



NOTES

Council Meeting Agenda Forum

9 August 2022

Bill Parker
Chief Executive Officer
15 August 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

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](#)

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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1. Declaration of Opening

The Presiding Member declared the meeting open at 6.00 pm and drew attention to the disclaimer on page 2.

2. Present and Apologies and Leave of Absence (Previously Approved)

Councillors	Mayor F E M Argyle (Presiding Member)	
	Councillor B Brackenridge (online)	Melvista Ward
	Councillor R A Coghlan	Melvista Ward
	Councillor R Senathirajah	Melvista Ward
	Councillor H Amiry	Coastal Districts Ward
	Councillor L J McManus	Coastal Districts Ward
	Councillor K A Smyth	Coastal Districts Ward
	Councillor F J O Bennett	Dalkeith Ward
	Councillor A W Mangano	Dalkeith Ward
	Councillor B G Hodsdon (online)	Hollywood Ward
	Councillor O Combes	Hollywood Ward
	Vacant	Hollywood Ward

Staff	Mr W R Parker	Chief Executive Officer
	Mr M R Cole	Director Corporate Services
	Mr T G Free	Director Planning & Development
	Mr A D Melville	Acting Director Technical Services
	Mrs N M Ceric	Executive Officer

Public There were 21 members of the public present and 1 online.

Press Nil.

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

Apologies Councillor N R Youngman Dalkeith Ward

3. Public Question Time

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

4. Deputations

Deputations by members of the public who had completed Public Address Registration Forms will be made at this point.

Mr Ralph Bergmann, spoke in opposition to the recommendation for item 16.1 - PD45.08.22 Consideration of Development Application – Partial change of use to “Small bar” and additions to an existing commercial tenancy (patio) – 161 Broadway, Nedlands.

Ms Clare McLean spoke in opposition to the recommendation for item 16.1 - PD45.08.22 Consideration of Development Application – Partial change of use to “Small bar” and additions to an existing commercial tenancy (patio) – 161 Broadway, Nedlands.

Mr Murray McHenry, Steve’s Bar and Café Pty Ltd, spoke in opposition to the recommendation for item 16.1 - PD45.08.22 Consideration of Development Application – Partial change of use to “Small bar” and additions to an existing commercial tenancy (patio) – 161 Broadway, Nedlands.

Mr Orlando Catenacci, X-Space Architects, spoke in support of the recommendation to item 16.2 - PD46.08.22 Consideration of Development Application – for Eight Grouped Dwellings at 10-12 Taylor Road, Nedlands.

Mr Jacob Kendall, spoke in support of the recommendation to item 16.2 - PD46.08.22 Consideration of Development Application – for Eight Grouped Dwellings at 10-12 Taylor Road, Nedlands.

Mr Ric Dawson, spoke in support of the recommendation for item 16.4 - P48.08.22 Consideration of Development Application – Removal of Approval Condition and Change to Approved Plans at 22 Vincent Street, Nedlands.

Mr Liam Bartlett, spoke in opposition to the recommendation for item 16.5 - PD49.08.22 Consideration of Development Application – Removal of Approval Condition at 13, 15, 17 and 19 Jenkins Avenue, Nedlands.

Mr Geoffrey Nathan, spoke in item relation to item 16.5 - PD49.08.22 Consideration of Development Application – Removal of Approval Condition at 13, 15, 17 and 19 Jenkins Avenue, Nedlands.

Dr Harvey Turner, spoke in relation to a concern to item 16.6 - PD50.08.22 Consideration of Development Application – Additions to a Single House at 93 Victoria Avenue, Dalkeith.

Mr Ross McAndrew, spoke in support of the recommendation for item 16.6 - PD50.08.22 Consideration of Development Application – Additions to a Single House at 93 Victoria Avenue, Dalkeith.

The Mayor read a statement on behalf of Mr Brendan and Mrs Jay Casey, in opposition to item 16.7 – PD51.08.22 Consideration of Development Application – Four Multiple Dwellings at 43 Napier Street, Nedlands.

Mr Matt Buckley spoke in support of the recommendation for item 16.7 – PD51.08.22 Consideration of Development Application – Four Multiple Dwellings at 43 Napier Street, Nedlands.

Mr Peter Robins, spoke in opposition to the recommendation for item 16.8 - PD52.08.22 Consideration of Local Planning Policy – Primary Controls for Apartment Development.

Mr Ryan Djanegara, Develop Property Pty Ltd spoke in opposition to the recommendation for item 16.12 - PD56.08.22 Section 31 Reconsideration of Development Application for Temporary Change of Use (Display House) and Signage at 20 Curlew Road, Dalkeith.

Mr Simon Brady, spoke in support of the recommendation for item 16.12 - PD56.08.22 Section 31 Reconsideration of Development Application for Temporary Change of Use (Display House) and Signage at 20 Curlew Road, Dalkeith.

Mr Kris Nolan, spoke in support of the recommendation for item 16.13 - PD57.08.22 Request to utilise City-owned land for public laneway between Dalkeith Road and Florence Road.

Ms Alicia Jones, spoke in support of the recommendation for item 16.13 - PD57.08.22 Request to utilise City-owned land for public laneway between Dalkeith Road and Florence Road.

Ms Sue Turner, spoke in support of the recommendation for item 19.1 - CPS30.08.22 Lease to Kidz Galore – 64-66 Melvista Avenue, Dalkeith.

5. Requests for Leave of Absence

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

6. Petitions

Petitions will be dealt with at the Ordinary Council Meeting.

7. Disclosures of Financial / Proximity Interest

The Presiding Member reminded 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.

There were no disclosures of financial interest.

8. Disclosures of Interests Affecting Impartiality

The Presiding Member reminded 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.

There were no disclosures affecting impartiality.

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

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

10. Confirmation of Minutes

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

11. Announcements of the Presiding Member without discussion.

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

12. Members Announcements without discussion.

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

13. 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.

Item 22.1 CEO09.08.22 Confidential Final Determination Report (03621lv-01)

14. En Bloc Items

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

15. Minutes of Council Committees and Administrative Liaison Working Groups

15.1 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.

16. Divisional Reports - Planning & Development Report No's PD45.08.22 to PD57.08.22

16.1 PD45.08.22 Consideration of Development Application – Partial change of use to “Small bar” and additions to an existing commercial tenancy (patio) – 161 Broadway, Nedlands

Questions or Requests for Further Information

Councillor Mangano – Is the patio compliant with the setback requirements?

Councillor Amiry – can clarity please be provided on consultation done with immediate neighbours and trading hours.

16.2 PD46.08.22 Consideration of Development Application – for Eight Grouped Dwellings at 10-12 Taylor Road, Nedlands

Questions or Requests for Further Information

Nil.

16.3 PD47.08.22 Consideration of Development Application – Single House Additions (Carport) at 14 Waroonga Road, Nedlands

Questions or Requests for Further Information

Nil.

16.4 PD48.08.22 Consideration of Development Application – Removal of Approval Condition and Change to Approved Plans at 22 Vincent Street, Nedlands

Nil.

16.5 PD49.08.22 Consideration of Development Application – Removal of Approval Condition at 13, 15, 17 and 19 Jenkins Avenue, Nedlands

Questions or Requests for Further Information

Councillor Coghlan – Please confirm what is being constructed at the north of the site?

Councillor Smyth – what weight should be given to the contractual agreement the owners have with the builders?

16.6 PD50.08.22 Consideration of Development Application – Additions to a Single House at 93 Victoria Avenue, Dalkeith

Questions or Requests for Further Information

Request for amended plans to be included.

16.7 PD51.08.22 Consideration of Development Application – Four Multiple Dwellings at 43 Napier Street, Nedlands

Questions or Requests for Further Information

Nil.

16.8 PD52.08.22 Consideration of Local Planning Policy – Primary Controls for Apartment Development

Questions or Requests for Further Information

Councillor Coghlan

1. Council has seen various versions of this policy and the 63 submissions overwhelmingly support this LPP. What weight does the City of Nedlands give to submissions in the development of Local Planning Policies?
2. Why in the 3 years since LPS3 been imposed by the WAPC, has the City of Nedlands not implemented one local planning policy that puts a limit on building heights or plot ratio?
3. Why would we not adopt this LPP now as it can be implemented immediately, even if it will be gradually superseded by more specific Precinct Plans, which may take 6 -12 months to present, review, advertise and then possibly adopt?
4. Is this LPP aligned with the City's strategic vision, values and priorities?
5. Why does the City's report claim that this policy seeks to mandate "Acceptable Outcomes" when it does not, and in fact seeks to define the Element Objectives?
6. There is a great difference between "limiting discretion" and "eliminating all discretion" and a performance-based system merely requires some discretion.
 - a. This LPP does not eliminate all discretion, so why would merely limiting discretion by providing planning guidance make this LPP "inoperable" as claimed in the report?
 - b. As the Precinct Plans also limit discretion by prescribing "indicative built form" and setting "desired future scale", why are they not considered to be "inoperable" by the same inference?
7. Why does the report incorrectly list as shortcomings of the LPP that it requires compliance with "Acceptable Outcomes" and that it "attempts to amend or replace the Element Objectives", which it does not in both cases?
8. Why has the City referred to a legal opinion on an outdated and very different version of this policy obtained prior to February 2021 (as per Council Meeting Minutes) and quoted from this opinion to prepare the current report to Council?
9. The City's report states the LPP has not been prepared on "sound planning principles", but as it is directly based on the R-codes, State Planning Policy 7.3 Volume 2 and Nedlands LPS3, does the City believe these documents are not based on "sound planning principles"?
10. Are the City officers aware that local government does not require the approval or review of the WAPC or DPLH when developing and properly implementing local planning policies?

16.9 PD53.08.22 Adoption for Advertising of Local Planning Policy – Trees on Private Land

Questions or Requests for Further Information

Nil.

16.10 PD54.08.22 Review of Aberdare Road Concept Design and Corridor Requirements and Consideration of Repeal of By-law Relating to New Street Alignment (Aberdare Roads By-law)

Questions or Requests for Further Information

Nil.

16.11 PD55.08.22 Process to implement a Payment in Lieu of Parking Plan

Questions or Requests for Further Information

Nil.

16.12 PD56.08.22 Section 31 Reconsideration of Development Application for Temporary Change of Use (Display House) and Signage at 20 Curlew Road, Dalkeith

Questions or Requests for Further Information

Councillor Mangano – Could the City please investigate no stopping line marking on the intersection.

No stopping lines are not generally installed at 4 way intersections unless there is a history of parking complaints. It will cost approx. \$5,000 to install no stopping line marking at this intersection.

The City Rangers have indicated there is no history of parking issues on Curlew Street.

16.13 PD57.08.22 Request to utilise City-owned land for public laneway between Dalkeith Road and Florence Road

Questions or Requests for Further Information

Councillor Mangano – Can the sweep path diagram for 12.5m trucks be provided?

Could ALDI be consulted in regard to the size of trucks using the laneway and any possible impacts on ALDI?

Can LGIS be consulted re risk to the City in approving this laneway? Will Councillors be liable for any incident / accident on the laneway?

Councillor Bennett – Can administration prepare recommended timetable for delivery trucks etc as part of the approval?

Councillor Coghlan – If the laneway is not approved what are the alternative options available to Council?

Councillor Mangano – Drainage info - will the sump be educted and how much will it cost? Who will pay for this?

17. Divisional Reports – Technical Services Report No’s TS16.08.22 to TS17.08.22

17.1 TS16.08.22 Refusal of Vehicle Crossover Application, 41 Hillway, Nedlands – Disposal of Objection to Decision

Questions or Requests for Further Information

Nil.

17.2 TS17.08.22 Adoption of Asset Management Plan 2023-2025

Questions or Requests for Further Information

Nil.

18. Divisional Reports – Community Services & Development Report No CSD04.08.22

18.1 CSD04.08.22 CSRFF Application Swanbourne Cricket Club

Questions or Requests for Further Information

Nil.

19. Divisional Reports - Corporate & Strategy Report No's CPS30.08.22 to CPS35.08.22

19.1 CPS30.08.22 Lease to Kidz Galore – 64-66 Melvista Avenue, Dalkeith

Questions or Requests for Further Information

Nil.

19.2 CPS31.08.22 Lease to Leo Heaney Pty Ltd – Portion of Reserve 45054 John XXIII Depot in Mt Claremont

Questions or Requests for Further Information

Councillor Smyth – Is the proposed lease consistent with the City's Local Planning Scheme?

Could an alternate recommendation for refusal be prepared with reasons including proper planning process?

19.3 CPS32.08.22 Supply and Construction of Extruded Kerbing RFQ 2021-22.18

Questions or Requests for Further Information

Councillor Mangano – please confirm percentage that WALGA gets for these contracts.

Can we go out to market rather than just going through WALGA?

19.4 CPS33.08.22 Monthly Financial Report – July 2022

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

19.5 CPS34.08.22 Monthly Investment Report – July 2022

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

19.6 CPS35.08.22 List of Account Paid – July 2022

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

20. Reports by the Chief Executive Officer CEO08.08.22

20.1 CEO08.08.22 Appointment of Replacement Member and Deputy Member to the Chief Executive Officer Performance Review Committee

Questions or Requests for Further Information

Nil.

21. Council Members Notice of Motions of Which Previous Notice Has Been Given

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

22. Urgent Business Approved by the Presiding Member or by Decision

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

23. Confidential Items

Confidential items to be discussed at this point.

The meeting was closed to the public for the following confidential item.

22.1 CEO09.08.22 Confidential Final Determination Report (03621lv-01)

Confidential report circulated separately to Council Members.

24. Declaration of Closure

There being no further business, the Presiding Member declared the meeting closed at 9.18pm.