front façade incorporates a range of design elements to break up the bulk of the building. These include horizontal and vertical projections as shown on the attached plans and perspectives.
* The basement garage allows for the proportion of the ground level utilised for parking and utilities to be reduced when viewed from the street. The dominant elements of the front yard will be the dwelling and the landscaping rather than the parking arrangements or services to the site.

On balance, the proposed setback to Hobbs Avenue is supportable. The architectural style and overall bulk and scale of the dwelling will introduce a new form to the local streetscape. However, the locality in which the site is situated is subject to change with examples of modern, large dwellings with similar proportions to that proposed.

The setback to the secondary street (Tern Lane) is proposed at 2m for the rear garage. This has been assessed appropriate as it is consistent with the prevailing streetscape of Tern Lane. There are currently five properties with garages setback approximately 1m-2.5m to the Tern Lane boundary. The laneway presents as a service road to the rear of properties rather than as a conventional street. Permitting the garage setback as proposed will be consistent with the dwelling immediately to the south. The garage has been located to allow for the retaining of the large tree in the north-western corner of the site close to Tern Lane.

**Clause 5.1.4 Open Space**

This application is seeking a design principles assessment for open space. The design principles require development to incorporate suitable open space for its context to reflect the streetscape character; provide natural sunlight access; reduce building bulk; provide an attractive setting; allow for outdoor pursuits and access within and around the site; and provide space for external fixtures and essential facilities.

City officers have calculated open space at 51% of the total site area. The proposed open space provision for the development is considered to meet the design principles in the following manner:

* The large, landscaped primary street setback is provided that reflects the prevailing streetscape character of Hobbs Avenue (see above).
* Appropriate setbacks are provided that allow natural sunlight into the dwelling. It is further noted that the overshadowing of the property to the south meets the deemed-to-comply provisions of the R-Codes.
* Building bulk has been reduced by adoption of a predominantly single-storey design with the upper floor limited to the front third of the dwelling. This reduces the overall bulk of the dwelling when viewed from neighbouring properties. The general layout of the dwelling is similar to that employed for the property to the south, with a two-storey element on the front half of the lot and a long single storey element at the rear.
* The dwelling will be located in an attractive setting. Landscaping of the site is integrated into the architectural design with the location of trees identified. The large Liquidambar tree in the north-western corner of the site is to be retained. This tree has a significant canopy diameter that is intended to overhang the single-storey rear portion of the dwelling. An arborist report has been provided for the tree that provides advice on how to protect this tree during and after construction. Critically, the finished levels of the development have been determined in order to protect the tree roots (i.e. the finished level of the dwelling will be similar to that of the base of the tree, which is currently higher than the existing floor level of the house).
* The development provides adequate opportunity for the residents to enjoy outdoor pursuits. The dwelling is designed around a central courtyard that provides an outdoor entertainment / alfresco area and swimming pool and spa. This area is directly connected to the dwelling’s internal living areas and is approximately 150m² in area, inclusive of roofed and unroofed portions. An additional unroofed rear garden area is located in the north-western portion of the property and incorporates the large Liquidambar tree.

The retaining of the Liquidambar tree in the rear of the property is a significant addition to the open space and landscaping outcome for the dwelling. In addition to contributing to the locality’s tree canopy coverage, the size and scale of the tree will reduce the bulk of the dwelling. An arborist report has been provided that identifies that the tree is in good health and approximately 50-60 years old. The useful life expectancy of the tree is 50 to 100+ years. The report recommends that the tree is monitored during construction and during excavation in particular. The proposed development will reduce the amount of excavation around the tree and in the structural root zone as the finished level of the dwelling will be higher than that for the existing house. The base of the tree is currently raised higher than the finished floor level of the existing house. The new finished level will be consistent with the level at the base of the tree. In the event that approval for the dwelling is granted, a condition is recommended that requires tree protection measures to be utilised during construction, including the engagement of a qualified arborist to monitor the health of the tree and to provide direction on mitigation measures.

**Consultation**

The application is seeking assessment under the design principles of the R-Codes for street setbacks, lot boundary setbacks and open space.

The development application was advertised in accordance with the City’s Local Planning Policy - Consultation of Planning Proposals to 17 adjoining properties. The application was advertised for a period of 14 days from 29 June to 13 July 2022. At the close of the advertising period, two objections were received.

The following is a summary of the concerns raised and the Administration’s response and action taken in relation to each issue:

1. Lack of Open Space and Large Building Envelope

The proposed open space or building envelope are not supported. The site coverage and lack of open space is likely to have a negative impact on the immediate neighboring properties and the streetscape.

**Officer Response:**

Open space has been assessed against the design principles, as outlined above.

1. Reduction to Street Setbacks

The proposed street setbacks to the east or west of the subject site are not supported. Seeking discretion for both primary and secondary street setbacks, combined with open space is characteristic of an overdevelopment of a lot. The reduction to street setbacks and open space is likely to have a negative impact on the immediate neighboring properties and the streetscape, resulting in a negative presentation of building bulk.

**Officer response:**

The primary street setback to Hobbs Avenue has since been increased as a result of the submissions received. A design principles assessment of the revised street setback is outlined above.

The garage setback to Tern Lane is similar to that employed on other properties in Tern Lane, as discussed above. The Tern Lane setback area will include the retention of the large Liquidambar tree, which will provide an overhanging canopy for the laneway.

1. Reduction to Lot Boundary Setbacks

The development is seeking discretion for lot boundary setbacks affecting the northern lot boundary. The presence of lot boundary setbacks, street setbacks and a reduction to open space is representative of overdevelopment of the lot for its R10 density coding. The development presents adverse building bulk to adjoining lots and the streetscape.

**Officer response:**

The side lot boundary setbacks have been modified to meet deemed-to-comply provisions.

**Strategic Implications**

This item relates to the following elements from the City’s Strategic Community Plan.

**Vision** Our city will be an environmentally-sensitive, beautiful and inclusive place.

**Values** **Great Natural and Built Environment**

We protect our enhanced, engaging community spaces, heritage, the natural environment and our biodiversity through well-planned and managed development.

**Priority Area** Urban form - protecting our quality living environment

**Legislative and Policy Implications**

Council is requested to make a decision in accordance with clause 68(2) of the [Deemed Provisions](https://www.dplh.wa.gov.au/getmedia/6e4785e3-d40f-45cd-95e8-85d3115ee32e/PD_LPS_Deemed_Provisions). Council may determine to approve the development without conditions (cl.68(2)(a)), approve with development with conditions (cl.68(2)(b)), or refuse the development (cl.68(2)(c)).

**Decision Implications**

Should Council resolve to approve the proposal as recommended, development can proceed after receiving a building permit and necessary clearances.

If Council resolves to refuse the application, the applicant will have a right of review to the State Administrative Tribunal. The Tribunal will have regard to the R-Codes as a State Planning Policy. Similarly, should an applicant be aggrieved by one or more conditions of approval, this can be reviewed by the Tribunal.

**Conclusion**

The proposal for a single house at 5 Hobbs Avenue, Dalkeith requires design principle assessment for primary and secondary street setbacks and open space. All other matters meet the relevant deemed-to-comply provisions of the Residential Design Codes Volume 1.

A notable factor for this development is the retention of the Liquidambar tree in the north-western corner of the property. This tree will provide a large overhanging canopy to the dwelling and the adjacent laneway. This will work with the landscaping of the property to ensure the new dwelling is consistent with the prevailing character of the locality.

Conditional approval of the development is recommended.

**Further Information**

Nil.

# PD76.11.22 Consideration of Local Development Plan for Hollywood Hospital at 101 Monash Avenue, Nedlands

|  |  |
| --- | --- |
| **Meeting & Date** | Council - 22 November 2022 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | The author, reviewers and authoriser of this report declare they have no financial or impartiality interest with this matter. |
| **Report Author** | Roy Winslow, Manager Urban Planning |
| **Director** | Tony Free, Director Planning and Development |
| **Attachments** | 1. Proposed Local Development Plan 2. Summary of submissions |

**Purpose**

The purpose of this report is for Council to receive the results of consultation and to consider the proposed Hollywood Hospital Local Development Plan (LDP).

**Recommendation**

**That Council, pursuant to Clause 52 (1)(a) of the Deemed Provisions of the *Planning and Development (Local Planning Regulations),* approves the Local Development Plan dated 10 August 2022 for Lot 565 (No.101) Monash Avenue, Nedlands (Attachment 1).**

**Voting Requirement**

Simple Majority.

This report is of a quasi-judicial nature as it is a matter that directly affects a person’s rights 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.

The decision must be made in a manner that is impartial, free from bias, and in accordance with the principles of natural justice. The decision must be made in having regard to the facts of the matter under consideration, and in accordance with the relevant laws and policies as they apply to that matter.

Discretionary considerations and judgments in the decision must be confined to those permitted to be considered under the laws and polices applicable to the matter and given such weight in making the decision as the relevant laws and polices permit them to be given.

**Background**

A LDP is a mechanism used to achieve a desired built form outcome by supplementing the development standards of the local planning framework. The *Planning and Development (Local Planning Schemes) Regulations 2015* provide for the legislative context for how an LDP is applied for, advertised and approved by a local government.

**Existing site context**

The site is bound to the east by the larger QEII hospital complex, west by the Hollywood Bowling Club and Hollywood Primary School, south by mixed use and high density residential and to the north by low density residential.

The dwellings to the north of the site are a mix of single and two storey original and contemporary dwellings. Most buildings opposite the site do not have a primary frontage to Verdun Street. However, most have some visual interaction from windows facing onto the site. Most properties which share a boundary to Verdun Street have solid boundary fencing for the entirety of the boundary facing the hospital site, with two properties having part solid fencing approximately 1.8m high and part solid low fencing allowing views out of their property.

The subject site and the properties to the north are separated by a 20m wide road reserve (Verdun Street). The northern part of the site is predominately used for parking, administration, and training for staff, with the southern portion of the site primarily used for patient care and direct medical operations.

The changes proposed by the LDP only affect the northern portion of the site, adjacent to Verdun Street.

**Existing framework versus proposed**

The Hollywood Hospital site is zoned ‘Special Use’ by the City’s Local Planning Scheme No.3 and has specific development requirements within clause 21, Table 5 of the Scheme. These provisions are:

1. All development and uses are to be consistent and not detrimental to the primary function of the area being medical and hospital related.
2. Where there is no approved structure plan, local development plan and/or activity centre plan, development shall comply with the following provisions:
   1. Setbacks
      1. Monash Avenue: 10m
      2. Verdun Street: 10m
      3. Western boundary: 10m
      4. Eastern boundary: Nil.
   2. Wall height:
      1. Maximum of 26.7m except in the following instances:

* No more than 10m where development is located less than 80m from Verdun Street; and
* No more than 18.3m where the development is located less 60m from Monash Avenue.

Clause 21(2) provides default height settings in the absence of a LDP, or similar mechanism. These settings can be modified by preparation of a LDP, which is the subject of this report.

A LDP is a mechanism used to achieve a desired built form outcome by supplementing the development standards of the local planning framework. The *Planning and Development (Local Planning Schemes) Regulations 2015* provide the legislative context for how an LDP is applied for, advertised and approved by a local government.

Under the proposed LDP, all building height and setback provisions are consistent between the LDP and the Scheme, except for building height within 80m of Verdun Street (Area 1, refer plan at Attachment 1). While the existing development criteria permits a 10m wall height maximum, the LDP is proposing to increase this to 13m in height.

There are no other changes to the Scheme provisions that are proposed under this LDP.

**Discussion**

**Justification for height increase**

The applicant gives several reasons why the increase in height is required, including:

* The topography of the site would result in a split-level design should a 10m maximum wall height be proposed. Due to the accessibility requirements of a hospital, this is not possible;
* Current height limitations reflect a three-storey maximum commercial building height. However, medical buildings require increased floor to ceiling heights of 4.2m to accommodate infrastructure and services; and
* The site is burdened with an existing easement across the site which complicates redevelopment.

**Impact of proposed change**

As the scope of the change to the site is limited to an increase in height of 3m for a portion of the site, it is valid to consider the amenity impacts on the residential area to the north of the hospital site.

The site has been in operation as a hospital for over 70 years. Ongoing growth and development of the hospital to meet the community’s needs is recognised.

The height increase is largely to accommodate infrastructure specifically required for hospital grade buildings such as large air-conditioning units, ventilation and other services, and higher floor to ceiling heights. This additional height is a necessary requirement in order to be able to develop hospital-grade buildings that are fit for purpose.

In terms of the amenity of the locality to the north, there is a 20-metre wide road reservation, existing vegetation on site and within the verge, and an additional on-site 10m setback to Verdun Street. The nearest properties will be no closer than 30 metres from any new development under the existing provisions in the Scheme. The proposed additional 3 metre increase in height will be largely unnoticeable and will be mitigated through a combination of existing setbacks and vegetation on site.

**Consultation**

The LDP was advertised from 1 September to 15 September 2022 (14 days) and included the following advertising methods, consistent with the City’s Consultation of Planning Proposals policy:

* Letters to the surrounding landowners (90 in total); and
* YourVoice Nedlands page which included all advertising material.

Four submissions were received, objecting to the proposed LDP. A summary of these submissions and the applicant’s response is included in **Attachment 2**. A summary of concerns raised is provided below followed by City Officer comments:

* The unacceptable direct and indirect disruption to amenity that an increase in building height will bring to this area including visual amenity loss and increased traffic movement.

As discussed earlier in this report, owing to the approximate 30 metre distance between private lot boundaries to the north and existing vegetation, the increase in height will be largely unnoticeable over this space. Vehicle movement and traffic management will be limited to existing access points off Verdun Street and are not likely to detrimentally impact adjacent landowners.

* The total of ‘area 1’ being included for increased height is significant and varied in terms of topography. An increase in wall height will have different impacts across the total area.

While the site has a slight slope across the area, the distance from adjoining properties and existing vegetation will result in minimal amenity impacts.

* The increase in height will have a significant negative impact on landscaping, which is important to the sensitive land uses to the north of the site.

The application does not involve the removal of any existing vegetation. Provision of additional vegetation may be addressed in a future development application.

* There are other areas across the site and in the greater QEII complex that should be able to accommodate increased development that would have no impact on the surrounding area.

The QEII hospital site to the east is a state government asset and is separate to the owners of the subject site. The site has consistently operated as a health care facility for over 70 years. It is not likely that the proposed building height change will have a negative impact on the surrounding area.

* Noise, traffic, rubbish and light spill will continue to have an impact on surrounding landowners.

An increase in height of 3 metres is unlikely to have an impact on these issues. The submission notes that when raised with the operators of the hospital, these issues are generally resolved. Additionally, any future development application will be subject to consideration of all impacts notwithstanding the LDP being adopted or not.

**Strategic Implications**

This item relates to the following elements from the City’s Strategic Community Plan.

**Vision** Our city will be an environmentally-sensitive, beautiful and inclusive place.

**Values** **Great Natural and Built Environment**

We protect our enhanced, engaging community spaces, heritage, the natural environment and our biodiversity through well-planned and managed development.

**Priority Area** Urban form - protecting our quality living environment

**Budget/Financial Implications**

Nil.

**Legislative and Policy Implications**

Schedule 2, Part 6, Clause 46 of the [*Planning and Development (Local Planning Schemes) Regulations 2015*](https://www.legislation.wa.gov.au/legislation/prod/filestore.nsf/FileURL/mrdoc_44080.pdf/$FILE/Planning%20and%20Development%20(Local%20Planning%20Schemes)%20Regulations%202015%20-%20%5B00-l0-00%5D.pdf?OpenElement)*,* outlines the steps relating the assessment, advertising and consideration of Local Development Plans.

**Decision Implications**

Should Council approve the LDP, the height provisions will replace those currently within Table 5 clause 21 of the Scheme for the site.

Should Council refuse the LDP or make modifications that are not acceptable to the applicant, the applicant may seek review by the State Administrative Tribunal.

**Conclusion**

The proposed Local Development Plan for 101 Monash Avenue, Nedlands seeks to vary the maximum wall height for the northern portion of the lot. It is acknowledged that, contextually, the affected area of the site is adjacent to low density residential properties.

However, owing to the continued operation of the site as an approved hospital complex, the existing on-site and verge vegetation, significant setback from sensitive land uses to the north, as well as a comparatively minimal increase in wall height overall, the LDP is recommended for approval.

**Further Information**

Nil.

# Divisional Reports - Technical Services Report No’s TS23.11.22

# TS23.11.22 RFT 2022-23.05 – Provision of Traffic Management Services

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting – 22 November 2022 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil. |
| **Report Author** | Jason Spyker – Coordinator Civil Maintenance |
| **Director** | Daniel Kennedy-Stiff – Acting Director Technical Services |
| **Attachments** | 1. CONFIDENTIAL Evaluation and Recommendation Report – Tender Award RFT 2022-23.05 Provision of Traffic Management Services |

**Purpose**

The purpose of the report is for Council to accept the evaluation and recommendation for the award of RFT 2022-23.05 Provision of Traffic Management Services to Vigilant Traffic Management Group Pty. Ltd.

**Recommendation**

**That Council:**

1. **approves the award of the contract for Provision of Traffic Management Services in accordance with the City’s Request for Tender number RFT 2022-23.05 and comprising of that request, the City’s Conditions of Contract and the Vigilant Traffic Management Group Pty Ltd tender submission;**
2. **instructs the CEO to arrange for a Letter of Acceptance and a Contract document be sent to Vigilant Traffic Management Group Pty Ltd for execution; and**
3. **instructs the CEO to arrange for all other tender respondents to be advised of the tender outcome.**

**Voting Requirement**

Simple Majority.

**Background**

The City has a requirement to maintain and upgrade the civil infrastructure within the public realm and road reserves. Typical works include:

* Maintenance of drainage infrastructure including pit lids and frames;
* Maintenance of footpath infrastructure;
* Maintenance of road infrastructure including road surface and kerbs,
* Maintenance of irrigation infrastructure;
* Maintenance of median island vegetation and street trees.

Under Section 297(1) of the Road Traffic Code 2000 (RTC2000) the Commissioner of Main Roads (CMR) is listed as the only person with authority to erect, establish, or display, alter or take down any road sign or traffic signal on the State's road network.

Under Section 297(2) of the RTC2000 the CMR can delegate this authority to 'Authorised Bodies' such as Local Government, utility service providers and Main Roads' Integrated Services Providers, subject to the terms and conditions set out in an Instrument of Authorisation.

**Work Health and Safety**

Under Section 19 of the Work Health and Safety Act (2020), the CMR as a person conducting a business or undertaking (PCBU) must ensure, so far as reasonably practicable, the health and safety of workers, as well as other persons that may be put at risk from the work being carried out (road users).

The above legislation places considerable responsibility on the CMR to ensure that traffic management is conducted in a safe manner for road workers and road users, including those managing and participation in events on roads.

To encourage uniform, safe and appropriate traffic management, the CMR requires all traffic management (whether carried out by Main Roads or others) to be carried out in accordance with the requirements of the Traffic Management for Works on Roads and/or the Traffic Management for Events on Roads Code of Practice, as applicable.

Due to the specialised skill set and equipment requirements for the provision of Traffic Management the City is required to engage the services of an experienced contractor to undertake such works.

The City does not have the internal resources or expertise to undertake these types of works.

To ensure that the City can continue to undertake these vital works, a Request for Tender was publicly advertised on Tenderlink during the period 27 October 2022 – 12 September 2022. The City received a total of four submissions.

**Discussion**

After the closure of the tender period, the evaluation panel completed the analysis and evaluation of the four submissions.  At the conclusion of the process Vigilant Traffic Management Group Pty Ltd was nominated as the preferred supplier for this package of works. The submissions were rated against the following criteria:

* Organisational capabilities (50%), and
* Demonstrated Understanding (50%).

Organisational capabilities were detailed and provided good information on how the services would be provided. They currently deliver similar services for other local authorities in the Perth Metropolitan region and can guarantee availability within acceptable timeframes.

The Respondent provided details of their internal processes and methodology, including details of personnel that will be used throughout the process. They have demonstrated a good understanding of roles and responsibilities, including management of emergency responses if required.

Following the due diligence processes that the City has undertaken, the City is confident that Vigilant Traffic Management Group Pty Ltd can complete the scope of work to the required standards, and that their offer represents good value for money to the City within the market.

**Consultation**

Not Required.

**Strategic Implications**

This item relates to the following elements from the City’s Strategic Community Plan.

**Values** **Healthy and Safe**

Our City has clean, safe neighbourhoods where public health is protected and promoted.

**High Standard of Service**

We have local services delivered to a high standard that take the needs of our diverse community into account.

**Priority area**

* Renewal of community infrastructure such as roads, footpaths, community and sports facilities.

**Budget/Financial Implications**

Council provides funding for the operation and maintenance of the transport, drainage networks and street trees within the City’s annual operational budget. Currently, the annual operational budget provides for inspections, minor improvements, operating the existing transport and drainage networks, and funding for maintenance of the City’s existing transport, drainage networks and street trees. The works covered by this tender will be undertaken within the annual operational budget allocation for Road, Footpath, Drainage and Street Tree Maintenance.

The forecast annual expenditure under this contract is $100,000.

**Legislative and Policy Implications**

Works under this contract will be governed by the following City of Nedlands Policy’s:

* [Procurement of Goods and Services Policy](https://www.nedlands.wa.gov.au/documents/608/procurement-of-good-and-services-council-policy)
* [Asset Management Council Policy](https://www.nedlands.wa.gov.au/documents/251/asset-management-council-policy)
* [Stormwater Council Policy](https://www.nedlands.wa.gov.au/documents/237/stormwater-council-policy)
* [Footpath Council Policy](https://www.nedlands.wa.gov.au/documents/276/footpaths-construction-and-maintenance)
* [Street Tree Council Policy](https://www.nedlands.wa.gov.au/documents/238/street-trees-policy-and-approved-street-tree-species)

**Decision Implications**

By endorsing the officer recommendation, a contractor will be appointed to provide the required services to enable the City to support delivery of the continuous improvements, along with the operational and maintenance activities required to ensure that the transport and drainage networks operates at maximum efficiency.

By not endorsing the recommendation, ongoing transport and drainage networks will be unable to be upgraded or maintained, and these networks will remain at a substandard level, negatively impacting private property and business owners.

**Conclusion**

Vigilant Traffic Management Group Pty Ltd have delivered traffic management services for other metropolitan local governments, have the required skills and experience necessary to complete the works, and are therefore the recommended tenderer for this contract of works.

Vigilant Traffic Management Group Pty Ltd scored highly in a number of areas. The price schedule provided by Vigilant Traffic Management Group Pty Ltd was the lowest of the assessed submissions. Their submission demonstrated excellent organisational capabilities, high quality outcomes from similar work backed up by references and an excellent understanding of the requirements of the contract. Assessment officers were in agreement that Vigilant Traffic Management Group Pty Ltd offered the best overall value for money.

**Further Information**

Nil.

# Divisional Reports - Corporate & Strategy Report No’s CPS50.11.22 to CPS56.22.11

# CPS50.11.22 Lease to Leo Heaney Pty Ltd – Portion of Reserve 45054 John XXIII Depot in Mt Claremont

|  |  |
| --- | --- |
| **Meeting & Date** | Council – 2 November 2022 |
| **Applicant** | Leo Heaney Pty Ltd |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil. |
| **Report Author** | Peter Scasserra – Coordinator Land and Property |
| **Director** | Michael Cole – Director Corporate Services |
| **Attachments** | 1. Safety Inspection – City of Nedlands John XXIII Depot Access Road, Mt Claremont |

**Purpose**

At its meeting of 26 April 2022, Council approved Key Terms for a lease to Leo Heaney Pty Ltd for portion of the currently vacant area within the City’s John XXIII Depot in Mount Claremont and requested the CEO to commence public advertising of the proposed new lease.

This report is presented to allow Council to consider submissions received during the advertising period.

This report was considered at the 23 August Council meeting and an alternative motion to refuse the lease was lost. As a foreshadowing of the officer’s recommendation was not made, the report lapsed. The matter is now referred to Council for consideration of the officer recommendation.

At the 27 September Council meeting, Council deferred this item until Council is provided with an adequate risk assessment of this service road usage. The risk assessment is now attached and addressed in Further Information at the end of this report.

**Recommendation**

**That Council:**

1. **notes the risk assessment for the service road**
2. **in accordance with section 3.58 of the *Local Government Act 1995*, notes that each of the public submissions received during the statutory advertising period has been considered;**
3. **requests the Chief Executive Officer proceed with the proposed new lease for Leo Heaney Pty Ltd for portion of the currently vacant area within Reserve 45054 at the City’s John XXIII Depot in Mount Claremont; and**
4. **authorises the Chief Executive Officer and Mayor to execute the agreements and apply the City’s Common Seal.**

**Voting Requirement**

Simple Majority.

**Background**

On 17 February 2022 the City was contacted by Leo Heaney Pty Ltd (‘Applicant’) about potentially leasing the vacant portion of the City’s Mount Claremont Depot (‘Site’).

Reserve 45054 is vested to the City for care, control and management for the purposes of ‘Depot Site’.

The portion of the Site that the Applicant seeks to lease was formally leased by the Town of Claremont until the arrangement was terminated in 2020. The Site has been vacant and unused since.

The Applicants are a street tree watering, planting and water cartage company who currently hold contracts with the City of Vincent and Town of Cambridge. The Applicant seeks a short- term lease on portion the Site for the purposes of storing the company vehicles and uses ancillary thereto.

At its meeting of 26 April 2022, Council approved key terms for a lease to Leo Heaney Pty Ltd for portion of the currently vacant area within the City’s John XXIII Depot in Mount Claremont and requested the CEO to commence public advertising of the proposed new lease.

This report was presented to the 23 August 2022 Council meeting and an alternative motion to refuse the lease was lost. As a foreshadowing of the officer’s recommendation was not made, the report lapsed. The matter is now referred to Council for consideration of the officer’s recommendation.

**Discussion**

Following Council’s resolution of 26 April 2022 (Item 17.1), the CEO commenced the statutory advertising of the disposition by negotiation in accordance with section 3.58(3) of the *Local Government Act 1995.*

During the public advertising period, the City received a total of 3 submissions from the public. These submissions have been provided to Elected members in full in the confidential attachment.

The table following shows a breakdown of the types of comments received within each of the submissions.

|  |  |
| --- | --- |
| **Submission** | **Officer Comments** |
| Concerns raised about the traversing of heavy vehicles along the current non- gazetted road from the Depot to John XXIII Avenue.  Safety concerns for students who enter via the same road.  Measures have been put in place to ease concerns and the use of heavy vehicles would seem counterproductive | The submission is noted and was raised when Council considered this in April 2022 when considering key terms of the proposed lease.  Leo Heaney Pty Ltd have advised the Site will be used primarily to store the trucks that are used the least amount (estimated at this time to be 3 or 4 water trucks). However, in the event these trucks need to be utilised, they are generally operated before school hours and would likely be back at the Site prior to school finishing for the day.  Leo Heaney Pty Ltd advised they currently hold contracts with other Local Government entities. As such, they are generally required to undertake works early in the morning and have those works completed by early afternoon before school finishes and community sporting activities take place. |
| Concerns about daily traffic issues with students arriving between 6.45am and 6pm depending on pre and post school commitments.  Comment that Council should provide better paths interconnecting McGillivray and the hockey stadium to allow students to cycle safely there.  The trucks will be using same entry road as new student car park. | The submission is also noted and was raised when Council considered this in April 2022 when considering key terms of the proposed lease.  Leo Heaney Pty Ltd have advised the Site will be used primarily to store the trucks that are used the least amount (estimated at this time to be 3 or 4 water trucks). However, in the event these trucks need to be utilised, they are generally operated before school hours and would likely be back at the Site prior to school finishing for the day.  Leo Heaney Pty Ltd advised they currently hold contracts with other Local Government entities. As such, they are generally required to undertake works early in the morning and have those works completed by early afternoon before school finishes and community sporting activities take place.  Council has been considering connective paths in the location as part of the Schools Sport Circuit concept. |

**Consultation**

The proposed lease was advertised in the local Post Newspaper on 11 June and was readvertised again on 25 June 2022 due to an administrative error with the first advertisement. Submissions closed on 11 July 2022. The notice was also available on the City’s website during this period.

**Strategic Implications**

This item relates to the following elements from the City’s Strategic Community Plan.

**Vision** Our city will be an environmentally-sensitive, beautiful and inclusive place.

**Values Great Governance and Civic Leadership**

We value our Council’s quality decision-making, effective and innovative leadership, transparency, accountability, equity, integrity and wise stewardship of the community’s assets and resources. We have an involved community and collaborate with others, valuing respectful debate and deliberation.

**Budget/Financial Implications**

The lease as proposed would be at no cost to Council.

Should elected members agree to the recommendation as proposed and the lease runs for the full 23-months, the City will receive revenue of $28,750 plus outgoings.

**Legislative and Policy Implications**

Section 3.58 of the Local Government Act 1995 (‘Act’) governs how Local Governments can dispose of property, in this case by way of lease.

Given the Reserve is under the City’s care and control, consistent with s3.58 of the Act, an agreement of tenure is required to formalise the lease of the land.

**Decision Implications**

Should elected members choose to endorse the recommendation as contained within this report, the Applicant would lease the Site in accordance with the Key Terms as noted above. Should the arrangement run for the full 23-months, following a market valuation the City would realise revenue of $28,750 plus outgoings plus GST.

Should elected members choose not to endorse the recommendation as contained within this report, the Site would remain vacant and/or available for the City’s depot activities.

**Conclusion**

The Applicant is proposing to lease a part of the Site which is currently vacant and unused.

The City has negotiated clauses to ensure it is not locked into the arrangement for any more than 6-months at a time. This allows it to remain flexible for future decision making.

The lease as proposed would be at no cost to Council and if endorsed, and runs for the full 23-months, would realise estimated revenue of between $23,000 and $29,000.

Concerns about truck movements and safety of students using the same access have been raised during the public submission period. Similar concerns were considered by Council at its meeting in April 2022.

**Further Information**

At the September meeting, Council deferred this item until Council is provided with an adequate risk assessment of this service road usage.

The attached Safety Inspection report has been completed by the City’s Transport and Development team following a site inspection on 29 September 2022. The inspection noted the six risks and provided recommendations to address each plus some further minor items to consider.

In summary there was 1 high priority, 1 low to medium priority and 4 low priorities. The first 2 matters should be addressed by the City regardless of the consideration of the WMRC lease proposal.

The City will prepare cost estimates for these recommendations for inclusion in the Mid-Year Budget review.

# CPS51.11.22 Lease to WMRC – City of Nedlands John XXIII Depot in Mount Claremont, Portion of Reserve 45054, Lot 502 on Deposited Plan 73830, Mount Claremont

|  |  |
| --- | --- |
| **Meeting & Date** | Council – 22 November 2022 |
| **Applicant** | WMRC (Western Metropolitan Regional Council) |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil. |
| **Report Author** | Peter Scasserra - Coordinator Land and Property |
| **Director** | Michael Cole - Director Corporate Services |
| **Attachments** | 1. Safety Inspection – City of Nedlands John XXIII Depot Access Road, Mt Claremont |

**Purpose**

The purpose of this report is for Council to consider approving a proposal from the Western Metropolitan Regional Council (WMRC) for a Green Waste Facility at the City of Nedlands Mount Claremont Depot site, through a lease disposal of a 1105m² (approx.) portion of Reserve 45054, subject to the Council reviewing and approving the key terms of the lease following negotiations.

At the September OCM, Council deferred this item until Council is provided with an adequate risk assessment of this service road usage. The risk assessment is now attached and addressed in Further Information at the end of this report.

**Recommendation**

**That Council:**

1. **notes the risk assessment of the service road**
2. **approve in-principle the proposal to lease a 1105m² (approx.) portion of Reserve 45054, Lot 502 on Deposited Plan 73830, Mount Claremont to WMRC for a Green Waste Facility**
3. **delegates to the Chief Executive Officer the authority to negotiate the key terms of a lease with WMRC and refer the key terms back to Council for consideration.**
4. **notes that the approval in-principle of the proposal does not create an agreement to lease or fetter the City’s discretion in the exercise of its statutory functions.**

**Voting Requirement**

Simple Majority.

**Background**

Reserve 45054 comprises Lot 502 on Deposited Plan 73830 and is land owned by the State of Western Australia that has been vested to the City of Nedlands (City) by way of a Management Order.

The Management Order for Reserve 45054 provides the City with a statutory right to manage and control the Crown land for the purpose of a Depot Site with power to lease for any term not exceeding 21 years, subject to consent of the Minister for Lands.

Reserve 45054 currently consists of land used as the City of Nedlands Mount Claremont Depot, a vacant holding yard and a Depot Storage Facility. The Depot Storage Facility is subject to a lease with the City of Subiaco. This lease commenced on 1 September 2019 and provides rental revenue for the City.

The proposal seeks approval from the City to utilise a 1105m² (approx.) portion of Reserve 45054 to accommodate a Green Waste Facility utilised by WMRC. The proposed area required by WMRC will be within the existing City of Nedlands Mount Claremont Depot site and will be accessed through the existing entry gate from a driveway connecting onto John XXIII Avenue.

Reserve 45054 is land classified within the Metropolitan Region Scheme (MRS) area for public purposes. A use that is within the definition of “public purpose” can therefore be considered.

WMRC operates a Department of Water and Environmental Regulation (DWER) licenced Green Waste Facility for the storage and loading of Green Waste on land adjacent to the City’s Mount Claremont Depot site pursuant to a lease.

Historically, the Parties to the lease were WMRC and the Department of Local Government, Sport and Cultural Industries, however on the 3rd May 2022 the State of Western Australia transferred the land to Christ Church Grammar School (CCGS) who subsequently became the Assignee to the lease. This lease will end on 31 December 2022 with no option for a further term or an opportunity for renewal.

In order to allow current operation to continue in the precinct, WMRC is seeking to secure tenure for an alternative site to facilitate Green Waste storage for its member councils, other metropolitan councils, commercial operators, and residents from the western metropolitan area. Investigations by WMRC have identified a section of the City’s Mount Claremont Depot site as suitable.

**Discussion**

Reserve 45054 is located within the locality of Mount Claremont and is situated approximately 300m from John XXIII Avenue being the major thoroughfare connecting Mooro Drive to Brockway Road. Development surrounding Reserve 45054 comprises Graylands Hospital, John XXIII College and UWA Sports Park.

Reserve 45054 is an MRS Reserve classified for public purposes. Noting the current use of part of the site by the City of Nedlands and City of Subiaco, it is considered that a use that is within the definition of “public purpose” can continue to operate on the site. The MRS defines “public purpose” as “Land for public facilities such as hospitals, high schools, universities, car parks, and prisons, utilities for electricity and water, commonwealth government and other special uses”.

Reserve 45054 is also Crown land vested to the City by way of a Management Order. A Management Order provides a nominated management body with a statutory right to care, control and manage Crown land in accordance with any conditions on the use and development of the reserve and may grant the management body certain powers to deal with the land, such as the power to lease.

The Management Order for Reserve 45054 permits the land to be used for the purpose of a ‘Depot Site’ and requires the City to seek the consent of the Minister for Lands prior to formalising any agreement for lease over the Reserve.

WMRC’s proposal will enable the current Green Waste Facility operations to continue in the precinct. These operations facilitate productive environmental use of land for storage, transfer and decontamination of green waste.

In recent years WMRC have not undertaken any mulching or grinding on their existing site and have advised within their proposal that they are not planning to do this in future. This will help to limit the amount of dust produced as part of WMRC’s operations however further refinement of the proposal may be appropriately addressed and negotiated through the agreed key terms of any forthcoming lease should Council resolve to proceed with further negotiations.

A summary of the current Green Waste Facility operation is detailed below:

* Throughput FY21/22: 3000t of Garden Organic (GO) Bin Greenwaste and 4000t of Bulk Green waste. With more councils moving from GO to Food Organics Garden Organics (FOGO) the GO throughput is expected decrease in future years.
* FOGO is not being stored or processed on this site.
* Estimated throughput for FY22/23 is 5800t.
* City of Nedlands delivered 248t of Greenwaste in the last FY.
* Delivery traffic per week: 12 side loader compactor trucks with GO Greenwaste and 60-80 smaller trucks from Councils deliver Bulk Greenwaste. Total 80-100 trucks per week.
* 6-7 walking floor semi-trailers need to be loaded per week for transfer to processing sites.
* Current opening hours: 7am to 4pm Monday to Friday
* The current site is licenced for 20,000 tonnes annual throughput

Preliminary discussions with WMRC indicate they are seeking a 3 year lease term (subject to negotiation) for a lease that facilitates the following requirements:

* Approx. 1100sqm storage and loading area.
* Truck accessibility.
* Opening hours from 7am – 4pm Monday to Friday with the option to load semi- trailers on weekends.
* Construction of 2.5m high loading ramp with a footprint of 12m\*6.5m.
* Construction of L shaped storage bunker with concrete elements or road barriers.
* Accessible for 17-20 trucks per day.
* Access to nearest fire hydrant or alternatively we install water tank.
* WMRC staff is loading 5-7 semi-trailers per week.
* Estimated throughput for FY22/23 is 5800t.

An overview of the proposed lease area is shown in attachment 2.

Officers believe WMRC’s requirements can be accommodated within the main section of the City’s Mount Claremont Depot sit with some slight modifications to the layout of the yard to mitigate any potential adverse impacts to the City’s operations and adjacent neighbours.

The recommendation proposes granting in-principal approval for WMRC to lease a 1105m² (approx.) portion of Reserve 45054 for a Green Waste Facility subject to delegation to the City’s CEO to negotiate the key terms of a lease and the Council reviewing and approving the key terms following negotiations.

If the Council is minded to granting in-principal approval for WMRC’s proposal, it is recommended that the lease will be subject to but not limited to the following conditions:

1. Consent of the Minister for Lands.
2. All required regulatory approvals from the City of Nedlands being successfully obtained and any conditions thereon being complied with by the proponent, including but not limited to any applicable requirements for environmental health approval or other form of approval required by the City’s Local Laws or adopted Policies of Council.
3. The rent being set at fair market rental in accordance with a market rental valuation assessment.
4. A redevelopment clause.
5. An insurance clause providing adequate insurance coverage (including public liability).
6. An indemnity clause indemnifying the City.
7. WMRC paying any and all legal costs which have been incurred in the preparation and registration of a lease agreement, and other agreements pertaining to this proposal.
8. WMRC being responsible for any capital costs (e.g. loading ramp construction, installation of barriers etc.)
9. WMRC remediating the lease area to its original state at the conclusion of the lease term.

The City will be required to advertise the proposed lease under section 3.58 of the *Local Government Act 1995* and refer any submissions back to Council for consideration.

**Consultation**

Consultation with WRMC has occurred on their initial proposal.

Internal engagement has also occurred. Officers believe the proposal aligns with the permitted use prescribed by the Management Order for Reserve 45054 and is consistent with the public purpose definition under the MRS. In this regard, it is considered that a proposal for a Green Waste Facility can be considered.

Following the completion of the risk assessment for the access road, a copy of the assessment has been provided to the City of Subiaco, Town of Claremont and WMRC as current users of the access road. A copy has also been provided to John XXIII College.

**Strategic Implications**

This item relates to the following elements from the City’s Strategic Community Plan.

**Vision** Our city will be an environmentally sensitive, beautiful and inclusive place.

**Values Healthy and Safe**

Our City has clean, safe neighbourhoods where public health is protected and promoted.

**Great Natural and Built Environment**

We protect our enhanced, engaging community spaces, heritage, the natural environment and our biodiversity through well-planned and managed development.

**High standard of services**

We have local services delivered to a high standard that take the needs of our diverse community into account.

**Great Governance and Civic Leadership**

We value our Council’s quality decision-making, effective and innovative leadership, transparency, accountability, equity, integrity and wise stewardship of the community’s assets and resources. We have an involved community and collaborate with others, valuing respectful debate and deliberation.

**Great for Business**

Our City has a strong economic base with renowned Centres of Excellence and is attractive to entrepreneurs and start-ups.

**Priority Area**

* Working with neighboring Councils to achieve the best outcomes for the western suburbs as a whole

**Budget/Financial Implications**

The lease would be at no cost to Council.

Should the Council agree to pursue a lease with WMRC, the City is expected to receive revenue equivalent to a market rental valuation assessment for the lease term.

Following the risk assessment of the access road, the City will prepare cost estimates for the recommendations for inclusion in the Mid-Year Budget Review.

**Legislative and Policy Implications**

The City is bound by specific conditions under the *Local Government Act 1995* with regard to the disposal of property. Section 3.58 of the Act enables a local government to dispose of a property to the highest bidder at a public auction, by way of a public tender process or by giving local public notice of the proposed disposition and following the public consultation process as prescribed by sub-section section 3.58 (3) of the Act. In this context, disposing of property means to ‘sell, lease or otherwise dispose of, whether absolutely or not’.

Proposals to lease or licence land will be subject to the terms of the City’s Retention, Acquisition, Improvement and Disposal of Land Policy.

Crown land reserves vested to the City by way of a Management Order are generally subject to conditions. Consent is required from the Minister for Lands prior to formalising any lease agreement for Reserve 45054.

**Decision Implications**

Should Council resolve to grant in-principle approval for the disposal of a 1,105m² (approx.) portion of Reserve 45054 to WMRC by way of lease, Officers will arrange for a market rental valuation analysis to be undertaken by a licensed Valuer to determine the rental revenue that may be achieved, it is recommended that the rent is set in accordance with the valuation assessment.

Further to the above, Officers will work with WMRC to negotiate key terms for a lease and refer the key terms back to Council for review and approval.

If Council do not resolve to grant in-principle approval for the disposal of a portion of Reserve 45054 to WMRC by way of lease, Officers will not progress this matter any further.

**Conclusion**

WMRC’s current lease is due to expire on 31 December 2022 and does not provide a further term option or an opportunity for renewal. To allow their operations to continue in the precinct WRMC have requested the use of a 1,105m² (approx.) portion of Reserve 45054 located within the City’s Mount Claremont Depot site in accordance with a lease agreement for the purpose of Green Waste storage and handling. Officers believe this request can be accommodated with minimal impact on the City’s operations and presents an opportunity to increase revenue generation from this site.

**Further Information**

At the September meeting, Council deferred this item until Council is provided with an adequate risk assessment of this service road usage.

The attached Safety Inspection report has been completed by the City’s Transport and Development team following a site inspection on 29 September 2022. The inspection noted the six risks and provided recommendations to address each plus some further minor items to consider.

In summary there was 1 high priority, 1 low to medium priority and 4 low priorities. The first 2 matters will be addressed by the City regardless of the consideration of the WMRC lease proposal.

1. **Pedestrian Motorist conflicts and intersection of John XXIII Av and the Reserve.** 
   1. The footpath along the northern verge of John XXIII continues through the intersection. It is perceived that pedestrians and cyclists using the footpath have priority over motorists. The footpath is well used on school days at school opening and finishing times. At other times the footpath may not be frequently used by pedestrians or cyclists.
   2. Assessment*:*

Crash likelihood: Possible;

Severity: Serious.

Priority: High

* 1. Recommendation - The priority of the intersection should be changed to give cars priority over pedestrians, as would be the case if the Reserve were a Gazetted Road. This would include removing the portion of footpath in the intersection and installing pram ramps

1. **Delineation of auxiliary left lane.** 
   1. There is an existing ‘Left Turn’ pavement marking prior to the entrance of the carparking area. The line marking delineating the auxiliary left lane is missing. This can misguide a driver new to the area and cause confusion for road users.
   2. Assessment:

Crash likelihood: Possible

Severity: Insignificant.

Priority: Low.

* 1. Recommendation: A continuity line separating AUL lane and through traffic should be installed***.*** Figure 2 shows the extent of location.

1. **Large, paved area and lack of delineation:** 
   1. The width of the carriageway within the Reserve is approximately 6.0m wide. The carriageway is well defined up to the end of the northern boundary of John XXIII Catholic College. However, the rest of the Reserve is wide and not well delineated. The crossovers are not explicit or well-defined. Several businesses or organisations access yards from the Reserve and these traffic movements are not well defined. Although traffic volume is low the lack of delineation may be hazardous for pedestrians and motorists unfamiliar with the site.
   2. Assessment:

Crash likelihood: Unlikely (motorized vehicle) to Rare (vulnerable road users);

Severity: Minor (motorized vehicle) to Serious (vulnerable road users).

Priority: Low to Medium.

* 1. Recommendation: - Delineate inbound and outbound lanes and lot crossovers.

1. **Undulated, unsealed and gravel pavement, and dust issue.** 
   1. The undulated and broken pavement may destabilise a vehicle and could present a tripping hazard for pedestrians. The volume of pedestrians may be low; however, it is not safe for pedestrians. During the site inspection, it was observed that dust may cause lack of visibility for other motorists and road users.
   2. Assessment***:***

Crash likelihood: Unlikely (motorized vehicle) to Rare (vulnerable road users);

Severity: Minor (motorized vehicle) to Minor (vulnerable road users);

Priority: Low.

* 1. Recommendation: Provide uniform grade and sealed surface. If the surface is not sealed, dust suppression measures should be taken.

1. **Overgrown branches obstructing visibility:** 
   1. Overgrown vegetation is partially obstructing drivers’ visibility from John XXIII Catholic College carpark.
   2. Assessment:

Crash likelihood: Possible;

Severity: Insignificant;

Priority: Low.

* 1. Recommendation: Overgrown vegetation should be trimmed to improve motorists’ visibility from the exiting lane of the carparking area (John XXIII Catholic College)

1. **Replace the existing STOP sign with a new ‘GIVE WAY’:**
   1. If visibility from a minor approach (in this case exiting lane of the car parking area) is adequate at a ‘STOP’ sign-controlled intersection, motorists tend to ignore the ‘STOP’ sign. The visibility from the exiting lane of the carparking area was found to be adequate.

Conversely, traffic on the major road (in this case the Reserve) expect that traffic on the minor approach would stop and watch for traffic given the current intersection control. This presents a situation where vehicles travelling along the Access Road are expecting vehicles exiting the carpark to behave in a manor different to how they will behave. This uncertainty could lead to collisions between vehicles.

* 1. Assessment***:***

Crash likelihood: Possible.

Severity: Insignificant.

Priority: Low.

* 1. Recommendation: - The existing ‘STOP’ sign at the intersection of the Reserve and the car parking area should be replaced with a ‘Give way’ sign. This will assist with all roads users behaving as expected in this area.

1. **Other minor items:**
   1. Depending on the future prospect of the Reserve, installation of street lighting may be considered.
   2. The existing waste container should be relocated.
   3. Consideration for stormwater management should be given.

# CPS52.11.22 Underground Power – Hollywood East, Nedlands North and Nedlands West

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting – 22 November 2022 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil. |
| **Report Author** | Stuart Billingham – Manager Finance Services |
| **Director** | Michael Cole – Director Corporate Services |
| **Attachments** | 1. Project Areas – Underground Power in Hollywood East, Nedlands North and Nedlands West. |

**Purpose**

To receive designs and cost estimates for underground power for Hollywood East, Nedlands North and Nedlands West. In addition, the report also seeks approval to develop a business case for these projects.

**Recommendation**

**Council:**

1. **receives the designs and cost estimates provided by Western Power for underground power to Hollywood East, Nedlands North and Nedlands West;**
2. **authorises the CEO to prepare a business case on underground power for Hollywood East, Nedlands North and Nedlands West; and**
3. **approves an allocation of $100,000 from the Underground Power Reserve to fund the business case and community engagement.**

**Voting Requirement**

Absolute Majority.

**Background**

Approximately 78% of the City has underground power installed to their properties, with 1,701 properties remaining without underground power in Hollywood East, Nedlands North and Nedlands West.

At the Ordinary Council Meeting on 28 July 2020 in response to TS13.20:

Council:

1. approves an increase in the operations budget from $180,000 to $983,260 to fund the detailed design, project planning and contract documentation with a hold point prior to contract advertising for underground power in Nedlands East (Hollywood East), Nedlands North (Floreat) and Nedlands West (Mt Claremont);

2. approves the CEO to authorise Western Power to proceed with the detailed design, project planning and contract documentation for the Nedlands East (Hollywood East), Nedlands North (Floreat) and Nedlands West (Mt Claremont) underground power projects, with the additional funds required to come from the operational surplus, to be reviewed at the mid-year review, with the balance from the Underground Power Reserve Fund if required; and

3. notes this is a work in progress and a further report will be presented to Council in April 2021 following completion of the design phase activities.

Design works by Western Power commenced in late 2020 and were completed in early 2022 as a result of significant delays due to Western Power resourcing issues.

**Discussion**

The design works by Western Power have been completed and revised estimates have been provided.

An overview of each of the three project areas can be found in Attachment 1.

Preliminary primary equipment sites have been identified. These sites have been chosen to allow the power network within the project areas to function correctly, and to keep costs as low as possible.

The City understands that the preliminary locations have been chosen by considering both the engineering requirements and minimising the impact on surrounding residents. The primary equipment has been located where possible in public open space, and not on residential verges to maintain amenity.

The Primary equipment locations will be subject to community consultation with adjacent and nearby properties. The final location may change based on the outcome of this consultation and detailed construction planning.

Western Power have provided an additional updated project estimate for the works at a 30% accuracy, based on current market conditions and recent projects. The latest advice indicates the project is likely to cost 30% more than previous estimates. A breakdown is shown in the table below.

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
|  | **Capex** | **WP Net**  **Benefit** | **LGA to fund Capex** | **Opex** | **Design Costs** | **LGA Funding (Capex + Opex + design)** |
| **Hollywood East** | $13,166,764 | $6,333,189 | $6,833,575 | $1,663,295 | $391,422 | $8,888,292 |
| **Nedlands North** | $5,538,880 | $2,637,168 | $2,901,712 | $481,802 | $203,527 | $3,587,041 |
| **Nedlands West** | $10,021,730 | $3,904,338 | $6,117,392 | $1,040,325 | $345,551 | $7,503,268 |
| **Total** | $28,727,374 | $12,874,696 | $15,852,678 | $3,185,422 | $940,500 | $19,978,601 |

Note: All costs listed in the table are excluding GST.

All costs associated with Underground Power will be an operational cost to the City. The capex and opex columns listed in the table above refer to Western Power’s classification for their asset management purposes.

The capex portion of the project is the construction of the Western Power network and assets. This involves the transformers, interface to existing network and underground cabling in the streets to the green “domes”.

The opex portion is the new underground connections from the green domes to the properties. That portion of the network is not a Western Power asset so is generally funded by the property owner.

The projects have the following numbers of properties within their boundaries:

* + - 1. Hollywood East – LGA contribution $8,888,292 - 542 allotments with 778 properties in total (750 residential, 1 residential/commercial, 22 commercial, 5 government).
      2. Nedlands North – LGA contribution $3,587,041 - 157 allotments with 273 properties in total (259 residential, 14 commercial).
      3. Nedlands West – LGA contribution $7,503,268 - 339 allotments with 650 properties in total (637 residential, 9 commercial, 4 government).

A cost allocation per property will require a Council decision as this cost would depend on how the City chooses to fund the projects. A further breakdown of the possible cost split is shown in table 2 below using Project cost/number of properties and then a 50:50 split between the City and property owner is shown below and this has been previously circulated to Councilors. This is shown for each individual project, and as a combination of all three projects. This table does not take into consideration properties which already have an underground connection from an existing dome and the meter box.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Project Name** | **Total LGA Contribution** | **Number of Properties** | **Contribution per property** | **50:50 Share** |
| Hollywood East | $8,888,292 | 778 | $10,921.43 | $5,460.71 |
| Nedlands North | $3,587,041 | 273 | $12,393.82 | $6,196.91 |
| Nedlands West | $7,503,268 | 650 | $10,152.61 | $5,505.94 |
| Total | $19,978,601 | 1,701 | $11,416.86 | $5,872.60 |

Note: The figures detailed are indicative only. A considerable amount of work is required to determine the final costs charged to residents to take into consideration a range of discounts offered to individual properties, eg already have a connection, proximity of transmission lines

Preliminary analysis indicates that discounts due to proximity to remaining Transmission lines or Primary Equipment sites will after each project as follows:

1. Hollywood East – approx. 4% of properties - potential concession $75,677

2. Nedlands North – approx. 10% of properties - potential concession $33,359.03

3. Nedlands West – approx. 19% of properties - $244,866.89

The total potential concession is $353,902.98. This equates to $38.51 per rateable property in the City.

Should Council decide to proceed with the project, Western Power will provide an updated cost estimate to a 10% accuracy after the completion of a Request for Quotation process. This process can only commence after Council provides this direction.

**Consultation**

The City has updated Elected Members on the progress of the remaining underground power project, most recently at the September 2022 Concept Forum.

Subject to Council endorsement, further community consultation will be undertaken with the wider Nedlands community and also residents in the specific project areas.

Successful community engagement is based on a framework of principles that respect the right of all community members to be informed, consulted, involved and empowered.

**City of Nedlands Community**

* Ensure the wider community are informed about the project and how it will affect the City's Long Term Financial Plan
* Ensure that the wider community understand the project benefits, risks and challenges
* Communicate clearly why Nedlands needs underground power now
* Validate the support level from the wider community to go ahead with the project

**Residents in Project Areas**

* Assess willingness from the affected residents to proceed with the project
* Confirm the cost per property residents will be required to pay
* Establish how affected residents are willing to pay?
* Provide affected residents with an expected timeline for completion
* Define the advantages for running the projects concurrently

**Strategic Implications**

This item relates to the following elements from the City’s Strategic Community Plan.

**Vision** Our city will be an environmentally sensitive, beautiful and inclusive place.

**Values** **High standard of services**

We have local services delivered to a high standard that take the needs of our diverse community into account.

**Great Governance and Civic Leadership**

We value our Council’s quality decision-making, effective and innovative leadership, transparency, accountability, equity, integrity and wise stewardship of the community’s assets and resources. We have an involved community and collaborate with others, valuing respectful debate and deliberation.

**Priority Area**

* Underground power

**Budget/Financial Implications**

The completion of the 3 remaining underground projects is a significant undertaking by the City and affected ratepayers.

The latest estimated contribution from the City of Nedlands for the project is $19,978,601 including the $940,500 cost for the design phase already paid by the City. It is noted that Western Power will provide an updated cost estimate to a 10% accuracy after their completion of a Request for Quotation process.

To put the estimated cost of the project into perspective, this will be the biggest undertaking by the City. The current capital works budget required $6.1m in municipal funding.

Under the Council’s current Underground Power Policy, up to 50% of the City’s contribution is recoverable from ratepayers. The method of recovery is set out in the City’s Underground Power Procedure and depends on whether the property is single, multiple dwellings and also whether there is an existing green dome or whether transmission lines will remain.

Under the Underground Power Procedure, the payment by ratepayers of their contribution may be paid by lump sum or over a period of up to 10 years. Any debt owing is paid out in full in the event the property is sold. Interest is charged on outstanding amounts.

The draft Long Term Financial Plan is yet to be considered by Council. Under current available funding, any additional contribution from municipal funds would be at the expense of other operating or capital works projects unless there was a significant increase in rates.

Given the significant undertaking, it is proposed to prepare a business case to better inform Council and the community of the benefits, opportunities and risks associated with the project.

It is recommended that the amount of $100,000 be funded from the Underground Power Reserve to facilitate the development of the business case and to undertake community engagement.

**Legislative and Policy Implications**

Given this is a significant undertaking, the Administration recommends a business case be prepared to better inform Council and the community. While this is not a statutory requirement, a project of this size and complexity should be fully explored, with the full implications understood prior to commencement.

**Decision Implications**

Should Council endorse the recommendations in this report, the CEO will proceed with the development of a business case to better inform Council and the community. A community engagement plan will also be developed. These will be brought back to Council for approval to proceed with community engagement.

**Conclusion**

The designs and revised cost estimates for underground power for Hollywood East, Nedlands North and Nedlands West have been provided by Western Power and Council is now requested to endorse recommendations in this report.

**Further Information**

Nil.

# CPS53.11.22 Rate Exemption – Kindy in the Park

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting - 22 November 2022 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil. |
| **Report Author** | Kevin Perraudin – Finance Officer (Rates) |
| **Director** | Michael Cole – Director Corporate Services |
| **Attachments** | Nil. |

**Purpose**

This report seeks approval for a rates exemption for Kindy in the Park Inc. for 25 Strickland Street, Nedlands under Section 6.26(2)(g) of the Local Government Act 1995 for 2021-22, from 01/01/2022.

**Recommendation**

**That Council approve a rates exemption for Kindy in the Park Inc. for 25 Strickland Street, Nedlands under Section 6.26(2)(g) of the Local Government Act 1995 for 2021-22, from 01/01/2022.**

**Voting Requirement**

Simple Majority.

**Background**

Since 2015/16 the former tenant of 25 Strickland Street (City of Nedlands property) was issued rates notices. For 2021/22, the former tenant paid the 1st and 2nd instalments. The lease finished in December 2021.

In January 2022 Kindy in the Park Inc. (Charity Organization) took over the lease for $1 per annum and has not paid the 3rd and 4th instalments (outstanding amount of $1,363.03).

**Discussion**

This report refers to the rates exemption application for 25 Strickland Street, Nedlands, received on 2 July 2022 for the 2021-2022 financial year. The property is used by Kindy in the Park Inc. for charitable purposes.

Under Section 6.26(2)(g) of the Local Government Act 1995, land used exclusively for charitable purposes is not-rateable. Use by property by Kindy in the Park, a not for profit organisation, meets the charitable purpose requirements.

The City has levied rates for 2021/22 of $2,634.26 + $81.80 (instalment fees). The first two instalments have been paid by the former tenant and the balance outstanding amount is $1,363.03.

**Consultation**

Not applicable.

**Strategic Implications**

This item relates to the following elements from the City’s Strategic Community Plan.

**Vision** Our city will be an environmentally sensitive, beautiful and inclusive place.

**Values** **Great Governance and Civic Leadership**

We value our Council’s quality decision-making, effective and innovative leadership, transparency, accountability, equity, integrity and wise stewardship of the community’s assets and resources. We have an involved community and collaborate with others, valuing respectful debate and deliberation.

**Budget/Financial Implications**

Should Council agree to the recommendation, the rates exemption represents a loss of revenue of $978.50 + $41.40 (instalment fees) for 2021-22, and $1,957 for 2022/23.

**Legislative and Policy Implications**

[Local Government Act 1995](https://www.legislation.wa.gov.au/legislation/prod/filestore.nsf/FileURL/mrdoc_43454.pdf/$FILE/Local%20Government%20Act%201995%20-%20%5B07-t0-00%5D.pdf?OpenElement)

**Decision Implications**

The application has been assessed as meeting the requirements for an exemption from rates, effective from 1 January 2021. Should Council not endorse the recommendation the applicant can appeal the decision.

**Conclusion**

The application from Kindy in the Park for a rates exemption meets the requirements of Section 6.26 (2)(g) of the Local Government Act 1995. Council approval is recommended.

**Further Information**

Nil.

# CPS54.11.22 Monthly Financial Report – October 2022

This item will be dealt with at the Ordinary Council Meeting.

# CPS55.11.22 Monthly Investment Report – October 2022

This item will be dealt with at the Ordinary Council Meeting.

# CPS56.11.22 List of Accounts Paid – October 2022

This item will be dealt with at the Ordinary Council Meeting.

# Reports by the Chief Executive Officer CEO14.11.22

# CEO14.11.22 Foreshore Management Steering Committee Replacement Member

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting – 22 November 2022 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil. |
| **Report Author** | Nicole Ceric – Executive Officer |
| **CEO** | Bill Parker – Chief Executive Officer |
| **Attachments** | Nil. |

**Purpose**

The purpose of this report is for Council to appoint Councillor Basson to the Foreshore Management Steering Committee.

**Recommendation**

**That Council appoints Councillor Basson to the Foreshore Management Steering Committee.**

**Voting Requirement**

Absolute Majority.

**Background**

In March 2022, Council established the Foreshore Management Steering Committee and appointed the Mayor and four Councillors (one Councillor from each ward) as per the Terms of Reference. Councillor Hodsdon was appointed the Hollywood Ward Member.

**Discussion**

Councillor Basson was elected at the extraordinary election on the 16 September 2022 and expressed interest in being a committee member on the Foreshore Management Committee. In response, Councillor Hodsdon resigned from the Foreshore Management Committee to allow his fellow Hollywood Ward Councillor, Councillor Basson to be the Hollywood Ward Committee Member.

**Consultation**

Nil.

**Strategic Implications**

**Vision** Our city will be an environmentally-sensitive, beautiful and inclusive place.

**Values** **Great Governance and Civic Leadership**

We value our Council’s quality decision-making, effective and innovative leadership, transparency, accountability, equity, integrity and wise stewardship of the community’s assets and resources. We have an involved community and collaborate with others, valuing respectful debate and deliberation.

**Great Communities**

We enjoy places, events and facilities that bring people together. We are inclusive and connected, caring and support volunteers. We are strong for culture, arts, sport and recreation. We have protected amenity, respect our history and have strong community leadership.

**Budget/Financial Implications**

There are no budget / financial implications.

**Legislative and Policy Implications**

Section 5.8 of the [Local Government Act 1995](https://www.legislation.wa.gov.au/legislation/prod/filestore.nsf/FileURL/mrdoc_43454.pdf/$FILE/Local%20Government%20Act%201995%20-%20%5B07-t0-00%5D.pdf?OpenElement) allows Council to establish Committees to assist the Council to exercise the power and discharge the duties of the Local Government.

Section 5.10 of the [Local Government Act 1995](https://www.legislation.wa.gov.au/legislation/prod/filestore.nsf/FileURL/mrdoc_43454.pdf/$FILE/Local%20Government%20Act%201995%20-%20%5B07-t0-00%5D.pdf?OpenElement) states that a committee is to have its members appointed by absolute majority.

[Regulation 4 of the Local Government (Administration) Regulations:](https://www.legislation.wa.gov.au/legislation/prod/filestore.nsf/FileURL/mrdoc_43667.pdf/$FILE/Local%20Government%20(Administration)%20Regulations%201996%20-%20%5B03-m0-00%5D.pdf?OpenElement) outlines that a committee member may resign from membership of a committee by giving the CEO or the committee’s presiding member written notice of the resignation.

Council Terms of Reference for the Foreshore Management Steering Committee states (extract below):

**Membership**

1. The membership of the committee shall comprise the Mayor and one Councillor from each ward with the Councillors being determined by nomination and if necessary, a ballot conducted at a Council Meeting and up to one non-Councillor Member, being a representative from the Department of Biodiversity, Conservation and Attractions (DBCA) as a non-voting member.
2. Council will appoint one Councillor from each ward as deputy members of the committee.
3. If a vacancy on the committee occurs for whatever reason, then Council shall appoint a replacement in accordance with the same arrangements as for the original appointment.
4. Deputy members are only required to attend and vote if the primary member is absent, an apology or on leave or has resigned.
5. The term of the presiding member and committee members will expire immediately prior to the next ordinary Council election.
6. The presiding member shall be determined by election amongst the members of the committee at the first meeting of the Committee.
7. Should the elected presiding member not be present during a meeting of the committee then a temporary presiding member shall be elected in accordance with 7 above.

Therefore, a replacement member is required to comply with the Council’s adopted Terms of Reference.

**Decision Implications**

Should Council not appoint a replacement member and to the Foreshore Management Steering Committee it would be in breach of the Council’s adopted Terms of Reference.

**Conclusion**

It is recommended that Council appoint Councillor Basson as the Hollywood Ward Committee Member to replace Councillor Hodsdon as requested.

**Further Information**

Nil.

# Council Members Notice of Motions of Which Previous Notice Has Been Given

This item will be dealt with at the Ordinary Council Meeting.

# Urgent Business Approved By the Presiding Member or By Decision

This item will be dealt with at the Ordinary Council Meeting.

# Confidential Items

Confidential items to be discussed at this point.

# Declaration of Closure

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