**AGENDA**

**Council Meeting Agenda Forum**

**14 June 2022**

**Notice of Meeting**

**To Mayor & Councillors**

A Council Meeting Agenda Forum of the City of Nedlands is to be held on Tuesday, 14 June 2022 in the Council chambers at 71 Stirling Highway Nedlands commencing at 6pm.

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Description automatically generated

Bill Parker

Chief Executive Officer

9 June 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** Councillor O Combes Hollywood Ward

**(Previously Approved)** Councillor J D Wetherall Hollywood Ward

**Apologies** Councillor H Amiry Coastal Districts Ward

# 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 will be made at this point.

# 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 / Proximity 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.

# 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 PD35.06.22 to PD41.06.22



# PD35.06.22 Consideration of Development Application – 4 Grouped Dwellings at 24 Clark Street, Nedlands

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting – 28 June 2022 |
| **Applicant** | Sincerity Building Group Pty Ltd |
| **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. Architectural Perspective Drawings 4. CONFIDENTIAL ATTACHMENT – Submissions |

**Purpose**

The purpose of this report is for Council to consider a development application for four grouped dwellings at 24 Clark Street, Nedlands.

**Recommendation**

**That Council:**

**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 5 May 2022 for four (4) grouped dwellings at 24 Clark Street, Nedlands, subject to the following conditions:**

1. **This approval relates only to the development as indicated on the approved plans dated 5 May 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 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 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 process to the satisfaction of the City.**
2. **The Arborist Report dated 25 February 2022 prepared by CIVICA forms part of this approval. The recommendations contained within the report must be adhered to at all times to the satisfaction of the City of Nedlands.**
3. **Prior to the issue of a building permit, amended plans and documentation are to be submitted demonstrating that the recommendations within the Arborist Report dated 25 February 2022 prepared by CIVICA have been implemented and will be maintained for the duration of the construction process to the satisfaction of the City of Nedlands.**
4. **All stormwater discharge from the development shall be contained and disposed of on-site unless otherwise approved by the City of Nedlands.**
5. **Prior to occupation, landscaping shall be completed in accordance with the approved plans 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.**
6. **The street tree proposed to be retained within the verge in front of the lot is to be protected and maintained through the duration of the demolition and construction process to the satisfaction of the City of Nedlands. Should the tree die or be damaged, it is to be replaced with a specified species at the landowner’s expense and 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** | R60 |
| **Land area** | 911m2 |
| **Land Use** | Residential – Grouped Dwellings |
| **Use Class** | ‘P’ – Permitted Use |

The site is located at 24 Clark Street, Nedlands, 200m south of Stirling Highway and 170m west of Broadway. The site is located on the southern side of Clark Street. The lot is rectangular in shape, has a 20m frontage and a total area of 911m2. The site slopes down 1.5m from south-west (rear) to the north-east (front).

**History**

An application for 10 multiple dwellings at the subject site was previously considered at the Joint Development Assessment Panel (JDAP) meeting held on 23 June 2021. The multiple dwellings are three storeys with a roof terrace. The JDAP resolved to approve the application, subject to conditions. This application is still valid but has not been acted upon.

The site has also received conditional subdivision approval from the Western Australian Planning Commission (WAPC) for four lots with a common property vehicle access. The current development application matches the conditional subdivision approval layout for four lots with common property.

**Application Details**

The application seeks development approval for the construction of four grouped dwellings. All dwellings are two storey and obtain vehicle access from the communal driveway on the west side of the site.

This application was previously presented to Council for determination at the 26 April 2022 Ordinary Council Meeting. At the agenda forum meeting, the Council requested additional information and plans from the applicant. The application was deferred to the 28 June 2022 Council Meeting to allow the applicant to prepare the requested information. Amended plans were received on 5 May 2022 including the following changes and additional information on the plans:

* Reduction in the height of the retaining wall from 0.95m to 0.7m along the eastern lot boundary of Unit 1.
* Reduction in the height of the retaining wall from 0.6m to 0.5m along the eastern lot boundary of Unit 4.
* A set of elevations to all lot boundaries showing the elevations of all four units.
* Dividing fencing is proposed to 1.8m high, on top of the proposed retaining.

**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 the potential impact it will have on the local amenity.

**Sustainability**

It is noted that there are no sustainability initiative requirements for this development at the current time. However, the development proposes the following initiatives for sustainability:

* All dwellings will have a minimum energy rating of 7 stars.
* Dwellings will be provided with solar panels at the building permit stage.
* The landscape plant species are Australian natives which will require less watering.

**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. Council is requested to consider the design principles relating to visitor parking and site works (retaining walls). 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 5.3.3 – Parking**

The design principles provide for adequate on-site parking, with consideration given to a reduction in parking based on the site’s proximity to public transport and available street parking. The development does not propose any visitor parking spaces due to the following reasons:

* The land has been previously subdivided into the four strata lots and common property that is reflected in the current development plans. The Western Australian Planning Commission granted conditional subdivision approval on 24 November 2020. No provision was made in the common property area for visitor parking.
* At the time of subdivision approval, the R-Codes did not require a visitor parking space where up to four dwellings were served by a single driveway. The current requirement for 1 visitor parking space was implemented on 2 July 2021, after the subdivision was approved.
* There is no ability to retrospectively apply a visitor parking requirement given subdivision approval has been granted to the subdivision and common property arrangements shown on the development plans.
* A total of 8 car parking spaces are provided in the development (2 spaces per dwelling). The deemed-to-comply provisions of the R-Codes require 5 spaces (1 per dwelling plus 1 visitor space).
* The site is located approximately 200m from multiple high frequency bus routes, including the Purple CAT, which operates on a 10-minute frequency 7am-7pm Monday-Friday along Broadway. Given UWA and the QEII Medical Centre are located in close proximity, the overall level of public transport coverage and frequency is excellent in relative terms.

**Clause 5.3.7 – Site Works**

The development proposes a maximum 0.7m high retaining wall along the eastern side and 0.6m high along the front lot boundaries. The design principles provide for retaining walls which allow the land to be effectively used for the benefit of the residents, without detrimentally affecting adjoining properties. The retaining wall proposed meets the design principles for the reasons outlined below:

* The site slopes down 1.5m from south-west (rear) to the north-east (front). The design of the development considers this slope, with all the finished floor levels of the units being stepped down to respond to the natural slope of the land.
* Along the eastern lot boundary, where the land is lower, retaining ranges from 0.5m to 0.7m in height, following the natural ground level of the site. In order to create a level area, the retaining is highest at the north-eastern corner of the lot where the ground level is at its lowest.
* The retaining walls along the eastern lot boundary allow the land to be effectively used for outdoor living areas for the units.
* The retaining along the front lot boundary allows for the effective use of the land for landscaping. The retaining wall along the front boundary is unlikely to detrimentally affect the streetscape. Landscaping within the front setback area will improve the streetscape amenity of the development.

**Consultation**

The development application was advertised in accordance with the City’s Local Planning Policy - Consultation of Planning Proposals to 34 adjoining properties. The application was advertised for a period of 14 days from 21 January 2022 to 4 February 2022. At the close of the advertising period, three submissions were received. Two submissions stated objections and one submission stated no objections to the proposal.

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

1. Concerns regarding the height of the retaining

Amended plans have reduced the height of the retaining walls as discussed above. The development proposal is seeking a judgement of merit for the retaining. Please see above for the Design Principles assessment on retaining.

1. Concerns regarding the lack of a designated visitor car parking bay within the site.

The development proposal is seeking a judgement of merit for the visitor car parking. Please see above for the Design Principles assessment on visitor car parking. It is noted that the WAPC approved the subdivision without the provision of a visitor car parking bay as there was no requirement for one to be provided at the time of the decision.

1. Concerns regarding the setbacks proposed to Clark Street

Amended plans were received after the advertising process to provide increased setbacks to Clark Street. The proposal now meets the deemed-to-comply provisions of the R-Codes relating to the primary street setback.

1. Request for additional landscaping to be provided within the rear setback area.

Amended plans were submitted by the applicant prior to the previous Council meeting to provide additional landscaping within the rear setback area, including 1 Kanooka Gum Tree, 2 Magnolia Teddy Bear Trees and 5 Dwarf Magnolias. The proposal exceeds the deemed-to-comply provisions of the R-Codes relating to landscaping, which only calls for 1 tree per dwelling.

1. The existing fences are low and will result in impacts upon privacy and request to provide higher fencing to assist with privacy.

The development proposes 1.8m high Colourbond fencing on top of the retaining walls. Dividing fencing is typically 1.8m in height. The overall height of the dividing fence on top of the retaining along the eastern lot boundary will be up to 2.5m in height when measured from the adjoining property due to the lower ground level.

1. Concerns about the loss of privacy and amenity from the alfresco of Unit 4 as the alfresco is close to the lot boundary.

The alfresco of Unit 4 is not elevated more than 0.5m above natural ground level and therefore meets the deemed-to-comply provisions of the R-Codes relating to setbacks and visual privacy. The overall height of the dividing fence on top of the retaining will provide additional privacy to adjoining residents.

1. Request for an arborist report to be prepared for the proposed development.

The applicant submitted an arborist report on 25 February 2022 as requested by adjoining landowners through the consultation process. The City has no legislative ability to require or approve an arborist report for applications under Volume 1 of the R-Codes. In this instance, the landowner of the subject site has agreed for the City to condition that the arborist report forms part of the determination materials of the proposal.

**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**

N/A.

**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.

If Council resolves to refuse the proposal, the site still holds a valid approval for the development of 10 multiple dwellings.

**Conclusion**

The application for four grouped dwellings has been presented for Council consideration due to objections being received. The proposal is considered to meet the key amenity related elements of R-Codes Volume 1 and, as such, is unlikely to have a significant adverse impact on the local amenity of the area. The proposal has been assessed and satisfies the design principles of the R-Codes in relation to being consistent with the immediate locality and streetscape character.

The objections received relate primarily to street setbacks, landscaping, visitor parking and retaining. Amended plans have addressed the street setbacks and landscaping. An assessment against the design principles for visitor parking and retaining has identified that the proposal can be supported given the characteristics and location of the site.

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

**Further Information**

N/A

# PD36.06.22 Comment on State Development Assessment Unit Application for Children’s Hospice Development at 61 (Lot 503) Clement Street, Swanbourne

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting – 28 June 2022 |
| **Applicant** | Western Australian Planning Commission |
| **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. Location Plan 2. Development Plans 3. Notice of Classification Letter from DWER |

**Purpose**

The purpose of this report is for Council to provide its comments to the State Development Assessment Unit (SDAU) of the Western Australian Planning Commission (WAPC) on a development application at 61 Clement Street, Swanbourne (formerly portion of Allen Park). The application proposes the development of a Children’s Hospice.

**Recommendation**

**That Council**

1. **Recommends the State Development Assessment Unit have the submitted Bushfire Management Plan reviewed by an appropriately qualified assessor to ensure the assumptions and recommendations are correct and consistent with the requirements of bushfire regulations, with any further recommendations implemented prior to issue of a building permit.**
2. **Advises the State Development Assessment Unit that the City of Nedlands does not support clearance of native vegetation outside the lot boundaries. Should the revised Bushfire Management Plan require clearance of native vegetation outside the lot boundaries, the building permit plans should be revised to minimise or avoid this.**
3. **Recommends the Transport Impact Statement submitted be revised to provide additional detail explaining how the trip generation of 40 vehicle trips per hour maximum was derived, including detail on the number of daily patients expected to use the hydrotherapy service and the level of other outpatients and associated staff/practitioners who will be visiting the Hospice on a daily basis, with any further recommendations implemented prior to issue of a building permit.**
4. **Advises the State Development Assessment Unit that it supports the proposed Children’s Hospice at 61 Clement Street, Swanbourne as outlined in the development plans date stamped 26 April 2022 (Attachment 2) and recommends the following conditions be considered for any approval granted by the Western Australian Planning Commission:**

**Demolition and Construction**

1. **Prior to the issue of a demolition permit and/or 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 demolition and construction process to the satisfaction of the City of Nedlands.**
2. **Prior to the issue of a building permit, amended plans are to be submitted showing conservation fencing which matches the existing fencing to the east of the site, installed around the site boundaries to demarcate the bushland protection zone to the satisfaction of the City of Nedlands.**
3. **All stormwater generated on site is to be retained on site. An onsite storage/infiltration system is to be provided within the site for a 1 in 100-year storm event. No stormwater will be permitted to enter the City of Nedlands’ stormwater drainage system unless otherwise approved.**
4. **The development is required to provide access to buildings for people with disabilities in accordance with the National Construction Code Building Code of Australia, AS1428.1 and Disability (Access to Premises – Buildings) Standards 2010.  Detailed drawings are to be submitted with the Building Permit application identifying means of access from carparking areas to the entrance of the building and throughout the building, as required by AS1428.1 and the Disability (Access to Premises – Buildings) Standards 2010.**
5. **Prior to the issue of a building permit, a Construction Environmental Management Plan is to be prepared and approved by the Western Australian Planning Commission on advice of the City of Nedlands. The plan should address:**
   1. **Any unexpected finds during excavation and other soil disturbing works;**
   2. **Implementation of an unexpected finds protocol to manage any remnant asbestos fragments should they emerge from garden soils in the future; and**
   3. **Consideration of ground gases for the underground car park.**

**The approved Management Plan is to be adhered to for the duration of the construction process.**

**Sustainability**

1. **The initiatives and recommendations contained within the Norman Disney and Young Sustainability Strategy dated received 26 April 2022, 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.**

**Noise**

1. **All Noise control requirements and recommendations contained within the Marshall Day Acoustic Report dated 26 April 2022 for the development to achieve compliance with the Environmental Protection (Noise) Regulations are to be adopted. Where any changes outside of these recommendations are proposed or where equipment specifications and locations could not be determined at the design stage for accurate noise modelling, assessment by an acoustic consultant is to be completed to confirm compliance with the Regulations.**

**Landscaping**

1. **Prior to issue of a building permit, a detailed landscaping plan is to be approved by the Western Australian Planning Committee on advice of the City of Nedlands. The landscaping is to be consistent with the approved Bushfire Management Plan, installed prior to occupation, and maintained for the life of the development.**
2. **Prior to occupation, an all-abilities path is to be provided from the building to the pedestrian path located to the north, in order to facilitate access to the beach, to the satisfaction of the City of Nedlands.**

**Bushfire**

1. **Prior to the issue of a building permit, the development is to demonstrate compliance with the Developer/Landowner Management Actions in part 6 of the Bushfire Management Plan prepared by emerge date received 26 April 2022 or any approved modifications. Recommendations are to be implemented prior to occupation and maintained for the life of the development.**

**Waste**

1. **Prior to the issue of a building permit, an amended Waste Management Plan is to be submitted and approved by the City of Nedlands. The amendments are to demonstrate:**
   1. **Waste truck entry and exit diagram;**
   2. **Waste truck height clearance is sufficient, including sectional demonstrating vertical clearance;**
   3. **Risk assessment of the waste collection demonstrating safety due to the waste truck blocking traffic from entering and exiting during collection.**

**Parking**

1. **Prior to the issue of a building permit, an amended Transport Impact Statement is to be submitted and approved by the City of Nedlands. The amendments are to demonstrate:**
   1. **Plans in the report to match the approved plans or any approved modifications.**
   2. **Swept paths are to demonstrate no conflicts with walls or encroachment over kerbs; and**
   3. **All swept paths should include egress movements from the respective loading bays/areas.**

**Voting Requirement**

Simple Majority.

**Background**

**Background to Application**

Western Australia does not currently have a dedicated paediatric hospice facility and typically hospitals and in-home care services have performed this role. Given WA’s growing population it has been identified that a purpose-built facility is needed to improve existing services. Life limiting child illness is an emotionally distressing experience which can overwhelm the focus of the family unit. The proposed Hospice is intended to provide reprieve from this through providing a calm, caring, and relaxing environment which allows for families to connect with each other, and with other families going through similar experiences.

In 2020 the City of Nedlands received notice from the Perth Children’s Hospital Foundation that it intended to build and operate a Children’s Hospice at 61 Clement Street, Swanbourne (formerly a portion of Allen Park). The proposal was supported by the State Government and in September 2020 the Department of Planning Lands and Heritage (DPLH) placed a Public Notice in The West Australian newspaper noting the creation of a new 5,000m2 lot within Allen Park, known as Lot 503 (**Attachment 1**).

**Land Tenure**

The Hospice is proposed to be located on Lot 503 which is a Crown land title subject to a management order vested to the Child and Adolescent Health Service. The conditions of the management order note that lot 503 is “to be utilised for the designated purpose of ‘Children Hospice’ only”.

Lot 503 obtains vehicle access to Odern Crescent via Lot 504, which is a Crown land title subject to a management order vested to the City of Nedlands for the purpose of public access. A condition of the management order for lot 504 states that “the management body will provide unrestricted access to adjoining Lot 503 on Deposited Plan 410572, except in situations that warrant temporary closure for emergency purposes”. The balance of Allen Park, Lot 502, remains subject to a management order vested to the City of Nedlands.

**Development Proposal**

The application seeks development approval for the construction of a two-storey Children’s Hospice at 61 (Lot 503) Clement Street, Swanbourne. The development plans are included at **Attachment 2**. The proposed Hospice facility includes:

* Seven children’s bedrooms;
* Three family apartment suites;
* 40 car bays and one bus bay;
* 20 bicycle bays and two ends of trip facilities;
* Therapy rooms and hydrotherapy pool;
* Communal kitchen, dining, lounge and play areas;
* Bereavement suite; and
* Administration offices, meeting rooms and staff facilities.

In addition to providing respite accommodation on site, the Hospice will provide outreach care and support services. This involves primarily office type functions, with carers working from the hospice site to connect children residing regionally with medical specialists and care workers locally.

**Discussion**

**Metropolitan Region Scheme (MRS)**

The site is reserved for ‘Parks and Recreation’ under the MRS. The Management order over Lot 503 include that it is “To be utilised for the designated purpose of ‘Children’s Hospice’ only”. The proposed use is consistent with the Management order.

**City of Nedlands Local Planning Scheme No. 3 (LPS 3)**

The site is an MRS reserve and is not zoned by the City’s LPS 3. Thereby the provisions of LPS 3 are not applicable to the site.

**Allen Park Master Plan**

The [Allen Park Master Plan](https://www.nedlands.wa.gov.au/sites/default/files/Allen_Park_Master_Plan_2017_-_Final.pdf) was endorsed by Council in 2017 to provide a long-term plan for the sustainable development of the Allen Park precinct. Lot 503 is within the “Sports Precinct” of the masterplan. It is acknowledged that the proposed Children’s Hospice is a departure from the intent of the sports precinct of the masterplan. A review of the Allen Park Master Plan will likely need to be undertaken in the future to reflect the Hospice development if approved.

**State Planning Policy 3.7: Planning for Bushfire Prone Areas (SPP 3.7)**

The site is located within a Bushfire Prone Area. The applicant has provided a Bushfire Management Plan (BMP) prepared by Emerge Associates. The BMP indicates that the Bushfire Attack Level (BAL) rating of the site is BAL-29. In accordance with SPP 3.7, development in areas with a BAL between BAL-12.5 to BAL-29, will not be supported unless accompanied by a BMP jointly endorsed by the local government and the State authority for emergency services.

The BMP includes a number of recommendations to ensure the building meets the requirements for a BAL-29 site. The document also includes a Bushfire Emergency Evacuation Plan. It is noted that the landscaping plan includes new vegetation that does not appear to have been accounted for in the BMP, notably around the perimeter of the site. The requirements in the BMP are recommended as a condition of approval, with an amended landscaping plan being approved that meets the BMP requirements (see below for further landscaping discussion).

Potential discrepancies have been identified in the report, including:

* Possible conflict between landscaping plans and fireload and the need to maintain non-vegetated areas; and
* Unclear whether bushland on the eastern boundary will need to be cleared to install a fire break.

It is recommended that the WAPC seek a peer review of the Emerge Associates BMP or have the plan reviewed by DFES prior to determination of the application.

**Contaminated Site**

The site had previously been a classified as “Possibly contaminated – investigation required” under the *Contaminated Sites Act 2003*. This classification existed due to the larger land parcel comprising Allen Park Reserve containing municipal waste. A report provided by Galt Environmental notes that Lot 503 in isolation is suitable for reclassification as ‘Decontaminated’ under the *Contaminated Sites Act 2003*. On 10 March 2022 the site was formally reclassified as “Decontaminated” by the Department of Water and Environmental Regulation (DWER) (**Attachment 3**). The notice of classification states that “the site is suitable for unrestricted use, including sensitive uses such as residential, primary schools and childcare centres”.

The DWER’s classification notice recommends the following actions:

1. A Construction Environmental Management Plan should be prepared to address any unexpected finds during excavation and other soil disturbing works.
2. As a further precautionary measure, the owner/occupier may wish to implement an unexpected asbestos finds protocol to manage any remnant asbestos fragments, should they emerge from garden soils in the future.
3. Consideration should be given to the generation of ground gases, where basements or underground car parks are proposed to be constructed at the site as part of the proposed redevelopment.

The above have been included as recommended conditions of approval (see Condition 5).

A further geotechnical assessment has been undertaken by Galt Environmental as part of this application which concludes the site is geotechnically capable of supporting the proposed development, subject to normal construction and design measures being undertaken.

**Car Parking and Access**

As the site is an MRS reserve, the City’s Parking Local Planning Policy (LPP) is not applicable. Notwithstanding a high-level assessment against the LPP is provided to offer general guidance and context.

A Hospice is best classified as a ‘Hospital’ land use, which requires a car parking ratio of 12 car bays, or one car bay for every four beds, whichever is the greater. The application proposes 10 “beds” (sevens children’s rooms and three family suites), which would require 12 bays, in accordance with the LPP. The application proposes a total of 40 car bays (36 standard bays and four-day visitor bays).

The car parking area is within a basement level and is concealed from view from the public domain. In this regard the over provision of car parking is not considered to have any impact on visual amenity. The proposed car parking provision is considered satisfactory and is supported.

In addition to car parking, 20 bicycle parking bays and two end of trip facilities are proposed. The provision of facilities for alternate forms of transportation, especially for staff, is supported.

The City has reviewed the applicant’s Transport Impact Statement (TIS) and notes the following:

* The swept path diagrams do not match the current DA plans and appear to show conflicts with walls and encroachment over kerbs.
* Swept paths showing access and egress movement to the bus bay should be included; and
* All swept paths should include egress movements from the respective loading bays/areas.

Should the development be approved, a condition is recommended that the TIS is amended to address the above points as a condition of any approval (see condition 12).

Further, the City notes that no detail is provided within the TIS to explain how the trip generation of 40 vehicle trips per hour maximum was derived. It is recommended that discussion on this matter is provided, with any further recommendations implemented prior to issue of a building permit (see recommendation C).

**Design**

The building is architecturally designed to respectfully integrate with the surrounding natural landscape. The design comprises a combination of timber, stone, render and concrete cladding, which contrasts with large spans of external glass. The design is considered to sit well within the landscape and is appropriate for the site. The application has already been reviewed once by the State Design Review panel, with another review planned. The design may be subject to further refinement.

No permanent conservation fencing is indicated on the plans to separate the proposed Hospice from the bushland protection zone around it. Should the development be approved, a condition is recommended that fencing matching the existing fence to the eastern side of the lot, be installed around the site boundaries to demarcate the bushland protection zone (see Condition 2).

**Landscaping**

The submitted Landscape Plan is a concept plan that does not indicate tree or plant species and includes plans for a Community Open Space and walking paths that are outside of the boundaries of the lot. Further, the concept plan includes a number of trees straddling the boundary of the lot and which may conflict with the requirements of the Bushfire Management Plan. A condition of approval is recommended requiring a detailed landscaping plan be submitted that includes:

* Use of local provenance plant species that occur within the surrounding bushland area.
* Plant pathogen management including:
  + The use of Australian Standard AS 4454 Composts, Soils Conditioners and Mulches;
  + Cleaning/sterilising machinery, tools and equipment before accessing the site; and
  + Using plant stock sourced from a nursery with accreditation from Nursery Industry Accreditation Scheme Australia (NIASA).

The Landscape Plan should also be compatible with the requirements of the Bushfire Management Plan. Should the development be approved, a condition is recommended to ensure the landscaping is consistent with the approved Bushfire Management Plan, installed prior to occupation, and maintained for the life of the development (see Condition 8).

**Waste Management**

The applicant has provided a Waste Management Plan (WMP) prepared by Encycle Consulting. The WMP confirms that the development will be serviced by a waste collection service provider under the State Government’s Common Use Agreement. The City’s Waste Services concludes that the WMP is capable of meeting the City’s waste guidelines subject to confirmation or updating of the plan to address the following:

* Waste truck entry and exit diagram;
* Waste truck height clearance is sufficient, including sectional demonstrating vertical clearance;
* Risk assessment of the waste collection demonstrating safety due to the waste truck blocking traffic from entering and exiting during collection.

An amended Waste Management Plan is recommended to be included as a condition of any approval (see Condition 11).

**Sustainability**

The applicant has provided a Sustainability Strategy report provided by consultants Norman Disney and Young. The report indicates a number of initiatives which the proposal can undertake to ensure ongoing minimisation of energy consumption and improvement of environmental quality. Should the development be approved, a condition is recommended to ensure the initiatives within the report are carried out and maintained for the lifetime of the development (see Condition 6).

**Consultation**

Community engagement was conducted prior to the lodgement of the development application, including an advisory group, the Site Assessment Working Group (SAWG), chaired by councillors from the City of Nedlands and comprised of community members and stakeholders. The recommendations from the SAWG and Administration comment are as follows:

That the Site Assessment Working Group Recommends to Council that:

1. The WAPC be requested to ensure that no clearing be required to be undertaken outside of Lot 503 as a result of the proposed Hospice, in order to meet bushfire management requirements.

Recommendation B of this report is to advise the SDAU that the City does not support clearance of native vegetation outside the boundaries of Lot 503. Should any revised BMP require clearance of native vegetation outside the lot boundaries, the building permit plans should be revised to minimise or avoid this.

1. The WAPC requested to ensure that the existing public path to the North be used as the appropriate emergency vehicle access to the west of the Lot 503 for use in emergencies.

The Bushfire Emergency Evacuation Plan provided indicates that the single access point is acceptable, and an alternate emergency vehicle access point to the west is not required. Notwithstanding, recommendation A of this report is to request that the BMP be reviewed by an appropriately qualified assessor to ensure the assumptions and recommendations are correct and consistent with the requirements of bushfire regulations.

1. The WAPC be requested to confirm the number of daily patients expected to use the hydrotherapy service and the level of other outpatients and associated staff/practitioners who will be visiting the Hospice on a daily basis and for this to be reflected in the Traffic Impact Statement and the provision of car parking.

It is noted that no detail is provided within the TIS to explain how the trip generation of 40 vehicle trips per hour maximum was derived. It is recommended that discussion on this matter is provided, including detail on the number of daily patients expected to use the hydrotherapy service and the level of other outpatients and associated staff/practitioners who will be visiting the Hospice on a daily basis, with any further recommendations implemented prior to issue of a building permit (see recommendation C).

1. The WAPC seek clarification to ensure that the access arrangements are appropriate in the case of a medical emergency.

The TIS indicates that the swept paths provided are appropriate for ambulance access. As part of the application process the proposal has also been referred to Department of Fire and Emergency Services (DFES) and Department of Health. These agencies are equipped to provide advice to the WAPC on appropriate access arrangements in the case of a medical emergency.

1. The WAPC seek clarification as the extent and form of fencing of the site.

Should the development be approved, a condition is recommended that fencing matching the existing fence to the eastern side of the lot, be installed around the site boundaries to demarcate the bushland protection zone (see Condition 2).

1. The WAPC be requested to impose a condition on the approval requiring that an all-abilities path be provided from the building to the pedestrian path located to the north in order to facilitate access to the beach to the satisfaction of the City of Nedlands.

Should the development be approved, a condition is recommended that that an all-abilities path be provided from the building to the pedestrian path located to the north in order to facilitate access to the beach to the satisfaction of the City of Nedlands (see Condition 9).

That the Site Assessment Working Group Recommends to Council that:

1. The following elements of the Allen Park Precinct Master Plan be prioritised – Element No. 9 – New Formalised parking (Rugby Overflow) and Element No. 7 – Raised traffic calming and crosswalks X 3 to improve the access and egress into the precinct.
2. Review relevant aspects of APMP including the budget line items and target dates for funding, so that appropriate State and Commonwealth funding can be accessed in the wake of this children’s health and wellbeing facility.
3. Should the site no longer be used as a Hospice seek advice on how the City could make presentation to Minister to modify Management Order in favour of a return to Class A reserve.
4. As part of future budget process gives consideration to improve the areas identified as number 10 and 26 on the Allen Park Master Plan dated 2017.

The City was not required to conduct public consultation as part of this development application. Public consultation was conducted by the State Development Assessment Unit between 29 April 2022 and 27 May 2022. All submissions received will be considered by the SDAU when making its recommendation to the Western Australian Planning Commission as the decision maker.

**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**

N/A

**Legislative and Policy Implications**

The City is not required to make a quasi-judicial decision in this case. The decision maker is the WAPC as the land is reserved by the Metropolitan Region Scheme and the application has been made through the State Development Assessment Unit pathway.

**Decision Implications**

Council is providing non-binding comments to the State Development Assessment Unit. The SDAU will prepare a planning assessment and recommendation to the Western Australian Planning Commission for a final determination. As Council is not the decision-maker, it will not be party to any future State Administrative Tribunal matter, should the proponent be aggrieved by the decision.

**Conclusion**

Council is requested to provide comment to the WAPC on the proposed redevelopment of a Children’s Hospice at 61 (Lot 503) Clement Street, Swanbourne.

Administration recommends that Council provides support to the development application, subject to conditions.

**Further Information**

N/A

# PD37.06.22 Comment on State Development Assessment Unit Application for Tawarri Hot Springs Development at 120 Esplanade, Dalkeith

|  |  |
| --- | --- |
| **Meeting & Date** | Council – 28 June 2022 |
| **Applicant** | Western Australian Planning Commission |
| **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 and the proponents or their consultants. |
| **Report Author** | Roy Winslow, Manager Urban Planning |
| **Director/CEO** | Tony Free, Director Planning and Development |
| **Attachments** | 1. Location Plan. 2. Development Plans 3. City of Nedlands Car Parking Plan 4. Landscaping Plan |

**Purpose**

The purpose of this report is for Council to provide its comments to the State Development Assessment Unit (SDAU) of the Western Australian Planning Commission (WAPC) on a development application at 120 Esplanade, Dalkeith (Tawarri site). The application proposes the development of a private recreation facility (wellness/spa) and incidental restaurant/café.

**Recommendation**

**That Council advises the State Development Assessment Unit that it supports the proposed Tawarri Hot Springs at 120 Esplanade, Dalkeith as outlined in the development plans date stamped 10 November 2021 (Attachment 2) and recommends the following conditions be considered for any approval granted by the Western Australian Planning Commission:**

**Traffic and Parking**

1. **The proponent providing a cash contribution prior to occupation of $200,000 being for the provision of formalised car parking spaces to be constructed by the City of Nedlands in accordance with the City’s car parking plan (Attachment 3) as part of the future upgrading of Esplanade between the Nedlands Yacht Club entrance and the development site.**
2. **The City of Nedlands car parking plan (Attachment 3) to form part of any approval granted by the Western Australian Planning Commission.**
3. **Construction at the developers cost and as part of the overall development the “Stage 2” works within the Esplanade road reserve as denoted on the approved plans, to the satisfaction of the City of Nedlands.**
4. **A traffic and car parking management plan to be prepared by the proponent and approved by the City of Nedlands prior to issue of a building permit and thereafter implemented at all times. Such plan will outline measures to reduce car parking / traffic demand both for day-to-day operations and for larger events.**
5. **A minimum of 10 visitor bike parking bays and 2 bike parking bays for staff and associated end of trip facilities are to be provided prior to occupation to the satisfaction of the City of Nedlands.**

**Waste Management**

1. **A detailed waste management plan is to be prepared by the proponent and approved by the City of Nedlands prior to issue of a building permit and thereafter implemented at all times.**

**Noise**

1. **An acoustic report is to be prepared by a suitably-qualified and licensed acoustic consultant prior to issue of a building permit demonstrating compliance of the development with the requirements of the Environmental Protection (Noise) Regulations 1997.**

**Landscaping**

1. **A landscaping plan for the development site, entry plaza and Esplanade "triangle" is to be prepared by the proponent and approved by the City of Nedlands prior to issue of a building permit and thereafter implemented and maintained at all times to the satisfaction of the City of Nedlands. The landscaping plan is to incorporate landscape screening of the foreshore interface area rather than the proposed bunding and “haha wall”. The landscaping plan is to limit sedge selection to: Baumea juncea, Juncus krausii, Lepidosperma gladiatum and Ficinia nodosa.**

**Building Form**

1. **Walls and/or fencing of the pool areas/terraces facing the river and foreshore are to be glazed or otherwise visually permeable in a manner that reduced the visual impact when viewed from the river.**

**Demolition and Construction**

1. **Prior to the issue of a Demolition Permit and/or a Building Permit, a Demolition and Construction Management Plan 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 demolition and construction process to the satisfaction of the City.**
2. **The development site is to be fenced at all times during demolition and construction.**

**Other Matters**

1. **All trees that are to be retained on the development site are to be protected by fencing or other method approved by the City of Nedlands during demolition and construction.**
2. **A cliff face geotechnical report is to be prepared by the proponent and approved by the City of Nedlands prior to issue of a building permit. The geotechnical report is to confirm the stability of the cliff face and steep bank to the north and west of the development site and identify the use of appropriate construction techniques to minimise impacts on the cliff/bank stability.**
3. **All stormwater generated on site is to be retained on site. An onsite storage/infiltration system is to be provided within the site for a 1 in 100-year storm event. No stormwater will be permitted to enter the City of Nedlands’ stormwater drainage system unless otherwise approved.**
4. **The electricity substation and water bores located on land outside of the development site being owned and operated by the relevant service provider. In the event that these improvements are to be privately owned, they are to be relocated onto the development site to the satisfaction of the City of Nedlands.**

**Voting Requirement**

Simple Majority

**Background**

**Background to Application**

In 1957 a community facility was built which in the 1960s became the Tawarri Reception Centre. This operated until 2018 when the current lease expired. The building has remained

vacant since then.

Council has recently resolved not to enter into a lease agreement with the proponents of the development. The lease site, known as Lot 502 on Deposited Plan 418496 has subsequently been excised from Reserve 17391 by the State government. This will allow the State to enter into a direct lease with a future lessee without the involvement of the City of Nedlands. The remainder of Reserve 17391 to the east, Reserve 29174 to the west and the Esplanade road reserve continue to be managed by the City of Nedlands.

A development application was lodged with the WAPC for assessment by the SDAU as a ‘significant development’. Notwithstanding the application was lodged with the SDAU and not the City, the decision maker remains as the WAPC given the site is located on land reserved by the Metropolitan Region Scheme. The City of Nedlands is acting as a referral body in this instance.

**Development Proposal**

The application seeks development approval for a wellness/spa facility and incidental restaurant/café. The development plans are included in **Attachment 2**.

The development site is subject to lease negotiations between the proponent and the Government of Western Australia. Whilst the lease and planning processes are separate, it is assumed that an appropriate lease will be granted to the proponent in order to allow the development to proceed.

No car parking will be provided on the development site. Rather, the development will rely on car parking provided within the adjoining City-managed reserves.

The building is architecturally designed and has been subject to review by the State Design Review Panel on a number of occasions.

**Discussion**

**Approvals Process**

The site is reserved by both the Metropolitan Region Scheme and LPS3 as “Parks and Recreation”. As a regional reserve, the decision maker for planning proposals is normally the Western Australian Planning Commission (WAPC). However, the site is also located within the Swan River Trust Development Control Area. This requires proposals within the area to be subject to the approvals process of the Department of Biodiversity, Conservation and Attractions (DBCA).

The application subject to this report is being considered under Part 17 of the Planning and Development Act 2005. This temporary approval pathway allows for certain applications to be lodged and assessed by the State Development Assessment Unit (SDAU) rather than using the Joint Development Assessment Panel process. The City of Nedlands, as the relevant local government, is provided the opportunity to make comment on the proposal. However, it is not responsible for the assessment or preparation of the recommendation to the WAPC. The Swan River Trust is also invited to consider the application and make a recommendation to the SDAU/WAPC. All advertising and consideration of submissions is undertaken by the SDAU and not the City.

**Scope of Assessment and Compliance with LPS**

As the City is not the relevant authority for this application, the scope of its assessment is limited in the main to its Local Planning Scheme and Policies. It is also invited to make comment as the manager of the reserved land that surrounds the development site. All other matters that fall within the remit of other state agencies are not considered in this report, unless there is an overlap with the City’s operations.

As an MRS parks and recreation reserve, there are no specific LPS3 development controls that apply to this proposal. The only local planning policy controls available for assessment are those relating to car parking. For all other matters, the assessment will take a “first principles” approach, guided by the “matters to be considered” contained in clause 67(2) of the Deemed Provisions.

**Car Parking**

Car Parking Demand

The development does not provide on-site car parking. Consequently, the development will rely on car parking located on Esplanade, which is under the care and control of the City of Nedlands.

The Traffic Impact Statement states a maximum of 135 patrons will visit at peak operating time. The City’s Parking Local Planning Policy requires 1 space for every two patrons, based on a land use of “recreation-private”. The total number of car parking spaces required to accommodate the stated capacity is 68.

City officers understand that the physical capacity of the building will be somewhat higher than that stated in the Traffic Impact Assessment. The maximum capacity of the facility as calculated for the purposes of licensing as a public building is approximately 400, subject to a formal certification process.

Based on the public building maximum capacity of approximately 400, a total of 200 car parking spaces would be required. However, some allowance to this figure would be appropriate to take into account people using the café and restaurant area that are also visiting the adjacent All Abilities Play Space. Other measures to reduce car parking demand are included in the Traffic Impact Statement. These measures include valet service and catering for ride share and cycling. These measures would allow for the 200 space requirement to be reduced.

Car Parking Provision

Another factor to consider over and above policy compliance is the physical ability to provide car parking in the vicinity of the development site. Given the location is environmentally and aesthetically sensitive, car parking needs to be responsive to the character and constraints of the riverfront. It is considered appropriate that all car parking in the vicinity is formalised to ensure efficiency and safety for users of all surrounding facilities, as well as address environmental and aesthetic constraints.

City officers have prepared a car parking plan at **Attachment 3**. This plan provides for 129 car parking spaces once the “Stage 2” works to the western end of Esplanade are undertaken. All parking is located within the existing footprint of formalised and informal parking along Esplanade. Construction of this plan is contingent on a larger upgrading of the roadway and drainage for Esplanade. This work ideally would take place within the next 6 years, subject to budgetary considerations. To address existing drainage issues on Esplanade, the pavement height at the western end abutting the development site will be raised by approximately 500mm, with fill gradually reducing eastwards towards the entrance to the Yacht Club. Constructing car parking spaces on the current road gradient in the meantime will require these spaces to be reinstated at a higher level when the road works take place.

Officers have considered the combined parking requirements of the development and the adjacent All Abilities Play Space. It is concluded that the 129 spaces identified on the City’s parking concept can accommodate both operations. However, parking and traffic management planning for large events at the proposed facility is recommended. This is included in the recommendation to Council.

Developer Contribution

Construction of car parking on the development site is not feasible using the proposed development outcome. Further, there is capacity within the Esplanade road reserve to cater for up to 129 formalised car parking spaces. Given that the City will be reconstructing Esplanade in the medium term, requiring car parking to be constructed by the proponent as part of the development works is not considered appropriate.

It is recommended that two conditions are placed on any approval that address car parking and access:

1. Construction of the car parking and entry works shown as “Stage 2” on the development plans. Construction to be at the time of development of the main facility and at the developer’s cost.
2. Payment to the City of Nedlands of a contribution of $200,000 towards the provision of car parking on Esplanade. These funds will be held by the City and utilised to provide formalised car parking in accordance with the concept plan (**Attachment 3**) at the time of reconstruction of Esplanade by the City. In the meantime, the informal car parking arrangements already in place will remain.

A condition requiring the City’s car parking concept plan for Esplanade to form part of any approval is also recommended. This will ensure the City has broad approval to the car parking works from the WAPC as the land is reserved for Parks and Recreation by the Metropolitan Region Scheme.

**Use of Reserves Outside of Development Site**

There are a number of elements of the development that are located outside of the development site. These elements include the substation, bore, signage and potentially drainage. It is also noted that “Stage 2” works in the cul-de-sac ‘triangle’ of Esplanade are also shown on the development plans. The land on which these improvements are located is managed by the City of Nedlands.

Matters such as car parking, landscaping, pathways and potentially drainage can be readily accommodated in the same manner as for other developments that utilise access/egress from City-managed land. However, the location of the development’s substation and water bore presents a larger concern. The nature of these improvements and their ownership is unclear from the development application information. Whilst some Western Power and Water Corporation infrastructure is contained within local government land, private infrastructure is normally located on the land to which it relates. It is recommended that Council recommend this infrastructure be owned and maintained by a service provider or relocated within the development site.

**Design**

The original design was described to use contextually appropriate material like stone, native plants and timber, specifically:

* Designed based on the concept as a series of limestone blocks which enables the form of the facility to present as a series of smaller buildings rather than a single mass. This reduces the perception of scale from the river and from the foreshore and allows for views through the site from the car park to the river.
* The development is primarily single storied, with two small upper storey portions setback farther from the river. The topography of the escarpment at the rear means the nearby vegetation on the escarpment sits well above the roofline when viewed from the river. The development will be noticeable and prominent but does not dominate or overwhelm the landscape.
* The scale steps up gently from the foreshore, with landscaping and the open-aired pools drawing the scale further from the river.
* A low height, balustrade-level wall fronting the foreshore is largely protected by adjacent vegetation and enables privacy for pool users whilst allowing for passive surveillance of the foreshore footpath.
* The overall result is a clear delineation of public realm and the boundary of the facility, with the edges blurred by landscape and building form.
* The development establishes a new form for the area and will set a new standard for Perth’s limited examples of sensitive and well considered riverside development.

The design is considered appropriate for the site and is supported. In addition, the design has been reviewed by the State Design Review Panel on a number of occasions.

The latest plans change the external building materials from timber and stone to pre-cast concrete and grey fibre cement cladding. The design is considered and generally indicative of high-quality built form as well as landscaping outcomes integrated into a unique and picturesque site, subject to:

* Increasing the level of interactivity between the pool area and the river/promenade pathway, particularly ensuring the glass balustrading is as low impact as possible; and
* Confirming the landscaping/public space infrastructure to be provided in the area between the building and pathway promenade as this area could make a strong positive contribution to the surrounding local community.

**Landscape Concept**

The landscape concept has been prepared by ASPECT Studios (**Attachment 4**). The design responds to the local context and scale, form and function of the architecture in order to create a dynamic and engaging sequence of landscape spaces. The design develops a series of public landscape spaces that work to unite this project with the Jo Wheatley All Abilities Play Space and the future redevelopment of the Sunset Hospital site to create a foreshore precinct that meets the needs of residents, visitors and the broader community.

The site is divided into 3 distinct areas:

* Car park – planting proposes feature tree planting of Tuarts, Jarrah’s and Peppermint trees, with lower plantings of groundcovers to provide clear wayfinding through to the proposed development. Water Sensitive Urban Design principles will be integrated into a bio-filtration swale to capture stormwater run-off, including a range of rushes and sedges from the Vasse Complex
* Arrival court – planting references conceptually the Tamala limestone and deep waters of the subterranean Aquifiers. Planting compositions will be represented by both clump, meander and trail from, beside and along the proposed walling elements.
* Spa Complex – the planting palette responds to the hot springs, the healing, medicinal and restorative qualities of bathing. Noongar medicinal plants will be represented in appropriate locations.

Meandering through the development will be a living stream of sedges, rushes and suitably appropriate groundcovers/herbs. Where appropriate Australian native and exotic plant species will create and support an aesthetic and high quality landscape response. The grassed area and bushland to the north of the development site is contained within the City’s river foreshore greenway corridor and the bushland is subject to a bushland management plan that aims to protect and enhance the native vegetation.

A total of 15 trees are proposed to be removed from the development site and 5 trees retained abutting the foreshore reserve. One tree is proposed to be removed for construction of the substation outside of the lease area.

It is also recommended that the landscaping plan be amended to limit sedges to: *Baumea juncea*, *Juncus krausii,* *Lepidosperma gladiatum* and *Ficinia nodosa* as this is consistent with the species the City uses along foreshore and river wall restoration areas nearby.

**River Levels**

The development proposes finished floor levels as follows:

* 1.16 AHD Café
* 1.85 AHD Plant and Bin Store
* 2.80 AHD Wellness Centre/Spa and Restaurant
* 3.22 AHD Substation

The Department of Water and Environmental Regulation (DWER) advise that to year 2110 an allowance of 0.9 metres for mean sea level rise should be considered in accordance with State Coastal Planning Policy (SPP2.6)

The Swan and Helena River Flood Study shows the general area affected during major events with the following floor levels expected:

* 1 in 10 (10%) AEP 2.0m AHD
* 1 in 100 (1%) AEP 2.2m AHD

Based on the floodplain management strategy for the area, proposed development (ie filling, building etc) is considered acceptable with respect to major flooding. However, a minimum habitable floor level of 2.7m AHD is recommended to ensure adequate flood protection against the 1 in 100 AEP event in the future. This is achieved by the development with the exception of the café area, which will be constructed to accommodate flooding. This is considered to be appropriate as it will allow for the café to be at the same level as the adjacent playground, rather than require external steps, ramps and retaining.

The available contour information shows that the general natural surface level of the development site is approximately 1.5m AHD. The river wall in front of the site is at 0.9m – 1.0m AHD. The Department of Biodiversity, Conservation and Attractions (DBCA) advise the floor levels should be 0.5m above the 100 year ARI floor level and grading should be minimised to 1:4 gradient to protect against erosion.

A report was prepared on the river walls west of Perth Flying Squadron Yacht Club (PFSYC) by M P Rogers and Associates in 2015. A new wall was constructed in accordance with the above report. Sea level has been factored for the wall and thus nothing further is required from the development in terms of river wall construction.

**Foreshore Interface**

The river interface proposes bunding (referred to as “haha wall”) to screen the raised terraces and pool areas. The cross section shows 2m height difference and a 1m high wall above the pool levels.

Administration recommends that the visual impact of the area should be addressed by landscape screening rather than the proposed bunding and the “haha wall”. The proposed balustrade wall adjoining the pool should also be visually permeable so as to further reduce visual impact. These can be dealt with as conditions of approval.

**Bushfire and Bush Fire Prone Area**

The bushland area to the north is no longerclassed as bush fire prone. Therefore, the Australian Standard for Construction in Bush Fire Prone Areas (AS 3959-2009) does not apply.

**Cliff Stability**

An assessment of the cliff stability behind the subject site was undertaken by Golder Associates in June 2015.

It is recommended that a geotechnical assessment be undertaken of the cliff /bank immediately behind the subject site prior to any development on the site. This assessment could be prepared as an addendum to the 2015 report. This will identify any appropriate action and construction methods necessary to minimise impact on the cliff stability. Given that the development is potentially increasing the risk it is entirely appropriate for the developer to undertake this assessment prior to any development on site. These requirements can be imposed via a condition.

**City of Nedlands Foreshore Enhancement and Management Plan.**

The proposed development complies with the City of Nedlands Foreshore Enhancement and Management Plan. The key element is to redevelop Tawarri site *“in similar style incorporating heritage features”*. The development does this by retaining use of the site as a wellness spa utilising the hot springs water. It also proposes detailed design and elements that reflects the history of the site, as well as landscaping that reflect the history.

**Consultation**

The City was not required to conduct consultation for this development application. Public consultation in accordance with the Planning and Development (Local Planning Schemes) Regulations 2015 was conducted by the State Development Assessment Unit. All submissions received will be considered by the Unit when making its recommendation to the Western Australian Planning Commission as the decision maker.

**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**

There are no direct financial implications associated with the provision of planning comment on this development application. All financial implications of the leasing of the site is contained in a separate report to Council.

**Legislative and Policy Implications**

The City is not required to make a quasi-judicial decision in this case. The decision maker is the WAPC as the land is reserved by the Metropolitan Region Scheme and the application has been made through the State Development Assessment Unit pathway.

**Decision Implications**

Council is providing non-binding comments to the State Development Assessment Unit. The Unit will prepare a planning assessment and recommendation to the Western Australian Planning Commission for a final determination. As Council is not the decision-maker, it will not be party to any future State Administrative Tribunal matter, should the proponent be aggrieved by the decision.

**Conclusion**

Council is requested to provide comment to the WAPC on the proposed redevelopment of Tawarri Hot Springs. The application seeks development approval for a wellness/spa facility and incidental restaurant/café on the subject site.

Administration recommends that Council provides support to the development application, subject to conditions.

**Further Information**

N/A

# PD38.06.22 Consideration of Adoption of Local Planning Policy for Advertising – Draft Broadway Precinct Design Response

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting – 28 June 2022 |
| **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 |
| **Attachments** | 1. Draft Broadway Precinct Design Response Local Planning Policy 2. Summary of changes – Broadway Precinct Design Response Local Planning Policy Relationship to SPP7.3 R-Codes |

**Purpose**

The purpose of this report is for Council to adopt for advertising the draft Broadway Precinct Design Response Local Planning Policy (the Policy), found in **Attachment 1**.

**Recommendation**

**That Council:**

1. **adopts the Draft Broadway Precinct Design Response Local Planning Policy for advertising in accordance with Clause 4 of the Deemed Provisions of Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015;**
2. **notes that the advertising period will be for a minimum of 28 days;**

1. **requests the Mayor to send a letter to the Minister for Planning requesting coordinated planning be undertaken at State level for the full length of the Stirling Highway Activity Corridor; and**
2. **requests the CEO to prepare a Discussion Paper to consider the merits and implications of the Policy’s proposed star rating for building sustainability, which is to be discussed at a concept Forum prior to the Policy being further considered.**

**Voting Requirement**

Simple Majority.

**Executive Summary**

The Policy seeks to nuance the built form guidance of State Planning Policy 7.3 - Residential Design Codes (R-Codes), providing localised and contextually appropriate built form controls and design guidance for the Broadway Precinct. This report provides an overview of the process the City undertook to create the Policy, a breakdown of the Policy structure and its strategic intent.

The Policy process began with research into the context and character of the Precinct and built form modelling for future development provisions in consideration of this character and context. Key character drivers for the Broadway Precinct were identified as open, leafy streetscapes within the Residential zone, landscaping in the form of deep soil and trees, and areas, or ‘nodes’, of activity along Broadway.

The research and modelling phase was followed by an extensive community engagement program and review of the Policy provisions by industry experts. This report provides detail on the results of community engagement, and how the outcomes of this engagement have influenced the provisions of the Policy.

The Policy breaks the Broadway Precinct into four sub-precinct areas, each having its own existing and desired future character statement. The sub-precincts are detailed in a Precinct map included as Figure 1 at the end of this report. Each sub-precinct also has provisions written specifically for them that are consistent with these character statements, as well as their density code, zoning and lot orientation. The report discusses the specific aspects of the character and context research, built form modelling and engagement outcomes that have influenced these provisions.

Each modification to the planning framework is justified and assessed against the provisions of the R-Codes. This report includes information on the state planning documentation, and how this Policy relates to these documents. This report also details the legislative requirements of creating and processing the Policy, which aspects of the Policy require approval from the WAPC, and guides Council on the next steps in the policy adoption process.

**Background**

**Built Form Modelling**

In accordance with State Planning Policy 7.2 – Precinct Design Guidelines (SPP 7.2), the intent of precinct planning policies is to promote the contextually appropriate development of the areas identified for an increase in density under the Scheme. In January 2020 the City engaged consultants to undertake built form modelling for the Broadway, Nedlands Town Centre, and Waratah precincts.

The built form modelling work included the following deliverables:

1. Local distinctiveness study
2. Context analysis
3. Modelling and built form controls

**Community Engagement**

The final deliverables of the built form modelling work were provided to the City in April 2021. The City then proceeded to the community engagement phase of the precinct planning work, using key elements of the built form modelling completed to engage with the Community Reference Group (CRG) at workshops. Broader community engagement was also carried out in the form of an Open House (drop-in session) and a community survey. These methods allowed all residents within the City to comment on the desired future character of the Broadway Precinct. Further details of community engagement activities for this project are outlined below in the Consultation section.

The provisions within the Policy have been formulated by incorporating the outcomes of the built form modelling work and character study, community engagement outcomes, and technical input. Taking on board the community’s feedback, the provisions also align with the strategic intent of the R-Codes, SPP 7.2 and the State Government’s strategic plan for population growth, Perth and Peel@ 3.5 million.  The Policy has been reviewed internally and externally, to ensure that the provisions translate effectively into quality-built form outcomes.

**Discussion**

**State Planning Policy 7.2 – Precinct Design Guidelines**

SPP 7.2 sets out the criteria an area should meet to require precinct planning work, and the process a local government should follow to prepare the precinct plan or policy. The Broadway Precinct is located within the UWA/QEII Specialised Activity Centre, and so is considered an Activity Centre Precinct under SPP 7.2. The precinct plan or policy for an Activity Centre Precinct should focus on the following key objectives:

* Providing an appropriate mix of land uses to enable business activity, service provision and employment opportunities.
* Guiding zoning and subdivision to achieve desired densities and land use mix to support well located and designed higher-density residential and commercial development.
* Integrating local and regional transport infrastructure and networks to ensure strong linkages between the activity centre and surrounding areas.
* Incorporating a network of streets and public spaces in a compact urban form defined by a pedestrian-dominant streetscape where the primary focus of activity is on key public streets.

The City followed the process set out in SPP 7.2 to create the Policy, including identifying the precinct area, engaging with the local community, creating a vision, ensuring the development proposal is feasible, and investigating how the precinct plan can result in benefit to the communities they are developed within. A Precinct Plan for the entirety of the UWA/QEII Specialised Activity Centre is currently being prepared by the City of Perth, in collaboration with the City of Nedlands and the Department of Planning, Lands and Heritage (DPLH).

**Local Planning Strategy**

The Strategy identifies the Broadway and Stirling Highway portions of the Precinct as Urban Growth Areas, which are intended to provide for the most intense forms of development within the City. Development heights within the Urban Growth Areas should be sufficient to accommodate substantial residential components. The Strategy states that for Broadway, compatible development should be focused around identified residential and non-residential pockets, acknowledging that the intensity of development will vary in response to the predominant land use. Development controls within Urban Growth Areas are to reflect the local context and be sympathetic to the existing character of the area. Noting the location of the Broadway Precinct within the UWA/QEII Specialised Activity Centre, the Strategy highlights the need for the Precinct to provide development outcomes compatible with the Health/Education/Research function of the centre, on a scale that will not detract from other centres in the hierarchy.

The areas adjoining Broadway and Stirling Highway are identified as Transition Zones, which are intended to create a buffer between high intensity and low intensity development. This buffer will visually smooth the differences in built form (such as height and bulk) and help mitigate land use conflict.

The Policy responds to the Strategy’s vision for the precinct by supporting a nodal approach to development along Broadway, with preferred land uses which can support the function of the UWA/QEII Specialised Activity Centre. For the Residential sub-precinct, the Policy respects the existing character of the area by setting controls for large front setbacks, detached building frontages and increased requirements for deep soil areas and tree provision.

**Local Planning Scheme No. 3**

Under the Scheme, Broadway and Stirling Highway are zoned Mixed Use (R-AC3 and R-AC1 respectively), with the surrounding residential area having a density of R40 – R160.

The Policy has been prepared in accordance with clause 9 – Aims of the Scheme, in particular:

(a) Protects and enhances local character and amenity;

(b) Respect the community vision for the development of the district;

(c) Achieve quality residential outcomes for the growing population; and

(d) To develop and support a hierarchy of activity centres.

The Policy is consistent with the objectives of the relevant Zones:

Residential Zone

* Encourages a range of housing types to meet the changing needs of the community;
* Encourages high quality design and streetscapes;
* Proposes preferred land uses within the Mixed Use Zone that are complimentary to the surrounding residential development;
* Provides street specific requirements for development to be compatible with the future desired character of the area in terms of bulk, height, scale and setbacks.

Mixed Use Zone

* Encourages well-designed, high-quality development that considers the existing new development, and the future desired character of the area;
* Includes a list of preferred active uses, to be located at ground level, which provides for a mix of varied but compatible land uses that will assist in activating the streetscape and support the function of the Specialise Activity Centre.

**Draft Broadway Precinct Design Response – Local Planning Policy**

Informing Studies

The drafting of the Policy is the culmination of the findings of the Context and Character and Built Form Modelling studies, which have provided a sound basis for the creation of the existing future character statements. The Built Form Modelling studies have provided examples of forms of development, detailing them in a manner that informs the choices made for appropriate setbacks and massing.

The outcomes of the Community Reference Group and broader community engagement undertaken as part of this project have directly influenced and guided the built form provisions included in the Policy. These provisions have then undergone thorough testing by internal and external stakeholders to ensure that they are able to be applied effectively in a real-world development scenario.

Strategic Intent

The intent of the Policy is to nuance the requirements of the R-Codes so that they are more contextually appropriate to the existing and desired future character of the Broadway Precinct. The Policy seeks to:

* Define the future character of the area
* Facilitate high-quality design
* Facilitate land uses that support the Specialise Activity Centre
* Reinforce the existing commercial areas along Broadway
* Promote key landscape and streetscape elements from the established character
* Maintain the amenity of the area, consistent with the relevant density code
* Manage density interfaces

Character Statements

An existing character statement has been provided for each sub-precinct within the Policy. Building on these existing character statements and community vision from workshops with the CRG, survey and Open House, the Policy also defines the desired future character statement for the sub-precincts. The Design WA policy suite refers to ‘desired future character’ as an important aspect of determining whether a development meets certain objectives and, therefore, whether a development should be approved. The Policy’s character statement outlines the strategic intent of the Policy, and the expectations for new development.

Sub-Precincts

The precinct has been analysed on a street-by-street basis. Considering the zoning, density coding, lot orientation and existing landscape and streetscape characteristics, the City identified four distinct sub-precincts within Broadway Precinct. The Policy includes a map that breaks the precinct into:

* Residential Sub-Precinct
* Broadway Nodes Sub-Precinct
* Broadway Frame Sub-Precinct
* Stirling Highway Sub-Precinct

These sub-precincts are detailed in Figure 1, included in this report.

**Policy Scope**

Single House and Grouped Dwellings

Pursuant to clause 7.3.1(a) of the R-Codes Volume 1, the Policy amends:

* c5.1.2 – Street setbacks;
* c5.1.3 – Lot boundary setback (C3.2-3.3); and
* c5.1.6 – Building height.

The City will seek approval from the WAPC for amendments to the deemed to comply provisions for lot boundary setbacks, vehicle access and landscaping. The Policy provides further Design Guidance, which are intended to act as Housing Objectives, for developments within the Broadway Precinct.

Multiple Dwellings

In accordance with clause 1.2.2 of the R-Codes Volume 2 the Policy amends:

* Element 2.2 - Building Height;
* Element 2.3 - Street setback; and
* Element 2.4 – Side and rear setback.

The City will also seek approval from the WAPC for amendments to the Acceptable Outcomes for Element 3.3 – Tree Canopy and Deep Soil Areas and Element 3.8 Vehicle Access. Design Guidance has been developed for each modified element.

**Sub-Precincts**

Residential Sub-Precinct

A key component of the existing character within the Residential sub-precinct is the open, leafy streetscapes. In response, the Policy proposes increased street setbacks and increased deep soil and tree requirements. The Policy also requires boundary walls to be located away from the street, to maintain the appearance of a detached streetscape character. Rear setbacks have also been increased throughout the Residential sub-precinct.

Broadway Nodes and Frame Sub-Precincts

The entire length of Broadway is zoned Mixed Use. Clause 32.4(2) of the Scheme requires all new development within the Mixed Use zone to comprise of non-residential uses at ground level. The Scheme allows for this requirement to be varied through an approved local planning policy. The Policy identifies specific mixed-use areas of activity along Broadway (identified as ‘Broadway Nodes’ in Figure 1), where the Scheme requirement for non-residential land uses at ground floor is upheld. The identification of the Broadway Nodes has been informed by the City’s Local Planning Strategy, City of Perth Draft Local Planning Strategy and a review of existing commercial areas on either side of Broadway.

The Policy also identifies pockets between the nodes (Broadway Frame), where non-residential uses are not required at ground level. Instead, development can provide non-active uses (e.g. office or consulting room/medical centre) or residential use (with adaptable design) at ground level. Where such development is proposed, the building height is to be reduced to five storeys, and the building is to have increased street setbacks at lower levels (similar to R160 built form). This nodal approach to development strongly aligns with the following CRG engagement outcomes:

* Support for focusing mixed-use development around existing commercial nodes on Broadway, with differing intensity of built form between node and non-node locations.
* No support for continuous ‘wall’ of 6 storey development along Broadway.

The nodal approach is also supported by research of other urban corridors in the Perth metropolitan area of similar length to Broadway (being 1.4km). Oxford Street (see image below), for example, runs for 1.8km from Scarborough Beach Road in Mt Hawthorn to Leederville Parade in Leederville. While there is a mix of land uses along Oxford Street, comprising both active and non-active land uses (including solely residential), there are three distinct nodes of activity (shown in blue in the image below). The southern-most node, adjacent to Leederville Trainstation, is approximately 280m in length. The proposed approach for Broadway reflects this nodal pattern of existing urban corridors. Within the Broadway Frame sub-precinct, landowners and applicants will have a choice as to whether they provide an active use at ground level. If no active use is provided, requirements for adaptable design will ensure that this sub-precinct is capable of future transition to active uses.

Map

Description automatically generated

For all development along Broadway, the Policy provides for a two-storey podium, with increased setbacks to the street and side boundaries for development above the podium. Together with the node and frame approach, this will reduce the perception of building bulk and enclosure that new developments will have on the street. A consistent rear setback is also proposed for all development on Broadway, being 6m up to the third storey and 9m for all storeys above. This will provide space for deep soil areas and tree plantings at the rear of development, providing a buffer to the lower-coded properties to the rear.

Stirling Highway Sub-Precinct

The Policy proposes to increase the rear setback for lots fronting onto Stirling Highway, to create sufficient separation from R160 lots to the south, which accommodate existing residential development. Above the podium level, increased side setbacks are also proposed to provide space between buildings. Together, these rear and side setbacks will significantly reduce the impact of bulk and overshadowing on the properties to the rear. A consistent, increased rear setback will also allow for future two-way vehicle access connecting to Bruce Street, reducing crossovers, and resulting conflicts with pedestrians, on Stirling Highway.

The Policy proposes increased setbacks from Stirling Highway, to allow for deep soil and tree plantings within the street setback area.

The Policy introduces acceptable outcome building heights for Stirling Highway, ranging from 7 to 12 storeys. The greatest building height is proposed on the corner of Stirling Highway and Broadway, to allow for a landmark development at the entrance of both the Precinct and the City of Nedlands.

The Broadway Precinct incorporates a small portion of the Stirling Highway Activity Corridor. The remainder of the highway, and surrounding residential transition areas, within the City of Nedlands, will be planned for through the Nedlands Stirling Highway Activity Corridor (NSHAC) Design Response Local Planning Policy, which will be presented to Council separately. Care has been taken to develop provisions for the Broadway Precinct portion of the highway in line with the broader planning for NSHAC. Under SPP 7.2 the NSHAC precinct would be designated an Urban Corridor, which requires:

*Understanding the existing and future function of the corridor from both a transport and land use perspective, to guide development outcomes that support the intended vision of the corridor*

There is an identified need for coordinated planning of the full length of Stirling Highway, from Perth to Fremantle. This report includes a recommendation for the Mayor to write to the Minister for Planning, formally requesting that they facilitate this coordinated approach across the local government areas that the highway intersects.

**General Provisions**

Sustainability

The outcomes of community engagement suggested that the community expects all built form policies to incorporate sustainability measures. This outcome relates directly to a motion of Council from the 28 September 2021, when Council endorsed a Notice of Motion relating to the instigation of planning instruments that can reduce the use of non-renewable energy sources through development approvals. The Policy is a planning instrument that can be utilised to reduce non-renewable energy use via development approvals. The Policy’s General Provisions include the requirement for all multiple, grouped and mixed-use developments to provide a sustainability report that demonstrates water and energy efficiency measures. The Policy also proposes to exceed the number of electric vehicle charging stations required by the R-Codes and provides incentives for the provision of electric vehicles for shared use. Design elements that encourage sustainability have also been included, such as discouraging dark roofs and encouraging elements including eaves and verandahs that contribute to passive cooling.

A second motion of Council was made on the 21 October 2021, where Council endorsed a Notice of Motion relating to the protection of existing and future solar panels. The R-Codes have existing provisions that protect solar panels. Under R-Codes Volume 1 (Single and Grouped Dwellings), there is a maximum proportion of overshadowing that is permitted for each density code. The calculation is based on a worst-case scenario, being 12pm June 21st. Further, Design Principle P2.2 considers the impact of development on solar collectors. Under the R-Codes Volume 2 (Apartments), the form of development is constrained by its impact on adjoining properties’ solar panels via Element Objective 3.2.2. There is also a maximum proportion of overshadowing permitted for each density code, under Acceptable Outcome 3.2.3. Given this, the City has not identified a need, specific to the Broadway Precinct, that would reasonably require provisions relating to solar panels, over and above those in the R-Codes.

Landscaping

The Policy requires all new developments to follow the principles of Water Sensitive Urban Design, including use of permeable surfaces and onsite water filtration and detention systems. The Policy defines tree sizes (small, medium and large) in line with the R-Codes Volume 2 and states a preference for the use of endemic species, especially ones which are drought tolerant. Where planting on structure is proposed, a landscaping plan is to be provided with development applications, detailing the design, water supply, species suitability and ongoing maintenance measures.

Facades and materials

The Policy includes an appendix which details the existing facades and materials, and key design elements, for each sub-precinct. For example, the key design elements for the Residential sub-precinct include the presence of verandahs, eaves, balconies and awnings, as well as low or open style front fencing. New development within each sub-precinct will be required to reference the existing facades and materials, and key design elements outlined in the appendix. This will facilitate new development which reflects the existing character of the Precinct.

Subdivision and public open space

The Policy states a preference for lot amalgamation to create development efficiencies and to facilitate the retention of existing trees. Where a subdivision is proposed which would create six or more residential lots, the Policy highlights the requirement for contributions (either land or cash-in-lieu) towards public open space under the WAPC’s *Development Control Policy 2.3 – Public Open Space in Residential Areas*.

Vehicle access and parking

The Policy proposes to keep vehicle accessways to a functional minimal width to maximise space in the street setback area and verge for deep soil areas and tree retention and provision. The Policy classifies the Broadway Precinct as ‘Location A’ for the purpose of car parking assessments under the R-Codes Volume 1 and 2, for which reduced parking provision may be supported. This classification reflects the presence of the high frequency Purple CAT (Central Area Transit) bus route along Broadway, and the Broadway Precinct being located within the UWA-QEII Specialised Activity Centre. The Policy also provides parking ratios for preferred non-residential land uses within the Mixed Use zone.

**Consultation**

**Community Engagement Program**

The City established a Community Reference Group (CRG) for the Broadway Precinct in 2020. The 12 members of the CRG were selected from expressions of interest and were stakeholders from within the specified precinct area and surrounds, and represented a cross-section of age, gender and interest. The objectives of the CRG were to:

* Foster stakeholder and community awareness and understanding of the precinct planning and local planning policy process;
* Foster the City’s awareness of community concerns and aspirations for the Broadway Precinct; and
* Obtain local input and knowledge for the development of the Broadway Precinct from a range of diverse perspectives

This CRG initially met in August 2020. The next CRG workshop was held in August 2021, after the built form modelling report was finalised in April 2021. The final workshop was held in September 2021. The Broadway community was afforded two opportunities to join the CRG, as there was a drop in CRG participation between the 2020 and 2021 workshops. The CRG considered background information, built form considerations and a vision for the Precinct. The workshop structure is detailed below.

**Workshop 1:** Background to the planning system, key urban design concepts, parameters of a policy and development of a vision.

**Workshop 2:** CRG rotated through activities on each theme (land use, streetscape, built form, access, parking and landscape) to provide informed and detailed feedback on their desired future character for the precinct.

**Workshop 3:** Communicating the collated feedback from the previous CRG workshops and ensuring that the CRG agreed with the summarised version of the feedback.

A summary of the key outcomes of the CRG workshops is provided below.

Broadway streetscape

* Support for focusing mixed-use development around existing commercial nodes on Broadway, with differing intensity of built form between node and non-node locations.
* No support for continuous ‘wall’ of 6 storey development along Broadway.
* Preference to ‘push towards street’ at ground and upper levels if this facilitated larger rear setbacks and provided street activation.

Interfaces

* Consensus that building height should be located away from lower density transitions.
* Key transitions needing further consideration were R-AC3-R60 and R160-R60.
* Communal open space to be designed and located to minimise amenity impacts on surrounding properties, and for collocating with deep soil areas.

Lot boundary setbacks

* R-AC1 – the greatest setback on the site should be to adjoining R160 lots.
* R-AC3 – the greatest setback on the site should be to the adjoining R60 lots.
* R60 and 160 – the greatest setback on the site should be to the street.
* A detached streetscape character (separation between buildings as viewed from the street) is preferred for R40, R60 and R160.
* An attached streetscape character (boundary to boundary buildings as viewed from the street) more appropriate in R-AC1 and R-AC3.
* Residential zone – street setbacks to be reflective of existing development.

Architectural elements

* Broadway
* Developments to incorporate a high-quality palette of materials and finishes.
* Maintain eclectic mix of architectural styles, colours and materials.
* Awnings and canopies are important in reinforcing Broadway’s function as a ‘main street’.
* Residential areas
* Verandahs, carports and pitched roofs are encouraged.
* Dwellings to be orientated towards the street.

Land use

* Support for preferred land uses on Broadway to encourage uses that activate the street and policy settings that require active frontages.

Access and Parking

* It was generally agreed that basement parking was preferred for commercial, mixed-use and apartment developments in R-AC1 and R-AC3 locations.
* Where parking is located above ground, it should be ‘sleeved’.
* Generally, less concern was raised around controlling parking outcomes for R60 and R40 developments.
* Access was generally preferred from secondary streets for corner lots.
* Concern was raised around the use of car stackers – noise, aesthetics, traffic management.
* Design of parking areas should consider existing trees on-site – trees to be retained wherever possible.
* Crossovers should be consolidated.

Survey and Open House

The broader community were provided the opportunity to review feedback gathered from the CRG and provide their own input on the precinct vision and key design considerations through a survey and open house. These engagement exercises were advertised via postcards sent to all owners and occupiers within the precinct area, plus a 200m buffer on the City of Nedlands side, as well as social media, Nedlands News, emails to local schools and P&Cs, and posters put up within, and surrounding, the precinct. Emails were also sent to members of the UWA/QEII Precinct Plan Community Advisory Panel, a group of 43 community members from both City of Nedlands and City of Perth tasked with providing input into the development of the UWA/QEII Precinct Plan.

The survey was available both online and in hard copy form between 1 – 24 October 2021. In total, 66 surveys were completed by community members.

The open house was held on 4 October 2021 from 5.00pm – 7.00pm. In total, 13 community members attended the open house.

The following documents will be made publicly available during the advertising period, to support the Policy’s proposed provisions:

* Broadway Precinct Local Distinctiveness Study and Context Analysis;
* Broadway Precinct Built Form Modelling Report;
* Community Engagement Outcomes Report – encompassing all the community engagement undertaken to-date; and
* Justification Table – providing detailed analysis and justification of the changes that were made to the R-Codes provisions.

Broadway Landowners

During the policy development process, provisions were contemplated which would potentially vary built form along Broadway. Some portions of Broadway (Broadway Frame) were being considered for reduced intensity, in between existing nodes of higher intensity/mixed use development. Landowners within the potential reduced intensity areas were invited to meet with the City to discuss. Invitation letters were sent to landowners within these areas in November 2021, with notice of a meeting date set December 2021. No invited landowners were in attendance for the meeting.

**Community consultation**

If Council resolve to advertise the Policy, it will be advertised in accordance with the City’s Consultation of Planning Proposals Local Planning Policy, which involves the following methods of consultation:

* 28-day advertising period
* Letters to notify owners and occupiers within the precinct
* Notice in the local newspaper
* Notice on the City’s Notice board
* Notice on the City’s Your Voice engagement portal
* Social media
* Community engagement session

**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.

**Reflects Identities**

We value our precinct character and charm. Our neighbourhoods are family-friendly with a strong sense of place.

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

Encouraging sustainable building

**Budget/Financial Implications**

The remaining expenses for the Policy work relate to public advertising. No additional budget is required to complete the work for the Policy.

The Policy will facilitate infill development within the Broadway Precinct. This is likely to result in a rate revenue increase.

**Legislative and Policy Implications**

Clause 3(1) of the Deemed Provisions of Schedule 2 of the [*Planning and Development (Local Planning Schemes) Regulations 2015*](https://www.wa.gov.au/government/document-collections/planning-and-development-local-planning-schemes-regulations-2015)allows the City to prepare a local planning policy in respect to any matter related to the planning and development of the Scheme area. Once Council resolves to prepare an LPP, in accordance with Clause 4 of the Deemed Provisions it must publish a notice of the proposed policy in a newspaper circulating the area for a period of not less than 21 days and seek submissions. Advertising will also include details being posted on the City’s website and Your Voice engagement portal. Following the advertising period, the policy will be presented back to Council to consider any submissions received and to:

1. Proceed with the policy without modification; or
2. Proceed with the policy with modification; or
3. Not to proceed with the policy.

**Decision Implications**

If Council resolves to prepare the Policy, it will be advertised in accordance with the process above.

If Council resolves not to endorse the recommendation, the Policy will not be advertised, or progressed.

At its May 2020 meeting, Council adopted the Draft Local Planning Policy – Interim Built Form Design Guidelines – Broadway Mixed Use Zone. Though the policy was adopted, it is not currently being given weight in the assessment of development applications on Broadway, because:

* The City has received legal advice casting significant doubt over many aspects of the policy and whether they can be upheld through an appeal.
* The policy was not based on built form modelling, as recommended by the State Design Review Panel.
* The policy is considered to be inconsistent with the Scheme as it undermines the intent of the Mixed Use zone and is inconsistent with the Scheme provisions and density coding.

Therefore, if Council resolves not to endorse the recommendation of this report, there will be no viable Policy in place with specific built form controls for the Broadway Precinct.

**Alterative Policy Positions**

Discussions have occurred with Councillors with respect to, three key elements of the Policy, being increased building height for R60 areas, the node/frame approach along Broadway and increased building height for development at the corner of Stirling Highway and Broadway, where lot amalgamation is proposed.

Each are dealt with in term with an option provided to Council should the desire be to pursue the alterative:

* 1. **Increased building height for R60 grouped dwellings, to incentivise additional provision of deep soil**

To incentivise further provision of deep soil areas, above the already increased requirements, the Policy proposes that increased building height be supported for grouped dwellings in R60 areas (from two storeys to three storeys), and boundary walls for multiple dwellings be supported to both side boundaries, where additional deep soil area is provided. The additional one storey for R60 grouped dwellings is considered appropriate, given that the draft building heights for R60 in the Medium Density Codes is three storeys.

If Council is not supportive of this approach, the following resolution may be made where the Draft Broadway Precinct Design Response Local Planning Policy is modified by:

Removing the option for three storey grouped dwellings (where 20% deep soil area is provided) in the Residential R60 zone.

* 1. **Node and frame approach to development on Broadway**

The Policy identifies specific mixed-use areas of activity along Broadway (identified as ‘Broadway Nodes’), where the Scheme requirement for non-residential land uses at ground floor is upheld. The Policy also identifies pockets between the nodes (Broadway Frame), where non-residential uses are not required at ground level. Instead, development can provide non-active uses (e.g. office or consulting room/medical centre) or residential use (with adaptable design) at ground level. Where such development is proposed, the building height is to be reduced to five storeys, and the building is to have increased street setbacks at lower levels (similar to R160 built form).

If Council are not supportive of this nodal approach, the following resolution may be made whereby the Draft Broadway Precinct Design Response Local Planning Policy is modified by:

Removing provisions for the Broadway Frame sub-precinct, and instead having these areas subject to the provisions for the Broadway Node sub-precinct.

* 1. **Increased building height for development at the corner of Stirling Highway and Broadway, where lot amalgamation is proposed**

The Policy introduces acceptable outcome building heights for Stirling Highway, ranging from 7 to 12 storeys. The greatest building height is proposed on the corner of Stirling Highway and Broadway, to allow for a landmark development at the entrance of both the Precinct and the City of Nedlands.

If Council are not supportive of this approach, the following resolution may be made whereby the Draft Broadway Precinct Design Response Local Planning Policy is modified by:

removing provisions for the portion of the Stirling Highway sub-precinct fronting onto Broadway, and instead having this area subject to the provisions for the Broadway Node sub-precinct.

The effect of this change is that the full length of Broadway would be subject to the same provisions, including an acceptable outcome building height of six storeys.

If Council wishes to proceed with each of these modifications the wording of the Council resolution would be as follows (noting that 5 a, b and c reflect the changes outlined above)

That Council:

1. Adopts the Draft Broadway Precinct Design Response Local Planning Policy for advertising in accordance with Clause 4 of the Deemed Provisions of Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015;

1. Notes that the advertising period will be for a minimum of 28 days;

1. Requests the Mayor to send a letter to the Minister for Planning requesting coordinated planning be undertaken at State level for the full length of the Stirling Highway Activity Corridor;

1. Requests the CEO to prepare a Discussion Paper to consider the merits and implications of the Policy’s proposed star rating for building sustainability, which is to be discussed at a concept Forum prior to the Policy being further considered;

1. Requests the CEO to modify the Draft Broadway Precinct Design Response Local Planning Policy by:

1. Removing the option for three storey grouped dwellings (where 20% deep soil area is provided) in the Residential R60 zone;
2. Removing provisions for the Broadway Frame sub-precinct, and instead having these areas subject to the provisions for the Broadway Node sub-precinct; and
3. Removing provisions for the the portion of the Stirling Highway sub-precinct fronting onto Broadway, and instead having this area subject to the provisions for the Broadway Node sub-precinct.

**Conclusion**

As a result of extensive research and consultation, the Broadway Precinct Design Response Local Planning Policy provides contextually appropriate built form outcomes for the Broadway Precinct. The Policy is the most appropriate planning instrument for influencing the built form outcomes in the Broadway Precinct. It is recommended that Council adopt the recommendation and formally advertise the Policy.

**Further Information**

N/A

**Figure 1 – Broadway Precinct and Sub-Precincts**

Diagram, engineering drawing

Description automatically generated

# PD39.06.22 Consideration of Adoption of Local Planning Policy for Advertising – Draft Hollywood Precinct Design Response

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting – 28 June 2022 |
| **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 & Development/Bill Parker- CEO |
| **Attachments** | 1. Draft Hampden Hollywood Precinct Design Response Local Planning Policy 2. Summary of changes – Hampden Hollywood Precinct Design Response LPP Relationship to SPP 7.3 R-Codes Vol. 1 & 2. |

**Purpose**

The purpose of this report is for Council to adopt for advertising the draft Hampden Hollywood Design Response Local Planning Policy (the Policy), found in **Attachment 1**.

**Recommendation**

**That Council:**

1. **adopts the draft Hampden Hollywood Precinct Design Response Local Planning Policy for advertising in accordance with Clause 4 of the Deemed Provisions of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*; and**
2. **notes that the advertising period for the draft Hampden Hollywood Precinct Design Response Local Planning Policy will be for a minimum of 28 days.**

**Voting Requirement**

Simple Majority.

**Executive Summary**

The Policy seeks to nuance the built form guidance of State Planning Policy 7.3 - Residential Design Codes (R-Codes), providing localised and contextually appropriate built form controls and design guidance for the Hampden Hollywood Precinct. This report provides an overview of the process the City undertook to create the Policy, a breakdown of the Policy structure and its strategic intent.

The Policy process began with an extensive community engagement program and was followed by research into the context and character of the Precinct and built form modelling for future development provisions in consideration of this character and context. Key character drivers for the Hampden Hollywood Precinct were identified as open, leafy streetscapes within the Residential zone, landscaping in the form of deep soil and trees and the commercial function of Hampden Road. The engagement and modelling phase was followed by a review of the Policy provisions by industry experts.

This report provides detail on the results of community engagement, and how the outcomes of this engagement have influenced the provisions of the Policy.

The Policy separates the Hampden Hollywood Precinct into six sub-precinct areas, including three Mixed Use sub-precincts, and three Residential sub-precincts. Each of the Mixed Use sub-precincts have their own existing and desired future character statement, while the Residential sub-precincts share a common desired future character. The sub-precincts are detailed in a Precinct map included as **Figure 1** at the end of this report. Each sub-precinct has provisions written specifically for them that are consistent with these character statements, as well as their density code, zoning and lot orientation. The report discusses the specific aspects of the character and context research, built form modelling and engagement outcomes that have influenced these provisions.

Each modification to the planning framework is justified and assessed against the provisions of the R-Codes. This report includes information on the state planning documentation, and how this Policy interrelates with these documents. This report details the legislative requirements of creating and processing the Policy, which aspects of the Policy require approval from the WAPC, and guides Council on the next steps in the policy adoption process.

**Background**

**Built Form Modelling and Community Engagement**

In accordance with State Planning Policy 7.2 – Precinct Design Guidelines (SPP 7.2), the intent of Precinct planning policies is to promote the contextually appropriate development of the areas identified for an increase in density by the Scheme. The Hampden Hollywood Precinct Policy seeks to promote the contextually appropriate development of the Hampden Hollywood Precinct, as identified in **Figure 1**. In June 2021, the City engaged consultants to undertake community engagement and built form modelling for the Hampden Hollywood Precinct.

The Policy provisions have been informed by the outcomes of the built form modelling work, community engagement outcomes, and technical input. The Community Engagement programme is discussed in detail in the Consultation section of this report.

As well as taking on board the community’s feedback, the provisions also align with the strategic intent of the R-Codes, SPP 7.2 and the State Government’s strategic plan for population growth, Perth and Peel@ 3.5 million. The Policy has been reviewed internally and externally, to ensure that the provisions translate into effective and appropriate built form outcomes.

**Discussion**

**Draft State Planning Policy 4.2 Activity Centres for Perth and Peel**

The northern and eastern portion of the Precinct is identified within draft State Planning Policy 4.2 Activity Centres for Perth and Peel as part of the UWA-QEIIMC Specialised Centre. Specialised centres focus on regionally significant economic and institutional activities, such as knowledge-bases for health and tertiary education precincts. These areas are developed as places with a concentration of linked businesses and institutions providing a major contribution to the economy, with excellent transport links and potential to accommodate future growth in jobs and housing.

**State Planning Policy 7.2 – Precinct Design Guidelines**

SPP 7.2 sets out the criteria an area should meet to require precinct planning work, and the process a local government should follow to prepare a precinct planning policy. Given part of the Hampden Hollywood Precinct is located within the UWA/QEII Specialised Activity Centre, it is considered both an Activity Centre Precinct and a Residential/Mixed Use Precinct. Due to this context, the Policy focusses on the following key objectives:

* Providing an appropriate mix of land uses to enable business activity, service provision and employment opportunities.
* Guiding zoning and subdivision to achieve desired densities and land use mix to support well located and designed higher-density residential and commercial development.
* Guide subdivisions, amalgamation, and development to increase density and high-quality outcomes;
* Strengthening green networks through the enhancement of urban tree canopy and improved interfaces between the public and private realm; and
* Ensure the design supports safe access and encourages public transport, walking and cycling.

The City followed the process set out in SPP 7.2 to create the Policy, including identifying the precinct area, engaging with the local community, creating a vision, ensuring the development proposal is feasible, and investigating how the precinct plan can result in benefit to the communities they are developed within. A precinct plan for the entirety of the UWA/QEII Specialised Activity Centre is currently being prepared by the City of Perth, in collaboration with the City of Nedlands and the Department of Planning, Lands and Heritage (DPLH).

**Local Planning Strategy**

The City’s Local Planning Strategy identifies the following points of relevance to the Hampden Hollywood Precinct:

* Retain and enhance the character and streetscape of the existing residential areas.
* Ensure the height, scale and bulk of redevelopment smoothly integrates back to the established residential character of the area.
* Facilitate medium rise, medium intensity predominately residential redevelopment adjoining Hampden Road, and low rise, diverse residential built form elsewhere.
* Facilitate appropriate non-residential land uses.
* Consider a range of knowledge-based uses and accommodation types that complement the function of the UWA-QEII Specialised Centre.

The Policy responds to the Strategy’s vision for the Hampden Hollywood Precinct by clearly outlining the desired future character of the Hampden Hollywood Precinct. The desired future character is contextually aligned with the Precinct’s zoning, density coding and consideration of its function within the UWA-QEII Specialised Activity Centre.

The gazettal of the City’s Local Planning Scheme No. 3 (the Scheme) resulted in an increase in the density coding of the area surrounding the Hampden Road Mixed Use zone. In accordance with the Scheme and the Strategy, the Policy highlights the importance of quality urban design that interacts with the streetscape, protects the amenity of existing properties, and provides high quality living environments for the residents of new developments.

The Policy identifies that the Precinct’s character is defined by generous setbacks, mature landscaping, and a small lot pattern with adjacent rear laneways. The Policy encourages the preservation of the Precinct’s character and heritage through the maintenance of generous setbacks and mature landscaping, while also requiring developments to acknowledge the history of the area by using appropriate and high quality colour and material pallets. These requirements promote new development that is respectful of the existing character of the area, and contributes to maintaining the Precinct’s unique character.

**City of Nedlands Local Planning Scheme No. 3**

The Scheme identifies the lots fronting Hampden Road (and two lots fronting Hardy Road), Monash Avenue and Leura Street as being within the Mixed Use zone (R-AC3). All other portions of the Precinct are zoned Residential, coded R40, R60 or R160.

The Policy has been prepared in accordance with clause 9 – Aims of the Scheme, in particular:

1. Protects and enhances local character and amenity;
2. Respect the community vision for the development of the district;
3. Achieve quality residential outcomes for the growing population; and
4. To develop and support a hierarchy of activity centres.

The Policy is consistent with the objectives of the relevant zones:

Residential zone

* Encourages a range of housing types to meet the changing needs of the community;
* Encourages high quality design and streetscapes;
* Proposes preferred land uses that are complimentary to the surrounding residential development; and
* Provides street specific requirements for development to be compatible with the future desired character of the area in terms of bulk, height, scale and setbacks.

Mixed Use zone

* Residential development preferred at all levels above ground level;
* Encourages well-designed, high-quality development that considers the existing new development, and the future desired character of the area; and
* Includes a list of preferred active uses, to be located at ground level, which also provides for a mix of varied but compatible land uses that will assist in activating the streetscape.

**Draft Hampden Hollywood Precinct Design Response – Local Planning Policy**

Informing Studies

The draft Policy provisions are the culmination of the findings of the Community Engagement outcomes report and Built Form Modelling studies, which have provided a sound basis for the creation of the existing future character statements. The Built Form Modelling studies have provided examples of forms of development, detailing them in a manner that informs the choices made for appropriate setbacks and massing.

The outcomes of the Community Reference Group and broader community engagement undertaken as part of this project have guided the built form provisions included in the Policy. These provisions have undergone thorough testing by internal and external stakeholders to ensure that they are able to be applied effectively in a real-world development scenario.

Strategic Intent

The intent of the Policy is to nuance the requirements of the R-Codes so that they are more contextually appropriate to the existing and desired future character of the Hampden Hollywood Precinct.

The Policy seeks to:

* Define the future character of the area;
* Facilitate high-quality design;
* Promote key landscape and streetscape elements from the established character;
* Maintain the amenity of the area, consistent with the relevant density code; and
* Manage density interfaces and transitions.

Character Statements

An existing character statement has been provided for each sub-precinct within the Policy. The existing character statements and community vision from the pre-engagement workshops, in addition to the further refined outcomes from the CRG, survey and Open House, contribute to the creation of the desired future character statement for the sub-precincts. SPP 7.2 refers to ‘desired future character’ as an important aspect of determining whether a development meets certain objectives and, therefore, whether a development should be approved. The Policy’s character statement outlines the strategic intent of the Policy, and the expectations for new development.

Sub-Precincts

Considering the zoning, density coding, lot orientation and existing landscape and streetscape characteristics, the City identified six distinct sub-precincts within the Hampden Hollywood Precinct. The Policy includes a map that separates the overall precinct into:

* Residential R40 sub-precinct;
* Residential R60 sub-precinct;
* Residential R160 sub-precinct;
* Hampden Road Mixed Use sub-precinct;
* Monash Avenue Mixed Use sub-precinct; and
* Leura Street Mixed Use sub-precinct.

These sub-precincts are detailed in **Figure 1**, attached to this report. By combining the extensive background work noted previously, as well as key existing character elements (including lot sizes, setbacks, landscape character, building heights, density transition and typology), contextually appropriate provisions for the sub-precincts have been developed.

**Policy Scope**

Single House and Grouped Dwellings

The draft Policy seeks to amend the deemed-to-comply provisions of the R-Codes Volume 1 for the following elements:

* c5.1.2 – Street setbacks;
* c5.1.3 – Lot boundary setback (C3.2-3.3); and
* c5.1.6 – Building height.

These elements can be modified without WAPC approval.

The City will also seek approval from the WAPC for amendments to the deemed to comply provisions for lot boundary setbacks and landscaping. The Policy provides further Design Guidance, which are intended to act as Housing Objectives, for developments within the Hampden Hollywood Precinct.

Multiple Dwellings

The Policy amends the following acceptable outcomes of the R-Codes Volume 2:

* Element 2.2 - Building Height
* Element 2.3 - Street setback
* Element 2.4 – Side and rear setback

These elements can be modified without WAPC approval.

The City will also seek approval from the WAPC for amendments to the Acceptable Outcomes for Element 3.3 – Tree Canopy and Deep Soil Areas. Design Guidance has been developed for each modified element.

Residential Sub-Precincts (R40, R60, R160)

The key considerations for this sub-precinct were identified as a leafy green streetscape and the area’s unique built form character.

The western side of Leura Street (R60) serves as a transitional street from the higher density Mixed Use R-AC3 on Leura Street’s eastern side to the R40 density on Clifton Street. The northern side of Hardy Road (R60) also serves as a transitional street from the higher density Mixed Use R-AC3 sites on Monash Avenue and the R40 sites on the southern side of Hardy Road. The Policy’s built form provisions for these streets reflect their transitional role within the Precinct.

The R160 sites on Williams Road, Meriwa Street and Clifton Street serve as a transition between the R60 sites and the RAC-1 sites facing Stirling Highway, which are within the Nedlands Stirling Highway Activity Corridor (NSHAC) Precinct. As the R160 sub-precinct is relatively small, being only two to three sites deep, their role is pivotal in transitioning from the potentially large developments that may be established on the R-AC1 sites, to three storeys within a few lots.

A key component of the existing character within the R40, R60 and R160 Residential sub-precincts is the leafy streetscapes. The outcomes of community engagement highlighted that the leafy streetscapes were also an integral part of the desired future character of the area. In response to this, and to ensure that the transitions within this Precinct are dealt with sensitively, the Policy proposes street setbacks that are larger than the requirements of the R-Codes, allowing for increased deep soil and tree requirements. The Policy also requires boundary walls to be located away from the street, to maintain the appearance of a detached streetscape character. Rear setbacks have been increased throughout the Residential sub-precinct, to assist in maintaining the leafy character of the area.

Mixed Use Sub-Precinct’s (RAC-3 - Hampden Road, Monash Avenue, Leura Street)

The R-AC3 Mixed Use zone consists of Hampden Road, Monash Avenue and Leura Street. The City’s Local Planning Strategy identifies the Mixed Use sub-precincts as the best opportunities for an increase in dwelling density, as well as ideal locations for non-residential land uses. These sub-precincts are compact commercial areas, characterised by a mix of architectural styles and materials, with the original low-rise, fine-grain commercial buildings creating a contrast with newer, larger developments in the Precinct.

Each of these streets have a unique character and purpose within the Precinct. Hampden Road is the main commercial hub, comprising a mix of retail, restaurants, cafes, and related uses. Monash Avenue faces the QEII hospital precinct and, although it currently largely consists of residential dwellings, is poised through its Mixed Use zoning to provide ancillary uses that complement the hospital, such as medical and allied health services. Leura Street backs onto Hampden Road and serves as the interface between the busy commercial hub of Hampden Road, and the R60 residential sites on the western side of Leura Street. Leura Street’s transitional nature lends itself to commercial uses that will be complementary to residential development, such as cafes, offices, and communal working spaces.

Street, side and rear setbacks, as well as deep soil and tree canopy provisions, have been nuanced to respect the prevailing streetscape and to manage the interface between higher and lower density development. On Hampden Road, the minimum building height proposed is two storeys, to allow for smaller buildings and developments alongside the expected larger five to six storey developments. This is to encourage a mixed built form character on the street that will allow for the organic establishment of the varying types of development and provide an authentic high-street feel.

**General Provisions**

Sustainability

The outcomes of community engagement suggested that the community expects all built form policies to incorporate sustainability measures. This outcome relates directly to a resolution of Council from 28 September 2021, when Council endorsed a Notice of Motion relating to the instigation of planning instruments that can reduce the use of non-renewable energy sources through development approvals. The Policy’s General Provisions include the requirement for all multiple, grouped and Mixed Use developments to provide a sustainability report that demonstrates water and energy efficiency measures. All developments must also demonstrate that they exceed the minimum NATHERS or Green Star requirements. The Policy proposes to exceed the number of electric vehicle charging stations required by the R-Codes and provides incentives for the provision of electric vehicles for shared use. Design elements that encourage sustainability have also been included, such as discouraging dark roofs and encouraging elements including eaves and verandahs that contribute to passive cooling.

A second motion of Council was made on the 21 October 2021, where Council endorsed a Notice of Motion relating to the protection of existing and future solar panels. The R-Codes have existing provisions that protect solar panels. Under R-Codes Volume 1 (Single and Grouped Dwellings), there is a maximum proportion of overshadowing that is permitted for each density code. The calculation is based on a worst-case scenario, being 12pm June 21st. Further, Design Principle P2.2 considers the impact of development on solar collectors. Under the R-Codes Volume 2 (Apartments), the form of development is constrained by its impact on adjoining properties’ solar panels via Element Objective 3.2.2. There is also a maximum proportion of overshadowing permitted for each density code, under Acceptable Outcome 3.2.3. Given this, the City has not identified a need, specific to the Hampden Hollywood Precinct, that would reasonably require provisions relating to solar panels, over and above those in the R-Codes.

Landscaping

The Policy requires all new developments to follow the principles of Water Sensitive Urban Design, including use of permeable surfaces and onsite water filtration and detention systems. The Policy defines tree sizes (small, medium and large) in line with the R-Codes Volume 2 and states a preference for the use of endemic species, especially ones which are drought tolerant. Where planting on structure is proposed, a landscaping plan is to be provided with development applications, detailing the design, water supply, species suitability and ongoing maintenance measures.

Subdivision and public open space

The Policy states a preference for lot amalgamation to create development efficiencies and to facilitate the retention of existing trees. Where a subdivision is proposed which would create six or more residential lots, the Policy highlights the requirement for contributions (either land or cash-in-lieu) towards public open space under the WAPC’s *Development Control Policy 2.3 – Public Open Space in Residential Areas*.

Vehicle access and parking

The Policy proposes to keep vehicle accessways to a functional minimal width to maximise space in the street setback area and verge for deep soil areas and tree retention and provision. The Policy classifies the Hampden Hollywood Precinct as ‘Location A’ for the purpose of car parking assessments under the R-Codes Volume 1 and 2, for which reduced parking provision may be supported. This classification reflects the presence of the high frequency Purple CAT (Central Area Transit) and Transperth 950 bus routes along Hampden Road, and the Hampden Hollywood Precinct being located within the UWA-QEII Specialised Activity Centre. The Policy also provides parking ratios for preferred non-residential land uses within the Mixed Use zone.

**Consultation**

**Community Engagement Program**

A comprehensive community pre-engagement program has been completed to inform the Policy and engage on the key outputs of the Policy. On behalf of the City, engagement consultants established a focussed Community Reference Group (CRG), after community members were invited to submit an Expression of Interest. Fourteen people responded and all were selected to participate in five workshops held between August 2021 and December 2021. One CRG member withdrew before the first workshop.

The CRG program was designed to provide participants with additional knowledge and skills relating to town planning, so that they could provide meaningful feedback on built form, including (but not limited to) landscaping, tree canopy, streetscape, land use. The workshop structure is detailed below.

**Workshop 1:** Get to know the CRG and project team, understand the process, understand the existing context, understand the initial perspectives and values of the community.

**Workshop 2:** Take values established in Workshop 1 and consider these in the context of the desired future character of the area, consider built form design elements for the Precinct through a live sketching exercise, propose changes to existing State Planning controls for a successful place in accordance with community values.

**Workshop 3:** Present back testing results based on preliminary changes to State Planning controls by the CRG refine and confirm key recommendations for controls.

**Workshop 4:** Ask the CRG which character elements they wanted to see retained and what their land use preferences for the Precinct are, review and refine the R60 controls based on the project team’s testing of R80 controls for the R60 lots, refine laneway controls and trade-offs.

**Workshop 5:** Present the final urban form element principles that would be recommended to the City for the LPP, develop a vision (objectives and aims) for the Precinct and for each of the R-Codes.

Built Form

* New developments should be of human scale at street level, set back from footpaths and reference the current residential buildings.
* Maintain the existing ‘feel’ of the streets, including the road widths, how buildings interact with the street (porches and front fences), increased street and rear setbacks, footpaths and limited driveways.
* Expectations for more housing for students and hospital staff, which in turn will provide a more permanent population.
* Upgrading of the Hampden Lane at the rear of the Hampden Road shops.
* Supportive of lot amalgamation to achieve better built form outcomes.

Landscaping

* Mature landscaping and tree canopy are considered fundamental components of the existing Nedlands character.
* Expectations for meaningful areas of public open space and trees to be visible from the street.
* Green space was considered important to encourage trees and gardens.

Amenity

* Value walkability, open frontages, pedestrian, family, children and dog friendly streets, and how walking creates community and neighbourliness.
* Preference to reduce the visibility of parked vehicles and to conceal parking.
* Concern with diminishing the amenity of the laneways and the adjacent green canopy.
* Retain the existing positive attributes – “village feel”, a good range of shops and cafes/restaurants, walkability, human scale, accessibility by walking and cycling.
* Improve green spaces, street lighting, footpaths and cycling infrastructure.

Movement

* Consideration of residents’ access to hospitals, aged care facilities and medical treatments.
* More parking and parking controls on side streets and verges, traffic speed controls.
* Concern with diminishing the amenity of the laneways and the adjacent green canopy by prioritising parking access from the laneways.
* Public transport should be prioritised, as should active transport forms through public transport links and bike paths.
* Maintain walkability of the Precinct, as walking creates community and neighbourliness.

Land Use

* Retain a good range of cafes restaurants and small, local shops that make Hampden Road an attractive and useful local street.
* Retain a good range of cafes, restaurants, services and small (local) shops that make Hampden Road an attractive and useful local street.

Sustainability

* Sustainable building design.
* Encouraging passive modes of transport such as walking and cycling.
* Consideration of water wise principles and endemic plant species in landscaping plans.

The sustainability elements were identified as being part of an important theme running through the Hampden Hollywood engagement program and have been incorporated into the Policy to provide an aspect of future proofing to the design guidelines for the Precinct.

Survey and Open House

To understand the wider community’s vison for the Precinct, and to confirm that the CRG’s recommendations accurately reflected their views, the community was invited to respond to a survey that was available between 5 November 2021 – 19 November 2021. In total, 7 surveys were completed by residents and business owners.

The community were also invited to attend a Community Open House on 8 November 2021 from 5.00pm – 7.00pm. Attendees were provided the opportunity to review feedback gathered from the CRG and provide their own input on key design considerations. In total, 14 community members and 3 Councillors attended the information session.

The following documents will be made publicly available during the advertising period, to support the Policy’s proposed provisions:

* Hampden Hollywood Precinct Context and Character Report;
* Hampden Hollywood Precinct Built Form Modelling Report;
* Community Engagement Outcomes Report; and
* Justification Table – providing detailed analysis of the changes that were made to the R-Codes provisions, and why.

Council Briefings

Two briefings were held with the City’s Councillor’s in May 2022 to provide information on the Policy provisions, and receive feedback. The following modifications were made in response to the feedback received:

* Inclusion of General Provision 4.4.4: ensures that the policy does not allow for the Acceptable Outcome of a development’s on-structure planting be permitted in lieu of DSA in residential areas;
* Removed the mandatory minimum height of two storeys for all Mixed Use areas. The maximum height of 6 storeys (Hampden Road and Monash Avenue) and 5 storeys (Leura Street) remain;
* Removed the mandatory nil setback for ground storey to second storey in all Mixed Use areas. Nil setback remains as the Acceptable Outcome, but is not a mandatory requirement;
* Changed the rear setback for R160 dwellings from a uniform setback to 3m for the first three storeys, then 6m for the fourth and fifth storeys;
* Inclusion of Clause 4.10.1, requiring all applications for development approval that include residential dwellings to outline how the development responds to and accommodates anticipated noise pollution from the QEII Hospital Precinct.

**Community consultation**

If Council resolve to adopt the draft Policy, it will be advertised in accordance with the City’s Consultation of Planning Proposals Local Planning Policy, which involves the following methods of consultation:

* 28-day advertising period – this is specific to the Precinct policy projects, to ensure that interested parties have adequate time to make a submission.
* Letters to notify owners and occupiers within the Precinct of the draft Policy and to make a submission
* Notice in the local newspaper
* A notice on the City’s Notice board
* A notice on the City’s Your Voice engagement portal
* Social media
* Community engagement session

**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.

**Reflects Identities** We value our precinct character and charm. Our neighbourhoods are family-friendly with a strong sense of place.

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

Encouraging sustainable building

**Budget/Financial Implications**

The remaining expenses for the Precinct Policy work relate to public advertising. No additional budget is required to complete the work for the Policy.

The Policy will facilitate infill development within the Hampden Hollywood Precinct, which may result in a rating revenue increase.

**Legislative and Policy Implications**

Clause 3(1) of the Deemed Provisions of Schedule 2 of the [*Planning and Development (Local Planning Schemes) Regulations 2015*](https://www.wa.gov.au/government/document-collections/planning-and-development-local-planning-schemes-regulations-2015)allows the City to prepare a local planning policy in respect to any matter related to the planning and development of the Scheme area. Once Council resolves to prepare an LPP, in accordance with Clause 4 of the Deemed Provisions, it must publish a notice of the proposed policy in a newspaper circulating the area for a period of not less than 21 days and seek submissions. Advertising will also include details being posted on the City’s website and Your Voice engagement portal. Following the advertising period, the policy will be presented back to Council to consider any submissions received and decide whether to:

1. Proceed with the Policy without modification; or
2. Proceed with the Policy with modification; or
3. Not to proceed with the Policy.

**Decision Implications**

If Council resolves to adopt the draft Policy, it will be advertised in accordance with the process above.

If Council resolves not to endorse the recommendation, the Policy will not be advertised, or progressed. There will be no Policy in place with specific built form controls for the Hampden Hollywood Precinct.

**Conclusion**

As a result of extensive research and consultation, the Hampden Hollywood Precinct Design Response Local Planning Policy provides contextually appropriate built form outcomes for the Hampden Hollywood Precinct. The Policy is the most appropriate planning instrument for influencing the built form outcomes in the Hampden Hollywood Precinct. It is recommended that Council adopt the recommendation and formally advertise the Policy.

**Further Information**

N/A

**Figure 1 – Hampden Hollywood Precinct and Sub-Precincts**

Chart

Description automatically generated

# PD40.06.22 Initiation of Scheme Amendment No. 12 – Tree Retention on Private Land

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting – 28 June 2022 |
| **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 & Development |
| **Attachments** | 1. Scheme Amendment No 12 – Justification Report 2. Outline of Supporting Local Planning Policy |

**Purpose**

The purpose of this report is for Council to provide consent to prepare (adopt for advertising) the proposed Scheme Amendment No 12, which would require development approval for the removal of trees meeting certain criteria from Residential lots with a coding of R20 or lower.

**Recommendation**

**That Council:**

1. **Pursuant to Section 75 of the *Planning and Development Act 2005*, adopt Amendment No. 12 to Local Planning Scheme No. 3 by inserting the following provisions into Schedule 1 – Supplemental Provisions:**

**60. Requirement for development approval**

**60A. No person shall cause or permit the removal, destruction, or damage to any tree that meets the following criteria on a lot zoned Residential with a density code of R20 or below unless development approval has been granted in accordance with Part 8 of the Deemed Provisions:**

1. **Canopy diameter of 6m or greater; or**
2. **Height of 8m or greater; or**
3. **In the case of a tree with a single trunk, a trunk circumference of 1.5m or greater, measured 1.4m above the ground; or**
4. **In the case of a tree with multiple trunks, a total trunk circumference of 1.5m or greater, with an average trunk circumference of 625 millimeters or greater, measured 1.4m above the ground.**

**61. Development for which development approval is not required**

|  |  |  |
| --- | --- | --- |
|  | **Column 1**  **Works** | **Column 2**  **Conditions** |
| **22.** | **The removal, destruction or damage to a tree which meets the criteria set out in Clause 60A.** | **Either -**   1. **The tree is identified in a local planning policy as an unwanted species; or** 2. **Tree pruning in accordance with Australian Standards for Pruning of Amenity Trees (AS4373); or** 3. **Tree pruning or removal required for bushfire management purposes, in accordance with the Bush Fires Act 1954; or** 4. **Tree pruning or removal to achieve necessary clearances from utilities; or** 5. **Cutting back overhanging branches or roots of a tree on a neighbouring property, back to the shared property boundary.** |

1. **In accordance with Regulation 35(2) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, the City is of the opinion that Amendment No. 12 to Local Planning Scheme No. 3 is a Complex Amendment, as it aligns with the definition specified under Regulation 34 as follows:**

**r34 (b) an amendment that is not addressed by any local planning strategy; and**

**r34 (c) an amendment relating to development that is of a scale, or will have an impact, that is significant to development in the locality.**

1. **Pursuant to Section 81 of the *Planning and Development Act 2005*, refers Amendment No. 12 to Local Planning Scheme No. 3 to the Environmental Protection Authority.**
2. **In accordance with Regulation 37(2) of the *Planning and Development (Local Planning Schemes) Regulations 2015* submit two (2) copies of the proposed Scheme Amendment No. 12 to the West Australian Planning Commission for approval to advertise.**

1. **Subject to Section 84 of the *Planning and Development Act 2005* advertises Amendment No. 12 to Local Planning Scheme No. 3 in accordance with Regulation 38 of the *Planning and Development (Local Planning Schemes) Regulations 2015* and the City of Nedlands Local Planning Policy – Consultation of Planning Proposals.**

**Voting Requirement**

Simple Majority.

**Executive Summary**

The purpose of this report is for Council to consider the merits of preparing a scheme amendment to require development approval to remove trees on private land meeting specific criteria. The report also discusses a supporting local planning policy to guide the discretion and process for the determination of such an application for development approval. Both planning instruments have been proposed in response to the 14 December 2021 Council decision relating to the retention of trees on private land.

**Background**

At the 14 December 2021 Ordinary Council Meeting (OCM), Council resolved that an amendment to Local Planning Scheme No. 3 (the Scheme) be prepared, for the purpose of requiring development approval for the removal of trees that meet certain criteria on lots with a coding of R20 or less (the Amendment).

The December OCM report included draft scheme amendment provisions, however, it was noted that the criteria would be refined in the subsequent report to Council. The tree criteria for the scheme amendment have now been refined based on further research relating to the tree protection criteria used by other jurisdictions and advice from relevant specialists.

**Discussion**

Gaps Analysis

Since the Scheme was gazetted in April 2019, several ‘gaps’ have been identified by Administration in the City’s strategic planning framework. These gaps have become apparent through the City’s difficulty in negotiating outcomes in the development application process that are satisfactory in terms of the local area’s context and character.

In consultation with the Department of Planning, Lands and Heritage (DPLH), the City undertook a strategic analysis of the existing local planning framework, and developed a list of the key planning issues arising from the implementation of the Scheme, referred to as the Gaps Analysis. The intent of the Gaps Analysis is to:

* Secure agreement on the nature, priority and associated objectives of the perceived gaps; and
* Identify the investigations required to substantiate the extent of the gap and demonstrate need for a new planning instrument to resolve the gap.

The Gaps Analysis was endorsed by Council at the February 2021 OCM.  The Amendment is intended to address Item 3 of the Gaps Analysis, being ‘loss of existing trees on private land’. The required investigations for this item included review of other local government planning instruments to deal with the issue, which has now been undertaken to inform the preparation of the Amendment.

The detail and planning justification for the Amendment, and supporting local planning policy, is provided in the Scheme Amendment No 12 – Justification Report, included as **Attachment 1**.

An outline of the supporting local planning policy is included as **Attachment 2**. It is proposed that this local planning policy will be presented to Council for their consideration at a future council meeting.

Consideration as a Complex Amendment

The proposed Amendment is consistent with the City’s endorsed Local Planning Strategy. Notwithstanding, the Amendment is considered to be a Complex Amendment as defined by Regulation 34 of the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations). This is due to sub-regulation 34(b), with the matter not being addressed by the City’s Urban Forest Strategy, and sub-regulation 34(c), the significant departure it proposes from the existing requirements for development approval. This classification will also allow for the most rigorous community consultation period to be undertaken.

**Community consultation**

The application is required to be advertised in accordance with Regulation 38 of the Regulations,and the City of Nedlands Local Planning Policy – Consultation of Planning Proposals. Advertisement of a Complex Amendment is as follows:

* The City must prepare a notice in a form approved by the WAPC giving details of the purpose of the Amendment, where the Amendment may be inspected and to whom and during what period submissions can be made.
* The City must then advertise the Amendment by:
  + Publishing the notice on the City’s website;
  + Publishing the notice in a newspaper circulating throughout the scheme area;
  + Publishing the notice via the City’s social media channels;
  + Providing letters to affected owners and occupiers;
  + Providing a community information session;
  + Displaying the notice in the Administration building; and
  + Providing a copy of the notice to all public authorities which are likely to be affected by the Amendment.
* The advertising period can be no less than 60 days, commencing on the day that the notice is published in a newspaper circulating in the scheme area.

In addition to the regulatory advertising of the amendment, opportunities to provide meaningful engagement with the community on this matter will be explored. In the event the amendment is initiated, a community engagement plan will be prepared prior to formal advertising commencing. This plan will consider other forms of engagement, such as providing an easy-to-use portal to make a brief submission.

**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.

**Reflects Identities**

We value our precinct character and charm. Our neighbourhoods are family-friendly with a strong sense of place.

**Budget/Financial Implications**

If Council were to proceed with the Amendment, there would be no immediate cost to the City other than those associated with advertising.

If the Amendment were to be approved, implementation costs associated with staff resourcing would depend upon the number of development applications received for tree removal. Staff resourcing would include planning officers to assess development applications, technical services officers for assisting with arboriculture aspects of development applications and compliance officers for enforcing tree retention and provision requirements. Quantifying additional staff resources required at this stage is not feasible, and this matter could be reviewed during implementation.

**Legislative and Policy Implications**

As outlined in Schedule 7 of the [Planning and Development Act 2005](https://www.legislation.wa.gov.au/legislation/prod/filestore.nsf/FileURL/mrdoc_44857.pdf/$FILE/Planning%20and%20Development%20Act%202005%20-%20%5B04-p0-00%5D.pdf?OpenElement), the “conservation of the natural environment of the scheme area including the protection of natural resources, the preservation of trees, vegetation and other flora and fauna, and the maintenance of ecological processes and genetic diversity” are matters which may be dealt with by a planning scheme.

The intent of the Amendment is to provide an improved framework for the protection of the City’s urban tree canopy. The Amendment is therefore within the limitations of what may be dealt with by the Scheme.

**Decision Implications**

In accordance with Regulation 37 of the Regulations, the Council, upon consideration of the Amendment, must resolve:

1. to proceed to advertise the amendment to the local planning scheme without modification;
2. to proceed to advertise the amendment to the local planning scheme with modifications; or
3. not to proceed to advertise the amendment to the local planning scheme.

If the Amendment is granted consent to advertise by Council as per Regulation 37(a) OR (b) above, the City must, within 21 days of the Council resolution, refer the application to the Western Australian Planning Commission (WAPC) for approval to advertise in accordance with Regulation 37 of the Regulations. The WAPC then has 60 days to advise the City whether any modifications to the documents are required before the Amendment is advertised.

The City must also refer the application to the Environmental Protection Agency (EPA) in accordance with Section 81 of the *Planning and Development Act 2005*.

If the Amendment is granted consent to advertise by the WAPC, the City will advertise the Amendment as outlined in the ‘Community Consultation’ section of this Report.

At the close of the submission period, the City must acknowledge in writing the receipt of each submission on the Amendment.  A 90-day consideration period for a complex scheme amendment applies after the end of the submission period, in which the City must consider all submissions and Council must pass a resolution to support, support with modifications or not support the Amendment.

Once Council has made their decision on the Amendment, all documents will be referred to the WAPC. The WAPC will consider the proposed Amendment and submissions before delivering a recommendation to the Minister for Planning. The Minister will then make the final decision on whether the Amendment will proceed to be Gazetted and placed in the Scheme, or if it will not be supported.

If Council choose not to proceed with the Amendment as per Regulation 37(c) above, the City must provide a copy of the Resolution to the WAPC within 21 days of the decision. No further action will be taken with the Amendment after the Resolution is provided to the WAPC.

**Conclusion**

The Amendment creates a mechanism within the Scheme for development approval to be required for the removal of trees from private land in certain circumstances. The intent of the Amendment is to provide an improved framework for the protection of the City’s urban tree canopy, which aligns with the vision for the City of Nedlands, as set out in the Local Planning Strategy.

The Amendment is considered to be a Complex Amendment under section (b) and (c) of r.34 of the Regulations due to the matter not being considered by the City’s Urban Forest Strategy, and the significant departure it proposes from the existing requirements for development approval. The classification of the Amendment as complex will also allow for the most rigorous community consultation process to be undertaken, ensuring that affected agencies and residents are provided with ample opportunity to comment on the proposal.

**Further Information**

N/A

# PD41.06.22 West Melvista Precinct Parking Restriction

|  |  |
| --- | --- |
| **Meeting & Date** | Council – 27 June 2022 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil |
| **Report Author** | Jessica Bruce A/Manager Health & Compliance |
| **Director** | Tony Free Director Planning and Development |
| **Attachments** | 1. 1. Current West Melvista Precinct Parking Restrictions 2. 2. Proposed West Melvista Precinct Parking Restrictions |

**Purpose**

To seek community consultation within the West Melvista Precinct to introduce timed parking restrictions. This is to alleviate parking impacts on residents and business in response to increased construction activities particularly around the Oryx Development.

**Recommendation**

**That Council approves the proposed consultation with residents, businesses, and community/sporting organisations to introduce timed parking for the streets surrounding the development.**

**Voting Requirement**

Simple Majority.

**Background**

Oryx Developments will be shortly commencing construction of ‘The Melvista Nedlands’ at 16-18 Betty Street & 73-75 Doonan Road Nedlands. This four-storey development will provide 80 aged care rooms and suites.

The majority of on-street parking surrounding the development is currently unrestricted and primarily used for residential purposes with very few commercial entities operating within the vicinity. It is anticipated that the demand for on street parking will increase markedly when the development begins its construction phase.

**Discussion**

The Administration will continue to require builders to address parking as part of their construction management plans. However, the City is limited in its ability to encourage and enforce builders to manage their parking associated with their development without changes to the existing parking restrictions. It is expected that vehicles associated with the construction will predominately park in the residential areas close to the building sites leading to potential concerns from residents being unable to have access to parking in their street if no parking restrictions are implemented. By taking this proactive action on this issue it is expected this will reduce the likelihood of impact on residents.

In order to alleviate the impact of this on residents of the area the City is proposing the temporary implementation of two hour time restricted parking on one side of the streets in precinct with No Parking applying to the other side surrounding this development. A section of verge on College Park on Melvista Avenue will be allocated to the construction company at a cost and designated as ‘Authorised Vehicles Only.’ It is anticipated that this will ensure equitable use of the on street parking surrounding the development. This reflects similar arrangements recently adopted by Council in February 2022 for the Broadway Precinct Parking Restrictions and the allocation of land on Bruce Street for trades vehicle parking.

In support, the City currently offers parking permits to residents in accordance with the *City of Nedlands Parking and Parking Facilities Local Law 2017*. This allows residents and their visitors to park over the time limitation on streets near their property when displaying a valid permit. Residents will be advised through this consultation process of this option and how they can apply.

The current parking restrictions for the West Melvista Precinct are illustrated in the maps below (Attachment 1). The proposed parking restrictions in this precinct will be largely uniform from Monday to Saturday (Attachment 2). Table 1 provides a list of current restrictions and proposed restrictions.

**Table 1: Current and Proposed Restrictions**

|  |  |  |  |
| --- | --- | --- | --- |
| Street | Section | Current Restriction | Proposed Restriction (either side) |
| Bostock Road | Melvista Ave – Princess Road | No Restriction | No Parking Mon – Sat  2P Mon – Sat  No Parking – Auth Only |
| Leopold Street | Melvista Ave – Princess Road | No Restriction | No Parking Mon – Sat   1. 2P Mon - Sat |
| Betty Street | Princess Road – Granby Street | No Parking | 2P Mon – Sat  No Parking (ongoing) |
| 1. Granby St – Melvista Ave | No Stopping | 2P Mon – Sat  No Stopping |
| Doonan Rd | Princess Rd – Melvista Ave | No Parking | 2P Mon – Sat  No Parking |
| Vincent St | Princess Rd – Melvista Ave | No Restriction | No Parking Mon – Sat |
| Louise Street | Princess Road – Melvista Avenue | No Restriction | No Parking Mon – Sat  2P Mon - Sat |
| Stone Road | Melvista Avenue– Goldsmith Road | No Restriction | No Parking Mon – Sat  2P Mon - Sat |
| Sherwood Road | Melvista Avenue – Goldsmith Road | No Restriction | No Parking Mon – Sat  2P Mon - Sat |
| Hackett Road | Watkins Road – Melvista Avenue | No Restriction | No Parking Mon – Sat  2P Mon - Sat |
| Garland Road | Watkins Road – Kathryn Crescent | No Restriction | No Parking Mon – Sat  2P Mon - Sat |
| Sutcliffe Street | Melvista Avenue – Hotchin Street | No Restriction | No Parking Mon – Sat  2P Mon - Sat |
| Melvista Avenue | Loton Road – Stone Road | No Restriction | No Parking Mon – Sat  2P Mon – Sat |
| Stone Road – Bostock Road | No Restriction | No Parking – Auth Only  2P Mon - Sat |
| Bostock Road – Sherwood Road | No Restriction | No Parking Mon – Sat  2P Mon - Sat |
| Sherwood Road – Sutcliffe Street | No Restriction | No Parking Mon – Sat  2P Mon - Sat |
| Adelma Road | Melvista Avenue – Stephanie Street | No Restriction | No Parking Mon – Sat |
| Riley Road | Stone Road – Hackett Road | No Restriction | No Parking Mon – Sat  2P Mon - Sat |
| Goldsmith Road | Stone Road – Garland Street | No Restriction | No Parking Mon – Sat  2P Mon - Sat |
| Stephanie Street | Garland Street – Adelma Road | No Restriction | No Parking Mon – Sat  2P Mon - Sat |
| Hotchin Street | Adelma Road – Sutcliffe Street | No Restriction | No Parking Mon – Sat  2P Mon - Sat |

**Consultation**

The City will consult residents, businesses and sporting/community groups in the areas affected by letter to explain proposed parking restrictions along with the impacts if these parking measures are not in place. As part of the consultation residents would be advised of their option to apply for parking permits in line with the current scheme to allow them or their visitors on street parking where posted restrictions are proposed to be implemented.

Further information regarding the changes to the parking restrictions will be communicated to the UWA Nedlands FC, Westside Wolves Hockey Club, Western Suburbs Cricket Club, Aim Archery Group, Claremont Nedlands Cricket Club (Juniors) and Kidz Galore. The City will work with the clubs and groups to consult alternative use of land within the management area or other facilities for parking during competitions and events.

The Community Consultation of the proposal will include a targeted letter campaign to the residents of the precinct likely to be affected by the changes along with an online community engagement through Your Voice on the City website. This will be advertised for two weeks following a resolution by Council. This will be undertaken in accordance with the Community Engagement Council Policy as it relates to engagement processes with respect to consultation.

This feedback obtained through the consultation period will be then collated and the information presented to Council for adoption.

**Strategic Implications**

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

**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.

**Easy to Get Around**

We strive for our City to be easy to get around by preferred mode of travel, whether by car, public transport, cycle, or foot.

**Priority Area** Managing parking

**Budget/Financial Implications**

The consultation will be budgeted through the already existing operational accounts.

**Legislative and Policy Implications**

City of Nedlands Parking and Parking Facilities Local Law 2017.

**Conclusion**

Increased demand for parking is anticipated in the West Melvista Precinct due to increased building construction activity resulting from the adoption of Local Planning Scheme 3.

The Administration, therefore, recommends Council approve a consultation period to obtain feedback to introduce parking restrictions in the surrounding streets and progress parking arrangements with builders for the exclusive use of a section of verge on College Park.

**Further Information**

N/A.

# PD42.06.22 Bird Watering Stations

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting – 28 June 2022 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil |
| **Report Author** | Jessica Bruce – Acting Manager Health and Compliance |
| **Director** | Tony Free - Director Planning and Development |
| **Attachments** | Nil. |

**Purpose**

The purpose of this report is to respond to Council’s request to investigate the installation of bird watering stations and to consult with BirdLife Australia to establish a regular bird census similar those conducted for the Lake Claremont Advisory Committee.

**Recommendation**

**That Council:**

1. **notes the purchase of a bird watering station for Hollywood Reserve in the 2021/22 financial year utilising $2,000 donation funding from the Friends of Hollywood Reserve;**
2. **notes the donation from the Friends of Hollywood Reserve towards of the provision of the bird watering station;**
3. **lists for consideration six bird watering stations in the 10 year forward works plan as part of consideration of the 2023/24 Capital budget subject to supporting grant funding; and**
4. **notes that the City has regular bird census data available through the Birdata platform provided by BirdLife Australia.**

**Voting Requirement**

Simple Majority.

**Background**

Council at its meeting on 22 March 2022 under item 22.5 agreed to investigate the installation of bird watering stations, appropriate locations, possible grants and funding options, and consult with BirdLife Australia to establish a regular bird census similar to those conducted for the Lake Claremont Advisory Committee.

**Discussion**

**Nedlands Bird Survey Data**

The City of Nedlands manages approximately 63 hectares (ha) of remnant bushland for conservation purposes. The bushland areas within the City consist of six main bushlands and a number of smaller bush blocks and greenways. All the City’s bushlands are actively managed and contain a variety of bird species which are supported by varied vegetation types and habitats such as coastal, estuarine and woodlands areas.

There are a number of ongoing bird surveys being undertaken within Nedlands which include:

* Bird banding at Shenton Bushland by Edith Cowan University (ECU) in conjunction with BirdLife Australia at monthly intervals for more than a decade;
* Ongoing regular surveys at Allen Park, Point Resolution and Hollywood Reserve; and
* Irregular surveys at Mt Claremont Oval and Birdwood Parade bushlands.

Some of the surveys are undertaken by community ‘Friends of’ groups and the survey information is only accessible to the volunteer groups who have undertaken the surveys. Other surveys are reported in Birdata which is an online platform that enables volunteers and researchers to enter bird survey data into a web portal.

Birdata was established to help protect Australian birds and the program links with other bird conservation programs including the Atlas Program, Shorebirds 2020, WA Black-Cockatoos and Birds in Backyards. Birdata can be accessed online at [Explore | Birdata (birdlife.org.au)](https://birdata.birdlife.org.au/explore#map=-22.5083100_136.0786120_4).

To ensure increased reporting of Nedlands bird survey data, the City’s Administration have liaised with the five City of Nedlands ‘Friends of’ groups to raise awareness of the Birdata platform. After liaising with the Friends of Point Resolution some of their members who are responsible for undertaking the bird census for the Lake Claremont Advisory Committee have kindly agreed to survey Point Resolution quarterly and update the survey results into Birdata.

In addition to raising awareness of the Birdata platform and additional surveys being undertaken at Point Resolution, the City asked if BirdLife Australia could engage their volunteers to undertake regular bird surveying at Allen Park, Mt Claremont Oval, Hollywood Reserve and Birdwood Parade bushlands. BirdLife Australia have agreed to survey these bushland areas at regular intervals provided they have volunteers available.

**Bird Watering Stations**

Bird watering stations have been installed in parks and reserves across a number of local governments in the metropolitan area. They provide clean drinking water for birds and a safe environment for them to drink where there is a consistent water supply during warmer months. Many bird species benefit from bird watering stations including the *Endangered* Carnaby’s Black-Cockatoo and the *Threatened* Forest Red-tailed Black-Cockatoos that have roost sites in Nedlands and regularly frequent the City’s bushland areas.

Car strikes are another threat to Black-Cockatoos within Nedlands especially where they forage close to the roadside. Drinking from puddles along roadsides are also leading to car strikes. Bird watering stations help protect the birds by providing a reliable water source away from dangerous road ways.

The bird watering stations are designed and supplied by the Town of Victoria Park and in addition to providing a clean reliable water source they are also attractive and are a way of incorporating artwork into public areas.

There are potentially seven suitable locations including six within the City’s six main bushland areas and one in the bushland protection zone at Montario Quarter. The total cost to supply each bird watering station is approximately $6,100 (ex gst) which includes $4,100 for supply and between $1,000 - $2,000 for installation which is dependent on the distance they are installed from a Mains water source. With approximately seven possible locations to install bird watering stations within the City, it would cost a total of approximately $42,700 (ex gst).

The City’s Administration has been liaising with the Friends of Hollywood Reserve to install a bird watering station at Hollywood Reserve since the unplanned fire in January 2022. The Friends of Hollywood Reserve received a number of donations after the unplanned fire at Hollywood Reserve and they would like to offer $2,000 of their donation money to the City to assist with the purchase of a bird watering station for Hollywood Reserve.

Provided Council agrees to accept the Friends of Hollywood Reserve’s donation money then Administration can move ahead with purchasing one bird watering station in the 2021-22 financial year by utilising $2,000 donation money and $2,100 of operational funding. The remaining $2,000 for installation of the bird watering station could be completed in the 2022-23 financial year.

With regards to the remaining six potential bird watering stations these would cost approximately $36,600 and therefore need to be included in the ten year forward works program. There are two possible grants that could be applied for including the State Natural Resource Management (NRM) grants and Lotterywest grants which are highly competitive and vary in available grant value. Both grant funding bodies require joint funding contribution and sufficient scientific evidence that the watering stations are needed in addition to their normal feeding and watering activities in order to be eligible. Furthermore, the City is not in a position to apply for the current grant rounds as budget contribution has not been allocated towards the grant project and applications have closed.

If the Council approves funding of $30,000 in the 2023/24 Capital budget then the City would be in a position to apply for a grant for multiple bird watering stations to support the costs and install.

**Consultation**

The City’s Environmental Conservation program actively engages with the five ‘friends of’ groups in the management of the City’s bushland areas and has raised awareness of the Birdata platform and the bird watering stations with the groups.

**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.

**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.

**Reflects Identities**

We value our precinct character and charm. Our neighbourhoods are family-friendly with a strong sense of place.

**Priority Area** Retaining remnant bushland and cultural heritage

**Budget/Financial Implications**

The bird watering stations cost approximately $6,100 to supply and install. There is currently $2,100 in the 2021-22 operational budget which can be utilised along with $2,000 of the Friends of Hollywood Reserve’s donation money to purchase one bird watering station prior to the end of the 2021-22 financial year.

As the outcome of this report item will only be known on the 28 June and close to the end of the 2021-22 financial year, the installation costs of $2,000 of the bird watering station would need to be paid for out of the 2022-23 operational budget.

In order to seek grant funding to purchase six additional bird watering stations totalling $30,000, this will need to be included in the 2023/24 Capital budget.

**Legislative and Policy Implications**

The following legislative and policy implications relate to this item:

* [Greenways Council Policy.docx (live.com)](https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww.nedlands.wa.gov.au%2Fsites%2Fdefault%2Ffiles%2FGreenways%2520Council%2520Policy.docx&wdOrigin=BROWSELINK)
* [Natural Areas Management Council Policy.docx (live.com)](https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww.nedlands.wa.gov.au%2Fsites%2Fdefault%2Ffiles%2FNatural%2520Areas%2520Management%2520Council%2520Policy.docx&wdOrigin=BROWSELINK)

**Decision Implications**

N/A

**Conclusion**

The City of Nedlands is committed to protecting bird species and will continue to assist volunteers to survey and record bird data within the City through the City’s ‘Friends of’ activities and BirdLife Australia’s Birdata platform.

There is funding available in the 2021-22 Council budget to purchase one bird watering station using $2,000 donation money from the Friends of Hollywood Reserve and $2,100 from the operational budget. It is recommended that the City purchase a bird watering station for Hollywood Reserve this financial year and seek Council and grant funding for an additional six bird watering stations by including $30,000 in the 2023/24 Capital budget.

**Further Information**

N/A.

# Divisional Reports - Corporate & Strategy Report No’s CPS23.06.22 to CPS26.06.22

# CPS23.06.22 Differential Rates 2022/23 – Approval for Advertising

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting – 28 June 2022 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil |
| **Report Author** | Stuart Billingham – Manager Financial Services |
| **Director** | Michael Cole – Director Corporate Services |
| **Attachments** | 1. Statement of Objects and Reasons for imposing the Differential Rates for 2022/23 |

**Purpose**

The purpose of this report is to seek Council approval for the advertising of the proposed differential rates and minimum rates for the 2022/23 financial year in accordance with *Section 6.36 of the Local Government Act 1995*.

**Recommendation**

**That Council:**

1. **approves the advertising of the proposed differential rates for 2022/23 for:**
   1. **for a period of 21 days by local public notice, in accordance with *Section 6.36(1)* of the *Local Government Act 1995*; and**
   2. **post on the City’s website, in accordance with *Section 6.36(3)(c)(ii)* of the *Local Government Act 1995*;**
2. **endorses proposed differential rates and minimums as follows:**
   1. **Residential 0.06558 and minimum $1,521;**
   2. **Residential Vacant 0.09042 and minimum $2,000;and**
   3. **Non-residential 0.07314 and minimum $2,006; and**
3. **endorses the Statement of Objects and Reasons for each differential rate and minimum rate as detailed in Attachment 1.**

**Voting Requirement**

Simple Majority.

**Background**

Each year where the City of Nedlands seeks to impose differential rates, it is required under section 6.36 of the *Local Government Act 1995* to advertise the proposed differential rates by local public notice for a period of at least 21 days, seeking submissions. Any submissions received are to be considered by Council.

Change in City of Nedlands Landgate Valuations

|  |  |  |  |
| --- | --- | --- | --- |
| **GRV Category** | **2021/22** | **2022/23** | **% change** |
| Residential | $299,553,429 | $301,771,849 | 0.74 |
| Residential Vacant | $9,964,800 | $10,859,650 | 8.98 |
| Non-Residential | $53,129,577 | $55,994,977 | 5.39 |

Number of assessments

|  |  |  |  |
| --- | --- | --- | --- |
| **GRV Category** | **2021/22** | **2022/23** | **% change** |
| Residential | 8,304 | 8,301 | -0.036 |
| Residential Vacant | 275 | 331 | 20.363 |
| Non-Residential | 554 | 558 | 0.722 |

**Discussion**

The City imposes differential rates based on the purpose for which the land is zoned or for which the land is held or used. This allows the City the opportunity to levy different rates in the dollar on the Gross Rental Value (GRV) of different property classifications to reflect the differing levels of demand placed on City services and infrastructure in each differential category. Currently, the City uses 3 differential rate classifications as detailed following:

1. Residential

2. Residential Vacant

3. Non-Residential

The City also establishes a minimum rate for each differential rating classification to ensure that all ratepayers make a reasonable contribution to the cost of providing services and infrastructure by the City.

The draft Annual Budget for 2022/23 has been developed in consultation with Elected Members and it is proposed to bring the Annual Budget to a Special Council Meeting in early August 2022. In order to meet the statutory requirements under Section 6.36 of the Local Government Act 1995, the City proposes the following differential rates to be advertised for public comment:

Proposed increase from the 2021/22 Budget of 2.5% in the rate in the dollar and minimum rates for Residential and Non-residential categories. Proposed an increase of 2.5% in the rate in the dollar Residential Vacant category however -7.6% reduction in minimum to ensure compliance with less than 50% of the Residential Vacant Land category on a minimum.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Differential Rate** | **Minimum Rate 2021/22** | **Minimum Rate Proposed** | **Rate in the**  **Dollar ($) 2021/22** | **Rate in the Dollar ($) Proposed** |
| Residential | $1,484 | $1,521 | 0.06558 | 0.06722 |
| Non-Residential | $1,957 | $2,006 | 0.07314 | 0.07496 |
| Residential Vacant | $2,165 | $2,000 | 0.09042 | 0.09268 |

The proposed rates have been achieved through a critical review of operational costs to continue delivering services and achieving a capital program that matches delivery capacity.

In accordance with *Section 6.36 of the Local Government Act 1995*, the City is required to give local public notice of its intention to impose differential rates prior to adopting its budget for the 2022/23 financial year.

**Consultation**

The Council was presented with the draft budget information at a series of Councillor Briefings held during April, May, and June 2022. Proposed rates have been included in these discussions.

**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**

* Urban form - protecting our quality living environment
* Renewal of community infrastructure such as roads, footpaths, community and sports facilities
* Underground power
* Encouraging sustainable building
* Retaining remnant bushland and cultural heritage
* Providing for sport and recreation
* Managing parking
* Working with neighbouring Councils to achieve the best outcomes for the western suburbs as a whole

**Budget/Financial Implications**

The proposed differential rates for 2022/23 budget ($26,036,164) will provide additional revenue of $1,058,509 compared to the 2021- 22 budget ($24,977,655) to the City.

Can we afford it? The proposed differential rates have been rate modelled in order to achieve the optimum level of service and infrastructure delivery for the City.

**Legislative and Policy Implications**

[*Section 6.36 of the Local Government Act 1995*](https://www.legislation.wa.gov.au/legislation/prod/filestore.nsf/FileURL/mrdoc_44720.pdf/$FILE/Local%20Government%20Act%201995%20-%20%5B07-y0-00%5D.pdf?OpenElement)

**Decision Implications**

Should Council endorse the recommendation then the City will fulfill its Statutory obligations under *s6.36 of the Local Government Act 1995* to advertise proposed differential rates for 2022/23 by giving Local Public Notice for 21 days and consider any submissions received.

Should council not endorse the recommendation, this would result in delays to the adoption of the final budget for 2022/23.

**Conclusion**

Council’s approval of the proposed differential rates and the supporting Statement of Objects and Reasons for Differential Rates will allow the City to meet its statutory obligation to advertise the proposed rate in the dollar and minimum rates for 21 days for public comments.

**Further Information**

N/A

# CPS24.06.22 Monthly Financial Report – May 2022

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

# CPS25.06.22 Monthly Investment Report – May 2022

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

# CPS26.06.22 List of Account Paid – May 2022

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

# Reports by the Chief Executive Officer CEO05.06.22

# CEO05.06.22 Review of Local Laws under section 3.16 of the Local Government Act 1995

|  |  |
| --- | --- |
| **Meeting & Date** | Council – 28 June 2022 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil |
| **Report Author** | Chris Liversage – Consultant- Conway Highbury |
| **Officers** | Nicole Ceric – Executive Officer  Sam Curulli – Governance Officer |
| **Attachments** | Nil |

**Purpose**

Section 3.16 of the *Local Government Act 1995* requires local governments to undertake a review of their local laws every eight years. The City’s local laws are due for review.

This involves a process of calling for public comment, after which any changes required can then be made or redundant local laws repealed.

**Recommendation**

**Council approves that:**

1. **local public notice be given stating that the City proposes to review its local laws under s3.16 of the *Local Government Act 1995*;**

1. **a copy of the local laws may be inspected or obtained at the City offices or from its website;**
2. **submissions about the local laws may be made to the City before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given; and**
3. **the results of the above advertising be presented to Council for consideration of any submissions received.**

**Voting Requirement**

Absolute Majority.

**Background**

Section 3.16 of the Local Government Act 1995 requires Local Governments to undertake a review of their local laws every eight years.

A number were made after 2013 but it will be more efficient to undertake a review of all local laws at once so that the exercise does not need to be repeated for individual local laws in future.

All local laws that the City has in place, when they were made, and comments about them are shown below. Without pre-empting the outcome of the review, possible action that may be required is also shown to assist:

| **Title** | **Gazettal date(s)** | **Comments** | **Possible outcome** |
| --- | --- | --- | --- |
| Health Local Law 2017 | Date: 9-1-2018; Page: 69-111 | Repeals the City of Nedlands Health Local Law 1997 published 9 February 1998 | Leave as is |
| Waste Local Law 2016 | Date: 7-6-2017; Page: 2837-2844 |  | Leave as is |
| Waste Amendment Local Law 2017 | Date: 20-4-2018; Page: 1313-1317 | Amends the City of Nedlands Waste Local Law 2016 as published in the Government Gazette on 7 June 2017 | No change; this is an Amendment local law. |
| Repeals Local Law | Date: 4-10-2016 Page: 4240 | Repeals the City of Nedlands Signs Local Law 2007 published in the Government Gazette on 13 February 2008, Fencing Local Law 2007 published in the Government Gazette on 13 February 2008. | Leave as is |
| Parking and Parking Facilities Local Law 2013 | Date: 23-10-2013 Page: 4777-4796 |  | Update to reflect changes to Regulations regarding disabled persons parking |
| Parking and Parking Facilities Amendment Local Law 2016 | Date: 27-1-2017 Page: 1037 | Amends Parking Local Law gazetted on 23/10/2013 | No change; this is an Amendment local law. |
| Halls, Council | Date: 1-9-2000 Page: 5016-5018 |  | Repeal and combine into potential new Local Government Property and Public Places Local Law |
| Long Service Leave | Date: 25-7-1988 | Covered by Local Government (LSL) regulations | Repeal |
| Eating Areas In Streets & Public Areas | Date: 5-2-1988 Page: 2836 |  | Repeal and combine into potential new Local Government Property and Public Places Local Law |
| Refuse Removal of | Date: 4-6-1982 Page: 1833 |  | Check if covered by s3.25 etc of Local Government Act 1995; likely repeal |
| Old Refrigerators - Cabinets | Date: 15-1-1982 Page: 97 |  | Repeal and combine into potential new Local Government Property and Public Places Local Law |
| Bathing Boundaries Extension of - Metric Conversion | Date: 5-9-1975 Page: 3243 |  | Repeal and combine into potential new Local Government Property and Public Places Local Law |
| Fencing - Metric Conversion | Date: 25-7-1975 Page: 2745 |  | Repeal |
| Footpaths Prevention of Damage - Metric Conversion | Date: 25-7-1975 Page: 2746 |  | Repeal and combine into potential new Local Government Property and Public Places Local Law |
| Signs, Blinds, Awnings, Advert Hoardings & Bill Posting - Metric Conversion | Date: 25-7-1975 Page: 2476-8 |  | Check if Signs covered under Local Planning Scheme; otherwise repeal |
| Amusements | Date: 8-11-1974 Page: 5026-28 |  | Repeal |
| Long Service Leave | Date: 13-1-1971 Page: 80 | Covered by *Local Government (LSL) Regulations* | Repeal |
| Reserve Fees To Be Charged For Admission To Point Resolution | Date: 29-11-1962 Page: 3822 |  | Dealt with in annual budget - repeal |
| Buildings - Application of Part XV Municipal Corp Act to Whole | Date: 18-5-1956 Page: 1226 | Dealt with by Building Act | Repeal |
| Reserves Foreshores and Beaches | Date: 19-3-2001; Page: 1409-1417 |  | Repeal and combine into potential new Local Government Property and Public Places Local Law |
| Trading in Public Places | Date: 13-3-2001; Page: 1373 | Crosscheck against 2000 Local Law below | Repeal and combine into potential new Local Government Property and Public Places Local Law |
| Thoroughfares Local Law | Date: 10-11-2000; Page: 6219-6230 |  | Repeal and combine into potential new Local Government Property and Public Places Local Law |
| Trading in Public Places Local Law 2000 | Date: 11-7-2000 Page: 3809 | Crosscheck against Local Law above | Repeal and combine into potential new Local Government Property and Public Places Local Law |
| Refuse Removal of | Date: 9-5-2000 Page: 2235 | Check content but repeal if covered by Waste Local Law and/or s3.25 LG Act | Repeal |
| Stalls | Date: 2-3-1990 Page: 1313 |  | Repeal and combine into potential new Local Government Property and Public Places Local Law |
| Street Alignment New - Aberdare Rd | Date: 19-10-1978 Page: 3804/5 | Check if still required/ used. | Repeal |
| Fencing - Metric Conversion (29.12.33) | Date: 25-7-1975 Page: 2748 |  | Repeal |
| Building Line Stirling Highway - Metric Conversion | Date: 25-7-1975; Page: 2748 |  | Repeal |
| Old Refrigerators & Cabinets - Metric Conversion | Date: 25-4-1975; Page: 1228/9 |  | Repeal |
| Halls Control & Management of | Date: 22-5-1972; Page: 1334 |  | Repeal and combine into potential new Local Government Property and Public Places Local Law |
| Footpaths | Date: 4-5-1971 Page: 1326/8 |  | Repeal and combine into potential new Local Government Property and Public Places Local Law |
| Old Refrigerators & Cabinets - Draft Model By-Law No. 8 | Date: 12-10-1962 Page: 3439 | Check content but repeal if covered by Waste Local Law and/or s3.25 LG Act | Repeal |
| Refuse Removal of | Date: 17-8-1960; Page: 2485/6 | Check content but repeal if covered by Waste Local Law and/or s3.25 LG Act | Repeal |
| Television | Date: 25-3-1960 Page: 896 | Not used | Repeal |
| Petrol Pump | Date: 11-12-1959 Page: 3027/9 | Superseded by State legislation | Repeal |
| Signs Blinds, Awnings, Advertising, Hoardings & Bill Posting | Date: 11-12-1959; Page: 3030-7 | Check controls in Local Planning Scheme and other places (eg MRWA Regulations re advertising devices Stirling Highway) | Repeal |
| Superannuation | Date: 19-9-1957 | Dealt with by Local Government (Long Service Leave) Regulations | Repeal |
| Schedule XI | Date: 3-8-1956; Page: 1928 | Unclear what by-law relates to | Repeal |
| Standing Orders Local Law 2009 | Date: 13-5-2009 Page: 1601-1621 |  | Amend as required by Council |
| Standing Orders Amendment Local Law 2016 | Date: 19-8-2016 Page: 3571-3572 | Amends Standing Orders - 13/5/2009 | Nil |
| Standing Orders Amendment Local Law 2014 | Date: 14-3-2014 Page: 630 | Amends Standing Orders - 13/5/2009 | Nil |
| Standing Orders Amendment Local Law 2011 | Date: 8-3-2011 Page: 800-1 | Amends Standing Orders - 13/5/2009 | Nil |
| Site Erosion and Sand Drift Local Law 2014 | Date: 5-8-2014 Page: 2827-9 |  | Leave as is |
| City of Nedlands Dogs Local Law | Date: 11-10-2012 Page: 4837-4847 | Repeals City of Nedlands Local Law Relating to Dogs that was gazetted on 10 November 2000. | Review to ensure provisions relating to dog exercise areas are correctly made |
| City of Nedlands Dogs Amendment Local Law 2013 | Date: 5-7-2013 Page: 3012 | Amends the City of Nedlands Dogs Local Law gazetted on 11 Oct 2012. | Nil |
| Reserves Foreshores and Beaches | Date: 20-11-2001 Page: 6012 |  | Repeal and combine into potential new Local Government Property and Public Places Local Law |
| Old Refrigerators and Cabinets | Date: 9-5-2000 Page: 2235 | Check if dealt with by Waste Local Law | Repeal |
| Street Lawns & Gardens & Laying of Pipes Under Carriage Ways | Date: 23-12-1994 Page: 7101-2 |  | Repeal and combine into potential new Local Government Property and Public Places Local Law |
| Street Alignment New - Stirling Hwy | Date: 15-9-1989 Page: 3431 |  | Repeal and combine into potential new Local Government Property and Public Places Local Law |
| Stalls | Date: 15-4-1983; Page: 1214/6 |  | Repeal and combine into potential new Local Government Property and Public Places Local Law |
| Footpaths Prevention of Damage | Date: 4-7-1980; Page: 2188 |  | Repeal and combine into potential new Local Government Property and Public Places Local Law |
| Roads Regulate Laying of Pipes & Pipelines Beneath - Metric Conversion | Date: 25-7-1975; Page: 2749 |  | Repeal and combine into potential new Local Government Property and Public Places Local Law |
| Signs, Blinds, Awnings | Date: 29-11-1962; Page: 3821 | Check if dealt with by Local Planning Scheme. | Repeal |

**Consultation**

As part of a review of local laws under section 3.16 of the *Local Government Act* *1995*, a local government is required to give local public notice, inviting submissions for a period of not less than 6 weeks.

Any feedback from the public consultation process will be presented to council; and in addition any changes to local laws must then be undertaken under s3.12 of the Act to make a new, amendment or repeal local law.

**Strategic Implications**

Keeping local laws up to date ensures the City is well placed to deal with any issues that may arise.

**Budget/Financial Implications**

There are costs associated with the review and advertising of the City’s local laws for public comment, as well as any costs that may arise as a result of any amendments that may then be required. Funds have been allocated in the budget.

To reduce these costs, local laws used by local governments of a similar nature to the City or models developed by the WA Local Government Association can be used.

**Legislative and Policy Implications**

Under section [3.16 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) Local Laws are required to be reviewed within 8 years from the day when a local law commenced.

[Section 3.12 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) outlines the procedure to be followed when making or reviewing local laws.

**Decision Implications**

Council is required under the Local Government Act 1995 to review all of its local laws periodically within 8 years of the adoption date. Should Council decide not to proceed with a local law review the City would be in breach of the Local Government Act 1995.

In addition to fulfilling its statutory obligation under the Act to regularly review its local laws, keeping local laws up to date ensures the City is well placed to deal with any issues that may arise, as well as the community benefit of removing redundant or unnecessary regulation.

**Conclusion**

Therefore, it is recommended that Council approve to commence the review process as required under the Local Government Act.

**Further Information**

N/A

# 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.