

**Notice of Meeting**

Mayor & Councillors

A Council Meeting Agenda Forum of the City of Nedlands is to be held on Tuesday, 5 December 2023 in the Council chambers at 71 Stirling Highway Nedlands commencing at 6pm.

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



**Tony Free | Acting Chief Executive Officer**

7 December 2023

**AGENDA**

**Council Meeting Agenda Forum**

**Tuesday, 5 December 2023**

**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 and advised the meeting is being livestreamed.

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

**Leave of Absence** Nil.

**(Previously Approved)**

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

# Public Question Time

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

# Deputations

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

# Requests for Leave of Absence

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

# Petitions

Petitions will be dealt with at the Ordinary Council Meeting.

# Disclosures of Financial Interest

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

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

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

# Disclosures of Interests Affecting Impartiality

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

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

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

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

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

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

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

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

# Confirmation of Minutes

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

# Announcements of the Presiding Member without discussion

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

# Members Announcements without discussion

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

# Matters for Which the Meeting May Be Closed

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

# 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

## 

## PD51.12.23 – Consideration of Development Application – Additions and Alterations to Single House at 89 Watkins Road, Dalkeith

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting – 12 December 2023 |
| **Applicant** | Design Management Group |
| **Information Provided** | All relevant information required has been provided. |
| **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** | Nathan Blumenthal – Acting Manager Urban Planning |
| **Director** | Roy Winslow – Acting Director Planning and Development |
| **Attachments** | 1. Zoning Map 2. Development Plans 3. DBCA Referral Advice 4. CONFIDENTIAL ATTACHMENT - Submissions |

**Purpose**

The purpose of this report is for Council to consider a development application for additions and alterations to a single house at 89 Watkins Road, Dalkeith. The proposal is being presented to Council for consideration due to the proposal receiving an objection within the consultation period. Council is specifically requested to exercise its judgement in considering the merits of the application against the design principles for the following aspects of the proposal:

* Carport, garage and an outbuilding within the primary street setback (see report section Street Setback)
* North and West lot boundary setbacks (see report section Lot Boundary Setback)
* Visual privacy from raised pool terrace (see report section Visual Privacy)

**Recommendation**

**That Council:**

**In accordance with Clause 68(2)(b) of the Deemed Provisions of the Planning and Development (Local Planning Schemes) Regulations 2015, approves the development application in accordance with the plans date stamped 17 October 2023 for additions and alterations to a single house at 89 Watkins Road, Dalkeith (DA22-81970), subject to the following conditions:**

1. **This approval relates only to the development as indicated on the approved plans dated 17 October 2023. It does not relate to any other development on this lot and must substantially commence within 2 years from the date of the decision letter.**
2. **All works indicated on the approved plans shall be wholly located within the lot boundaries of the subject site.**
3. **Prior to the issue of a demolition permit and a building permit, a Demolition or Construction Management Plan (as appropriate) shall be submitted and approved to the satisfaction of the City. The approved Demolition and Construction Management Plans shall be observed at all times throughout the construction and demolition processes to the satisfaction of the City.**
4. **The street tree(s) within the verge in front of the lot are to be protected and maintained through the duration of the demolition and construction processes to the satisfaction of the City of Nedlands. Should the tree(s) die or be damaged, they are to be replaced with a specified species at the owner’s expense and to the satisfaction of the City of Nedlands.**
5. **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:**
6. **Face brick;**
7. **Painted render;**
8. **Painted brickwork; or**
9. **Other clean finish as specified on the approved plans.**

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

1. **The street tree(s) within the verge in front of the lot are to be protected and maintained through the duration of the demolition and construction processes to the satisfaction of the City of Nedlands. Should the tree(s) die or be damaged, they are to be replaced with a specified species at the owner’s expense and to the satisfaction of the City of Nedlands.**
2. **Prior to occupation, a deed of agreement or other suitable arrangements, are to be made for the payment of funds to the City of Nedlands for the implementation and maintenance of the landscaping within the Parks and Recreation reserve for a period of ten (10) years as shown on the approved landscape plans. The agreement shall be prepared by the City’s solicitors, to the satisfaction of the City, and at the landowner/applicants cost.**
3. **All stormwater discharge from the development shall be contained and disposed of on-site unless otherwise approved by the City of Nedlands. Prior to the issue of a building permit the applicant is to submit stormwater drawings to demonstrate that stormwater infrastructure is be designed to accommodate the 1%AEP rainfall event fully on site without any overflow into the road reserve or adjacent properties.**

**DBCA Conditions**

1. **Within twelve (12) months of the completion of the approved works, an amended landscape plan is to be implemented to the satisfaction of the City of Nedlands on the advice of the Department of Biodiversity, Conservation and Attractions.**
2. **The applicant shall take appropriate preventative measures to ensure that no construction material, sediment (including as a result of stormwater run-off), or rubbish enters the Parks and Recreation reserve or river as a result of the works.**
3. **Stormwater run-off from constructed impervious surfaces generated by small rainfall events (that is, the first 15 mm of rainfall) must be retained and/or detained and treated (if required) at-source as much as practical and will not be permitted to enter the river untreated.**
4. **No wastewater/backwash from the swimming pool is to be discharged onto the land, into the river or the local government drainage system.**

**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** | R12.5 |
| **Land area** | 6409m2 |
| **Land Use** | Residential – Single House |
| **Use Class** | ‘P’ – Permitted Use |

The site is located at 89 Watkins Road, Dalkeith, on the corner of Victoria Avenue. The site is made up of six green title lots with a total area of 6,409m². This development application occurs over three of the lots closest to the river, lots 274 – 276. For the purposes of assessment, these three lots are considered the subject site. The subject site is 3,397m² in area, with a frontage of 74m. The site abuts the Swan Canning Development Control Area and a Metropolitan Region Scheme (MRS) “Parks and Recreation” reserve on its western boundary. To the north, the site abuts the Local Government boundary with the Town of Claremont.



Figure 1: Aerial image of 89 Watkins Road, Dalkeith

**Application Details**

The application seeks development approval for additions and alterations to a single house at 89 Watkins Road, Dalkeith. The works include a new garage, porte cochere and parcel drop off building in the front setback area, and a new pavilion, pool, pool store and landscaping to the north-west of the site.

The application was originally lodged on 19 October 2022. Following the initial consultation period, the applicant submitted multiple revisions of amended plans to address concerns raised by the City, Department of Biodiversity, Conservation and Attractions (DBCA) and public submissions. The final plans for determination were received on 17 October 2023 (**Attachment 2**).

The changes proposed by the amended plans are summarised as follows:

* Reduction in height of eastern boundary wall from 6.8m-8.3m to 5.7m-8.2m.
* Introduction of varying materials and glazing into the existing eastern boundary wall.
* Increase in pool setback from eastern boundary from nil to 1.5m.
* Increase in pavilion setback from the northern boundary from nil to 1.5m.
* Increase in screen wall setback from the northern boundary from 1.5m to 2.3m.
* Provision of landscaping plan for the abutting foreshore reserve.

Previous additions and alterations to the single house have been approved by the City for partial demolition, internal layout changes, roof replacement and eaves additions and minor alterations to ground and first floor external walls. These works are currently being undertaken.

**Discussion**

**Assessment of Statutory Provisions**

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

**Local Planning Scheme No. 3**

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

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

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

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

**Street Setback (Clause 5.1.2)**

The development proposes a garage, carport (porte cochere) and outbuilding (parcel drop off) within the 9m street setback area. The design principles for lot boundary setbacks consider the impact of building bulk on adjoining properties and streetscape, providing adequate open space for dwellings and site planning features. The proposed street setback is considered to meet the design principles for the following reasons:

* The Watkins Road frontage contains an existing solid street fence along the entire length, which varies in height between 1.0m and 4.8m given the slope of the land. Where the garage is to be located with nil setback, this has been designed to match the height of the existing fence and thereby will not be visible from the street.
* The six lots of 89 Watkins Road occupy the entire street block between the foreshore reserve and Victoria Avenue. In this regard the proposed street setback will not impact on any directly adjoining properties.
* In relation to the carport, this is setback a minimum of 3.9m from Watkins Road which lessens the impact to the street. Whilst the carport is larger in size than a typical carport, it is considered appropriate in the context of the large landholding.
* In relation to open space, the proposal meets the deemed-to-comply open space provisions thereby maintaining adequate open space for residents, parking, landscaping and utilities.

**Eastern Lot Boundary Setback (Clause 5.1.3 and DBCA).**

The development proposes to alter the existing limestone boundary wall on the western (riverfront) lot boundary. The existing wall is approximately 6.8m in height for a majority of its length, and 5.2m in height to the northern portion. This is proposed to be increased in height to 8.2m around the pool lounge area and to 5.7m to the pool planter area. A portion of the wall is also proposed to be decreased in height from 6.6m to 5.7m (see Figure 2). There are no provisions for deemed-to-comply boundary walls in the R12.5 code. This boundary wall is abutting the Swan Canning Development Control Area, and assessment of this wall is against State Planning Policy 2.10: Swan-Canning River System and Swan Canning Development Control Area policies. The DBCA have assessed the application against relevant policies and have advised that it has no objections to the proposal, subject to conditions being applied by the City in the event of approval.

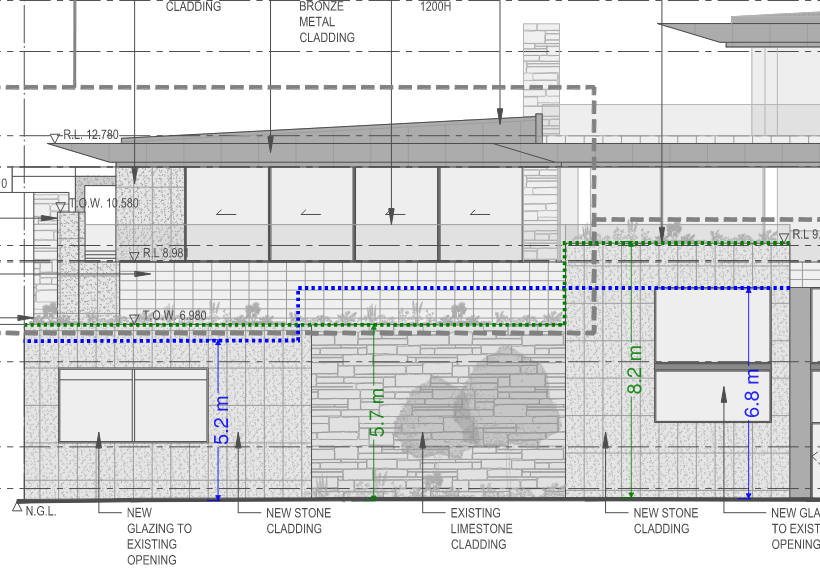


Figure 2: Diagram of existing western boundary wall height (blue) and proposed boundary wall height (green).

In addition to standard conditions, the DBCA have requested that the applicant implement landscaping within the adjoining Parks and Recreation’ reserve to improve and soften the appearance of the development when viewed from the foreshore and the Swan River. It is acknowledged that the existing wall has a harsh interface with the reserve, and that this may be exacerbated by the proposed development. It is recommended that a condition be placed on any approval granted by Council for the applicant to provide funding for the planting of landscaping and its ongoing maintenance for a period of 10 years. Condition 7 has been recommended to this effect. In addition to the landscaping the existing wall is proposed to be altered to introduce a variety of materials and additional glazing to aid in breaking up the visual bulk of the wall as viewed from the river and foreshore reserve.

**Rear Lot Boundary Setback (Clause 5.1.3)**

The development proposes a pavilion and screen wall within the 6m rear setback area to the northern lot boundary. The existing boundary wall on the eastern boundary is proposed to be increased in height by 0.4m. The design principles for lot boundary setbacks consider the impact of building bulk on adjoining properties, providing adequate sun and ventilation and minimising overlooking. The proposed northern lot boundary setback is considered to meet the design principles for the following reasons:

* This setback has been assessed as a rear setback as per the strict definition of the R-Codes. It is acknowledged that the orientation and design of the existing house relates to this lot boundary more as a typical side boundary. Were the screen wall to be assessed as a side boundary, this would meet the deemed-to-comply provisions, thereby indicating that it is generally acceptable in terms of bulk and scale. The screen wall is designed to minimise overlooking to the northern adjoining property.
* In relation to the pavilion, the 1.5m setback measurement has been taken to the overhanging eaves. The solid potion of wall is setback a minimum of 4.1m from the lot boundary. The large eaves proposed are open beneath thereby limiting the extent of building bulk imposed to the northern adjoining property, and ensuring adequate natural ventilation is maintained. The pavilion addition meets the deemed-to-comply visual privacy setbacks and does not result in overlooking of the adjoining property.
* The setbacks of the pavilion and screen wall are commensurate with the side setbacks of the adjoining property which is setback from the boundary between 1.5m to 2.4m. In this regard the proposed setbacks are consistent with the existing pattern of development.
* The increase in height to the existing boundary wall is to match the planter height on the eastern elevation. A portion of the wall is also proposed to be decreased in height by 0.3m. On balance the proposed alteration to the wall has minimal building bulk impact on the adjoining property. This portion of wall relates to a non-trafficable planter thereby does not result in any visual privacy concerns.
* All overshadowing from the proposed additions will fall within the subject site at midday 21 June, thereby there is no loss of natural sun to the adjoining property.

**Visual Privacy (Clause 5.4.1)**

The development proposes a raised pool deck with a 3.2m visual privacy setback from the northern adjoining property. The design principles for visual privacy consider the impact of any direct overlooking into active habitable spaces and outdoor living area. The proposed pool deck is considered to meet the design principles for the following reasons:

* The area of overlooking falls upon a non-active undercroft area. It does not impact any major openings or active habitable spaces. The pool terrace has included a screen wall to minimise direct overlooking, and the remaining area of overlooking is oblique.
* Furthermore, the affected neighbour has noted within their submission that this area of overlooking ‘is not a significant amenity concern’.

**Minor Variations**

The key elements of the development proposal which require Council consideration have been outlined in this report. The application also involves technical variations to street walls and fences (Clause 5.2.4), sightlines (Clause 5.2.5), site works (Clause 5.3.7) and outbuildings (Clause 5.4.3). These are all technical variations with no adverse impact on the amenity of adjoining properties or surrounding areas.

**Consultation**

The application is seeking assessment under the design principles of the R-Codes for street setback, lot boundary setback and visual privacy.

The development application was advertised in accordance with the City’s Local Planning Policy - Consultation of Planning Proposals to ten properties. The application was advertised for a period of 14 days from 19 January to 3 February 2023. At the close of the advertising period, one objection was received. Administration engaged directly with the objector and conducted a site visit to their property. They were invited to provide comment on the amended development plans dated 17 October 2023. The submission from this landowner remains unchanged.

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

1. Objection to rear (north) setback in relation to bulk and scale, access to natural ventilation and impact to views.

The northern setback has been increased since the initial public consultation period to mitigate the impact of building bulk to the adjoining property. Consideration of the rear setback is outlined above.

1. Objection to northern boundary wall and concerns with boundary alignment.

A condition of approval is recommended to ensure all works are wholly located within the lot boundaries of the subject site.

1. Objection to western setback in relation to bulk and scale and dominance over public realm.

The visual impact of the western elevation of the property has been the focus of assessment by the DBCA and has led to a series of plan changes over the life of the application. The current plans subject to Council consideration are the culmination of this liaison with the DBCA and have been supported by the Department, subject to conditions.

1. Visual privacy concerns from the pool

The R-Codes specifically excludes unenclosed swimming pools from the definition of ‘habitable room/space’, and thereby they are not subject to visual privacy controls. As outlined in the report above, the proposal does seek exercise of discretion in relation to visual privacy from the pool terrace. The submission has acknowledged this stating that it ‘is not a significant amenity concern’.

**Strategic Implications**

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

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

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

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

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

**Budget/Financial Implications**

Nil.

**Legislative and Policy Implications**

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

**Decision Implications**

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

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

**Conclusion**

The application for additions and alterations to a single house has been presented for Council consideration due to an objection 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.

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

**Further Information**

Nil

## PD52.12.23 – Consideration of Development Application – Three Grouped Dwellings at 38 Ord Street, Nedlands

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting – 12 December 2023 |
| **Applicant** | Big Sky Developments |
| **Information Provided** | All relevant information required has been provided. |
| **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** | Nathan Blumenthal – Acting Manager Urban Planning |
| **Director** | Roy Winslow – Acting Director Planning and Development |
| **Attachments** | 1. Zoning Map 2. Development Plans 3. Architectural Renders 4. CONFIDENTIAL ATTACHMENT - Submissions |

**Purpose**

The purpose of this report is for Council to consider a development application for three grouped dwellings at 38 Ord Street, Nedlands. The proposal is being presented to Council for consideration due to the proposal receiving objections within the consultation period. Council is specifically requested to exercise its judgement in considering the merits of the application against the design principles for:

* Street setback (see section of report – Street Setback)
* Outdoor living areas (see section of report – Outdoor Living Area)

**Recommendation**

**That Council:**

**In accordance with Clause 68(2)(b) of the Deemed Provisions of the Planning and Development (Local Planning Schemes) Regulations 2015, approves the development application in accordance with the plans date stamped 18 November 2023 for three grouped dwellings at 38 Ord Street, Nedlands (DA23-88429), subject to the following conditions:**

1. **This approval relates only to the development as indicated on the approved plans dated 18 November 2023. It does not relate to any other development on this lot and must substantially commence within 2 years from the date of the decision letter.**
2. **All works indicated on the approved plans shall be wholly located within the lot boundaries of the subject site.**
3. **Prior to the issue of a building permit, a Demolition Permit and Construction Management Plan shall be submitted and approved to the satisfaction of the City. The approved Demolition Plan and Construction Management Plan shall be observed at all times throughout the demolition and construction process to the satisfaction of the City.**
4. **Prior to the issue of a building permit, all clothes-drying areas shall be screened from view from the primary street to the satisfaction of the City of Nedlands.**
5. **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:**
6. **Face brick;**
7. **Painted render;**
8. **Painted brickwork; or**
9. **Other clean finish as specified on the approved plans.**

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

1. **Prior to occupation, Bed 3 (Lot 1 and Lot 2) openings located on the southern elevation** **as annotated in red on the approved plans shall be screened in accordance with the Residential Design Codes by either;**
2. **fixed and obscured glass to a height of 1.6 metres above finished floor level; or**
3. **fixed screening devices to a height of 1.6 meters above finished floor level that are at least 75% obscure and made of a durable material; or**
4. **a minimum sill height of 1.6 metres above the finished floor level; or**
5. **an alternative method of screening approved by the City of Nedlands.**

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

1. **Prior to occupation, landscaping shall be completed in accordance with the approved plans dated 18 November 2023 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.**
2. **Prior to occupation, the applicant is to plant one tree, with a minimum size of 35L, located on the Ord Street verge, at the expense of the applicant and to the specification of the City of Nedlands.**
3. **The street tree(s) within the verge in front of the lot are to be protected and maintained through the duration of the demolition and construction process to the satisfaction of the City of Nedlands. Should the tree(s) die or be damaged, they are to be replaced with a specified species at the owner’s expense and to the satisfaction of the City of Nedlands.**
4. **All stormwater discharge from the development shall be contained and disposed of on-site. Prior to a building permit being issued, stormwater disposal plans, details and calculations catering for the 1% AEP storm event of 60min duration must be submitted for approval by the City of Nedlands and thereafter implemented, constructed and maintained 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** | Parent Lot: 696m2  Strata Lot 1: 182m2  Strata Lot 2: 160m2  Strata Lot 3: 214 2 |
| **Land Use** | Residential - Grouped Dwellings |
| **Use Class** | ‘P’ – Permitted Use |

The site is located at 38 Ord Street, Nedlands. The site features an existing single storey house, which is to be demolished. The site is orientated on an east west axis and is bound by Ord Street to the west. The parent lot is rectangular in shape with a 15.2m frontage and an area of 696m2. The site is relatively flat and features a 0.5m fall from west to east.

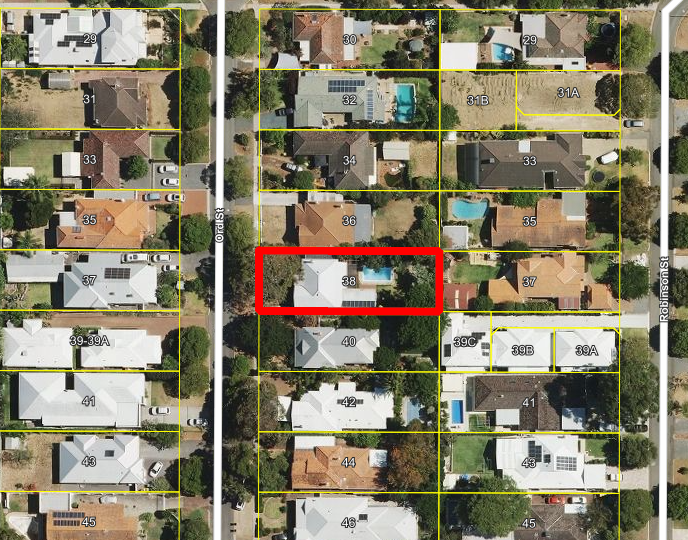


Figure 1: Aerial image of 38 Ord Street, Nedlands.

**Application Details**

The application seeks development approval for the construction of three, two-storey grouped dwellings. The development proposes a single vehicle access and communal driveway from Ord Street.

Following the initial consultation period, the applicant provided amended plans on 18 November 2023 (**Attachment 2**) to address concerns raised by the City and the public submissions.

The changes proposed by the amended plans are summarised as follows:

* Reduction in southern boundary wall heights to all dwellings to achieve the deemed-to-comply provisions for lot boundary setbacks.
* Increase in upper floor southern lot boundary setbacks to all dwellings to achieve the deemed-to-comply provisions for lot boundary setbacks.
* Reduction in finished floor levels and relative levels to all dwellings by 0.3m.
* Increased Lot 1 balcony balustrade setback to the north to achieve the deemed-to-comply provisions for visual privacy.
* Reduction in ground levels and the extent of fill and retaining required.
* Reduction in overshadow cast to southern property.

**Discussion**

**Local Planning Scheme No. 3**

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

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

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

The proposed development is seeking a design principle assessment pathway for parts of this proposal relating to street setback and outdoor living areas.

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.

**Street Setback (Clause 5.1.2)**

1. Lot 1 proposes a 3.2m ground and upper floor primary street setback to Ord Street.
2. Lot 3 proposes a 1.3m upper floor setback to the common property driveway.
3. Lot 1 southern boundary wall is located within 3m behind the street setback line.

The design principles for street setbacks consider the immediate and future streetscape, privacy, site planning requirements and building mass. The development meets the design principles as:

* The portion of building within the primary street setback area occupies 11m2. If an averaging of setbacks was applied, the encroachment is offset by 20m2 free from building materials behind the setback line. This compensating area of open space will reduce the appearance of building bulk to the street and adjoining properties.
* The impact of bulk from Lot 1 is ameliorated by design features. The front façade provides varied materiality including face brick, perforated awnings, glass and metal. This combined with the inclusion of flat roofs, gabled roofs and overhanging awnings will reduce the perceived impact of bulk on the streetscape.
* The internal street setbacks to the common property have no adverse impact on any external lots or the streetscape of Ord Street. Lot 3 provides a functional 4.8m setback to the northern adjoining lot and allows sufficient room for landscaping between the dwellings and the driveway.
* The street setbacks do not compromise open space across the lots with the open space for all lots achieving the deemed-to-comply provisions of the R-Codes.
* The proposal responds to site planning requirements, including vehicle access, parking and utility services. These site planning requirements are appropriately screened from the street where possible.
* The site features an existing mature verge tree outside of Lot 1. In addition, it is recommended that a condition of approval be placed to impose a second verge tree to be planted at the cost of the applicant. This will aid in softening the appearance of the dwelling as viewed form the street.
* Further, the street setback area of the proposal is heavily landscaped with the provision of grass, hedges and trees. This is complimentary to the desired character of the area as set out in NSHAC Residential Local Planning Policy as a ‘leafy green suburb’.

**Outdoor Living Areas (Clause 5.3.1)**

1. The outdoor living area for Lot 1 is located within the primary street setback area.
2. The outdoor living areas for Lot 1 and Lot 2 do not achieve the deemed-to-comply dimensions.

The design principles for outdoor living areas requires the space to be functional and usable, allow for winter sun and natural ventilation, the provision of landscaping and to facilitate street surveillance when in the front setback area. The development meets the design principles for the following reasons:

* The outdoor living areas for all lots are directly accessible from the primary living area of the dwellings via large sliding doors which promotes usability in conjunction with the indoor space.
* There is sufficient space to provide for landscaping, entertaining and connection to the outdoors. These spaces are both functional and usable and consist of paved areas with cantilevered roofs above, along with grassed areas, shrubs and the provision of tree planting.
* The location of Lot 1’s outdoor living area positively contributes to the streetscape and provides passive surveillance to the street. The proposal includes the use of vegetation as privacy screening for the tenants. This increases the interaction between the dwelling and the street and enhances the ability to provide a greater amount of landscaping within the front setback area.
* All outdoor living areas are north-facing and largely uncovered to allow for winter sunlight exposure and natural ventilation.

**Local Planning Policy – 5.12 – Nedlands Stirling Highway Activity Corridor Residential**

The NSHAC Residential Local Planning Policy requires all development within the policy area to be consistent with the desired future character statement of the policy. The development satisfies this requirement for the following reasons:

* The development is located within the R60 street block and maintains a two storey height and greater than adequate open space. This provides an appropriate transition between the existing low-density development of the surrounding streets and the proposed future higher density development of the area.
* The development contributes to the dwelling stock available in the locality through the addition of three efficiently designed grouped dwellings containing three to four bedrooms and three to four bathrooms each.
* Sustainability measures such as roof-mounted solar collectors and large north-facing windows to all dwellings contribute to an environmentally sustainable design.
* The City’s Sustainable Landscaping Advice recommends to plant in accordance with the soil type. The development proposes the planting of Kangaroo Paw’s and Dianella Revoluta throughout the site and within the front setback area. This is consistent with the LPP to safeguard the natural biodiversity within the City.

**Consultation**

The application is seeking assessment under the design principles of the R-Codes for street setbacks and outdoor living areas.

The development application was advertised in accordance with the City’s Local Planning Policy - Consultation of Planning Proposals to four adjoining properties. The application was advertised for a period of 14 days from 25 September 2023 to 9 October 2023. At the close of the advertising period, four objections were received.

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

1. The southern double storey boundary walls are imposing and will negatively impact the amenity of adjoining neighbours.

The amended plans received 18 November 2023 (**Attachment 2**) reduced all southern boundary walls to a maximum height of 3.5m. The proposed southern boundary walls now satisfy the deemed-to-comply provision in relation to lot boundary setbacks.

1. The reduced primary street setback is not in keeping with the desired future character and is imposing to the street.

The proposed primary street setback is considered to be consistent with NSHAC Residential Local Planning Policy desired future character statement through the provision of compensating open space behind the street setback line and a landscaped front yard. The proposed primary street setback is considered to achieve the design principles for street setbacks (see discussion above).

1. North facing windows and balconies to the north compromise privacy.

The amended plans received 18 November 2023 (**Attachment 2**) increased the balcony balustrade setback to the northern boundary. This resulted in the balcony achieving the visual privacy setback requirement for unenclosed outdoor active habitable spaces of 6.0m. The proposed development satisfies the deemed-to-comply provisions in relation to visual privacy.

1. Impacts of overshadowing to habitable spaces of the southern property.

The proposed development satisfies the deemed-to-comply provisions in relation to solar access for adjoining sites.

1. The proposed landscaping is lacking green canopy and the species listed will not contribute to the desired precinct vision.

The proposed development achieves the deemed-to-comply requirements in relation to landscaping. Each dwelling proposes a minimum of one 2m x 2m tree planting area. In addition, Lot 1 proposes 57% of the front setback area to be provided with soft landscaping. As discussed above in response to the NSHAC Residential Local Planning Policy, the proposed development as indicated in the Landscaping Plan (**Attachment 2**) includes the provision of endemic plants, consistent with the desired future character.

**Strategic Implications**

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

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

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

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

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

**Budget/Financial Implications**

Nil.

**Legislative and Policy Implications**

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

**Decision Implications**

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

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

**Conclusion**

The application for three grouped dwellings at 38 Ord Street, Nedlands 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 and the City’s LPP 5.12: NSHAC Residential Precinct in relation to being consistent with the immediate locality and streetscape character.

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

**Further Information**

Nil.

## PD53.12.23 – Comment on Draft State Regulation Changes for Single House Delegations

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting – 12 December 2023 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | The author, reviewers and authoriser of this report declare they have no financial or impartiality interest with this matter. |
| **Report Author** | Nathan Blumenthal – Acting Manager Urban Planning |
| **Director** | Roy Winslow – Acting Director Planning and Development |
| **Attachments** | 1. 1. Draft Regulations |

**Purpose**

This report is being put to Council to provide an overview on the proposed changes to the *Planning and Development (Local Planning Schemes) Regulations 2015*. The draft changes move all decision-making ability on single house development from Council to the CEO and, by extension, the City of Nedlands Planning Department.

**Recommendation**

**That Council notes the proposed amendments to the *Planning and Development (Local Planning Schemes) Regulations 2015* relating to the approval pathway for single house development.**

**Voting Requirement**

Simple Majority.

**Background**

The *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations) includes Schedule 2, the Deemed Provisions. The Deemed Provisions are read into every Local Planning Scheme in the state. The State Government, as part of its planning reform agenda, proposes to amend the Deemed Provisions by inserting a new section that relates to delegated authority for all single house development (**Attachment 1**). The new Regulations require that a “prescribed development approval function” for a “prescribed single house development” must only be performed for and on behalf of local government by the CEO or an authorised employee.

A “prescribed single house development” includes everything related to the construction of, or alterations or additions to, a single house. A “prescribed development approval function” is defined in the draft legislation as any function of the local government relating to planning and development, including accepting, advertising and making a decision on a planning application (including clearing conditions, extensions of time, etc.). The sole exception is if a place is a heritage-protected place, which includes both individually listed places and heritage areas.

In other words, unless a place is a heritage-protected place, all decision-making ability for anything related to a single house will sit with the CEO and City Officers. Such applications will not be able to be referred to Council for a decision.

**Discussion**

The draft Regulations have been introduced with the stated aim of streamlining and expediting the planning process. The Department of Planning, Lands and Heritage (DPLH) has further stated that “The changes will also enable the Council to focus on strategic planning, ensuring that local planning frameworks are contemporary and fit for purpose”. The overall idea being that Council should focus on the strategic framework, which will guide built form development at a high level, rather than be involved in the details of each single house application.

Officers have confirmed with the Department of Planning Lands and Heritage that there will be no further consultation on the previously announced changes to the Development Assessment Panel process. Consequently, this report focuses only on the changes to the single house delegations.

**Consultation**

Council may make a submission to the Department of Planning, Lands and Heritage on the changes to single house delegations until 31 January 2024.

**Strategic Implications**

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

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

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

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

**Priority Area** Working with neighbouring Councils to achieve the best outcomes for the western suburbs as a whole

**Budget/Financial Implications**

Nil

**Legislative and Policy Implications**

Should the state of WA enact the changes, they will amend the [*Planning and Development (Local Planning Schemes) Regulations 2015*](https://www.legislation.wa.gov.au/legislation/statutes.nsf/law_a9408.html) as shown in **Attachment 1**.

**Decision Implications**

N/A

**Conclusion**

This report summarises the proposed changes to the Regulations relating to single house delegations. Council may choose to make a submission by the end of the submission period on 31 January 2024.

**Further Information**

Nil.

## PD54.12.23 - Consideration of Development Application – Residential Single House at 26 Jutland Parade, Dalkeith

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting - 12 December 2023 |
| **Applicant** | Milankov Designs and Project Management Pty Ltd |
| **Information Provided** | All relevant information required has been provided. |
| **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** | Nathan Blumenthal – Acting Manager Urban Planning |
| **Director** | Roy Winslow – Acting Director Planning and Development |
| **Attachments** | 1. Zoning Map 2. Development Plans 3. Architectural Perspectives (3D images) 4. Applicant Justification Letter 5. Department of Biodiversity, Conservation and Attractions Referral Response 6. CONFIDENTIAL ATTACHMENT - Submissions |

**Purpose**

The purpose of this report is for Council to consider a development application for a single house at 26 Jutland Parade, Dalkeith. The proposal is being presented to Council for consideration due to the proposal receiving objections within the consultation period. Council is specifically requested to exercise its judgement in considering the merits of the application against the design principles for the following aspects of the proposal:

* Eastern, Western and Southern lot boundary setbacks (see report section Lot Boundary Setbacks)
* Building height (see report section Building Height)
* Amount of landscaping within the street setback area (see report section Landscaping)
* Amount of fill (see report section Site Works).

**Recommendation**

**That Council:**

**In accordance with Clause 68(2)(b) of the Deemed Provisions of the Planning and Development (Local Planning Schemes) Regulations 2015, approves the development application in accordance with the plans date stamped 22 November 2023 for a Single House at 26 Jutland Parade, Dalkeith (DA23-88242), subject to the following conditions:**

1. **This approval relates only to the development as indicated on the approved plans dated 22 November 2023. It does not relate to any other development on this lot and must substantially commence within 2 years from the date of the decision letter.**
2. **All works indicated on the approved plans shall be wholly located within the lot boundaries of the subject site.**
3. **Prior to the issue of a Demolition Permit, a Demolition Management Plan shall be submitted and approved to the satisfaction of the City. The approved Demolition Plan shall be observed at all times through the demolition process to the satisfaction of the City.**
4. **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 Plans shall be observed at all times throughout the construction and demolition processes to the satisfaction of the City.**
5. **Prior to the commencement of works, a Dilapidation Report shall be submitted to the City of Nedlands and the owners of the adjoining properties listed below detailing the current condition and status of all buildings (both internal and external together with surrounding paved areas and the existing boundary wall), including ancillary structures located upon these properties:**
6. **Lot 28 (No.30A) Jutland Parade, Dalkeith**
7. **Lot 32 (No.24) Jutland Parade, Dalkeith**

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

1. **Prior to the issue of a Building Permit, stormwater disposal plans, details and calculations catering for the 1% AEP storm event of 60min duration must be submitted for approval by the City of Nedlands and thereafter implemented, constructed and maintained to the satisfaction of the City of Nedlands.**
2. **The street tree(s) within the verge in front of the lot are to be protected and maintained through the duration of the demolition and construction processes to the satisfaction of the City of Nedlands. Should the tree(s) die or be damaged, they are to be replaced with a specified species at the owner’s expense and to the satisfaction of the City of Nedlands.**
3. **Prior to occupation, new walls on or adjacent to lot boundaries are to be finished externally to the same standard as the rest of the development in:**
4. **Face brick;**
5. **Painted render;**
6. **Painted brickwork; or**
7. **Other clean finish as specified on the approved plans.**

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

1. **Prior to occupation, all screening as shown on the approved plans shall be screened in accordance with the Residential Design Codes by either;**
2. **fixed and obscured glass to a height of 1.6 metres above finished floor level; or**
3. **fixed screening devices to a height of 1.6 meters above finished floor level that are at least 75% obscure and made of a durable material; or**
4. **a minimum sill height of 1.6 metres above the finished floor level; or an alternative method of screening approved by the City of Nedlands.**

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

1. **All stormwater discharge from the development shall be contained and disposed of on-site unless otherwise approved by the City of Nedlands.**

**DBCA Conditions**

1. **All works are to be undertaken in accordance with a Construction Environmental Management Plan to the satisfaction of the City of Nedlands, with input and advice from the Department of Biodiversity, Conservation and Attractions.**
2. **Prior to the commencement of works or any development being undertaken on site, the applicant shall prepare a Stormwater Management Plan to the satisfaction of the Department of Biodiversity, Conservation and Attractions.**
3. **No dewatering effluent is to enter the Swan River, either directly or indirectly (via the stormwater system), unless approved by the Department of Biodiversity, Conservation and Attractions.**
4. **No pool water/ backwash from the swimming pool is to be discharged onto the land, into the Swan River or the local government drainage system.**
5. **The applicant shall implement appropriate on-site measures to ensure that:**
6. **No construction material, sediment or rubbish enters the River, Parks and Recreation reserve or stormwater system, as a result of the works to the satisfaction of the Western Australian Planning Commission based on advice from the Department of Biodiversity, Conservation and Attractions; and**
7. **During the works no vehicular access associated with the construction is permitted within the Parks and Recreation reserve without the prior approval of the manager of the reserve.**
8. **Prior to the commencement of works, the applicant shall submit and obtain approval for a schedule of colours, building materials and finishes for the development to the Department of Biodiversity, Conservation and Attractions.**

**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** | R12.5 |
| **Land area** | 2,373m2 |
| **Land Use** | Residential – Single House |
| **Use Class** | ‘P’ – Permitted Use |

The site is located at 26 Jutland Parade Dalkeith. The lot is 2,373m2 in area with a 20m street frontage to Jutland parade and 40m frontage to the Swan River. The site slopes 8.4m from the north to the south. To the south the lot abuts the abuts the Swan Canning Development Control Area and a Metropolitan Region Scheme (MRS) “Parks and Recreation” reserve.

As viewed from the river, the site features a large arched retaining wall, which was constructed in 1972. An existing three storey single house (inclusive of semi basement) sits on top of and is proposed to be demolished as part of this application. The western portion of the lot is further burdened by a Restrictive Covenant which limits the height of any building, structure, tree, or other vegetation to no greater in height that 23.92 Australian Height Datum (AHD).

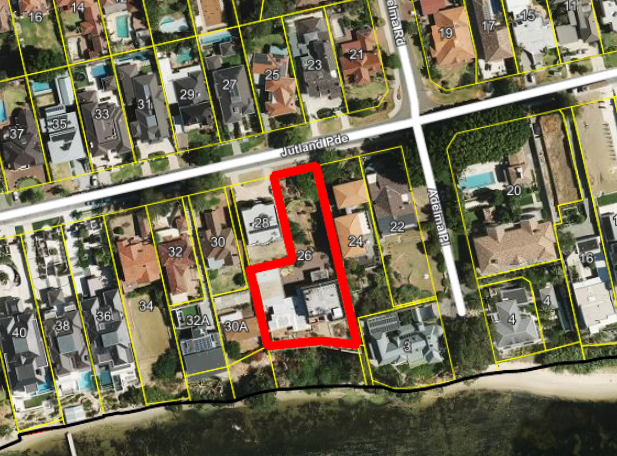


Figure 1: Aerial image of 26 Jutland Parade, Dalkeith

**Application Details**

The application seeks development approval for a three-storey single house at 26 Jutland Parade, Dalkeith. The existing arched retaining walls are to remain at the DBCA boundary to the south, with modifications to the height of the arches, finish and include additional landscaping within the arches.

The application was originally lodged on 2 August 2023. Following the initial consultation period, the applicant submitted amended plans, on 30 October 2023 with the latest plans being on 22 November 2023 (**Attachment 2**). The amendments were made to address concerns raised by the City, Department of Biodiversity, Conservation and Attractions (DBCA) and public submissions.

The changes proposed by the amended plans are summarised as follows:

* Roof deck and garden removed.
* Reduction in height of the western portion of dwelling and various roof structures removed to comply with the Restrictive Covenant.
* Height of the architectural features reduced in height to a maximum 1.5m above the existing residential AHD roof height (at 30.47AHD).
* Gate house reduced in size to meet the deemed-to-comply.
* Amount of landscaping within the front setback area has been increased.
* Obscure glazing included on the western elevation of the Activity and Family rooms.
* Basketball court removed.
* Additional fill for the garden bed and paving area along the eastern boundary has been reduced back to original levels.
* Further clarification and annotations on plans for clarity including natural ground level

**Discussion**

**Assessment of Statutory Provisions**

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

**Local Planning Scheme No. 3**

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

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

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

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

**Eastern and Western Lot Boundary Setback (Clause 5.1.3)**

The development requires a design principles assessment for the eastern and western lot setbacks to side boundaries. The design principles for lot boundary setbacks consider the impact of building bulk on adjoining properties, providing adequate sun and ventilation and minimising overlooking. The proposal meets the design principles for the following reasons:

* All walls feature multiple articulations, with variations in setbacks and materials, and feature openings and balcony elements to break up the perception of building bulk. Further, the setbacks of the proposed house are commensurate with the setbacks of the existing single house on site, thereby resulting in negligible additional bulk to adjoining properties when compared to the pre-development condition.
* In relation to the west, the proposed setbacks are an improvement to the existing development which features a 13m boundary wall, and an average setback of approximately 2.5m to the remainder of the wall. The proposed western setback has no boundary wall and varying setbacks between 2.0m and 6.5m.
* In relation to the east, the existing house features a setback of 2.4m at ground floor and 3m at upper floor with no articulation. The proposed eastern setback has multiple articulations, with setbacks varying from 1.7m to 7.0m at ground floor and 1.7m and 5.5m at upper floor. The two portions of wall at 1.7m setback are deemed-to-comply.
* The setbacks do not unduly impact any adjoining property in relation to visual privacy. All openings, balconies and outdoor living areas meet the deemed-to-comply criteria for visual privacy.
* The setbacks do not result in undue impacts to solar access, and the proposal meets the deemed-to-comply overshadowing provisions.

It is important to note that deemed-to-comply lot boundary setbacks are determined on the maximum wall height of the wall. Given the slope of the land, the proposed walls vary in their height as measured from natural ground level, with a variation of 2.3m over the length of the wall (ground floor eastern wall).

**Rear (Southern) Lot Boundary Setback (Clause 5.1.3 and DBCA)**

The rear setback is abutting the Swan Canning Development Control Area, and assessment of this setback is against State Planning Policy 2.10: Swan-Canning River System and the Swan Canning Development Control Area policy. The DBCA has assessed the application against relevant policies and has advised that it has no objections to the proposal subject to standard conditions. Development within the rear proposes excavation to reduce any bulk from the lower levels, with the upper floors largely commensurate with the setback of the existing dwelling and the immediately adjacent dwellings and is not considered by DBCA or officers to have undue adverse impact on the riverscape. Further, the brick parapet structure on the south-eastern corner is to be removed. This currently exacerbates the height of the existing retaining wall.

**Building Height (Clause 5.1.6)**

The application proposes a maximum building height of 9.9m to the roof and between 11.4m – 12.6m for three architectural features. As tested in *Prosser and Town of Cottesloe [2021] WASAT 115,* the height has been assessed at the lowest relative point of the approved site levels from 1972. This is from the ground level of the river front terrace.

The design principles for building height consider the impact on the amenity of adjoining properties and public spaces in relation to:

* access to direct sunlight into buildings and open spaces;
* access to direct sunlight into habitable rooms; and
* access to views of significance.

The proposal meets the design principles for the following reasons:

* In relation to adjoining public spaces, the proposed height is not considered to have a detrimental impact on the streetscape or riverscape. As viewed from the street, the building has a height of 5.3m above the street level on Jutland Parade and presents as a two-storey building. This is consistent with the existing streetscape south of Jutland Parade.
* The existing character of this site, as viewed from the Swan River, has been established by the existing large arched retaining wall. It is acknowledged that this wall sits some 20m above the river line and is higher than any typical wall along the foreshore and against adjoining properties. As viewed from the river, the visual amenity of the riverscape on future development is considered with advice provided by the DBCA. The DBCA has assessed the application on behalf of the Swan River Trust against State Planning Policy 2.10: Swan-Canning River System and the Swan Canning Development Control Area policy. It has advised that it has no objections to the proposal, subject to conditions. A copy of this advice has been included as **Attachment 4.**

Given the steep slope of the lots abutting the Swan River, it is common for developments to exceed the deemed-to-comply height provisions. This is considered on a case-by-case basis on the merits of the application. However, by way of comparison, 52 Jutland Parade was approved with a height of 11.8m, 50 Jutland Parade has a 10.2m maximum wall height and a 10.7m maximum overall height. The house currently under construction at 68 Jutland Parade has a 10.7m maximum wall height and a 11.3 maximum overall height. The existing houses at 36, 38 and 40 Jutland Parade have an approximate 12.5m maximum wall height and 13.6m maximum overall height.

Although the eastern portion of the building extends further south, the predominate building height is the same as the existing single house on site which also has a maximum height of 9.9m measured from the lowest point. It further represents one third of the eastern building whereas the remaining two thirds meet the deemed-to-comply. Notwithstanding, it is acknowledged that the extended built form is on top of the ‘lowest point’ of the site (an existing site level of 17.9m AHD). The bulk is however compensated by excavating most of the terrace area to 16.9m AHD, setting back the development and removing existing structures on the wall.

* In relation to amenity, the proposed height does not unduly restrict access to sunlight or ventilation for adjoining properties. Overshadowing from the proposal at mid-winter meets the deemed-to-comply criteria as shown in the **Attachment 2.** Whilst a portion of the building at 3 Adelma Place will be overshadowed in the afternoon, the solar panels would already have a shadow cast from the existing northern vegetation. In this regard the additional height proposed by this development does not unduly impact the adjoining property beyond what would be reasonably expected from a deemed-to-comply building height.
* In considering views of significance, the proposal has been reduced in height to comply with the Restrictive Covenant in place on the property, thereby maintaining views for properties to the north of the site. Further, the height is the same as the existing single house on site which also has a maximum height of 9.9m. There are portions of the architectural features which sit above this but represent a minor portion of the overall building layout. The design principle is not focused on maintaining views exactly as they exist prior to the development. Rather, there is a need to maintain access to views, which is achieved as outlined above.

**Landscaping (Clause 5.3.2)**

The application proposes 42% (75m2) soft landscaping in the front setback. The design principles for landscaping consider the appearance of the development for residential amenity, contribution to the streetscape, and enhancement of tree canopy. The proposal meets the design principles for the following reasons:

* The site is constrained in providing landscaping within the street setback area given the relatively narrow street frontage and use of the existing driveway. The application proposes to narrow the existing crossover, thereby increasing the amount of verge landscaping compared the pre-development condition and enhancing the streetscape.
* Within the front setback area there are two large trees to be retained, one medium tree is to be relocated and one new medium tree planted. This exceeds the minimum site tree planting stipulated by clause 5.3.2. This adequately offsets the shortfall in landscaping within the defined street setback area, improves the tree canopy and positively contributes to the streetscape.

**Site Works (Clause 5.3.7)**

The application proposes site fill of up to 0.58m to a minor portion on the south-west boundary, this is annotated on the plans as the ‘sunken gardens’. Although the amended plans dated 22 November have reduced this level to 20.50AHD which mostly meets the existing levels, there are sections which just exceed 0.5m above the natural relative level. The design principles for site works consider the proposal’s response to the natural features of the site and ensuring that the site can be used effectively without detrimentally impacting adjoining properties. The proposal meets the design principles for the following reasons:

* The site features an existing slope of 8.4m from the Jutland Parade frontage down to the Swan River boundary. Given this topography, it is expected that site works beyond the deemed-to-comply would be required to ensure that the site can be effectively used by residents. In considering the site’s slope, the amount of fill proposed is kept to a functional minimal and specifically to the non-habitable sunken garden area.
* Majority of the site works are excavation and are kept below the height of the existing boundary fence and will not visually present as building bulk.

**Minor Variations**

The key elements of the development proposal which require Council consideration have been outlined in this report. The application also involves technical variations to street surveillance (Clause 5.2.3), and street walls and fences (Clause 5.2.4). These are all technical variations with no adverse impact on the amenity of adjoining properties or surrounding area.

**Consultation**

The application is seeking assessment under the design principles of the R-Codes for lot boundary setbacks, building height and site works.

The development application was advertised in accordance with the City’s Local Planning Policy - Consultation of Planning Proposals to 14 adjoining landowners and occupiers from 1 September 2023 to 15 September 2023. At the close of the advertising period, eight objections were received, and one statement of support.

Following the initial consultation period, the applicant submitted amended plans to address concerns raised by the City, DBCA and public submissions. Amended plans were sent to the original submitters.

The following is a summary of the concerns and comments raised and the Administration’s response and action taken in relation to each issue. A more detailed response can be found:

1. Building height dispensation on top of the existing high retaining wall, impact on existing and future amenity and riverscape.

The established character south of Jutland Parade is of large single houses often with substantial street setbacks so to be positioned towards the river foreshore. As viewed from Jutland Parade, the development will maintain a similar built form scale to the existing dwelling.

The existing character of this site, as viewed from the river, has already been established by the existing large arched retaining wall. It is acknowledged that this wall sits some 20m above the river line and is higher than any typical wall along the foreshore. The visual amenity of the riverscape is determinate on advice provided by the DBCA. The DBCA have advised that it has no objections to the proposal, subject to conditions.

Although the eastern portion of the building extends further south, the predominate building height is the same as the existing single house on site which also has a maximum height of 9.9m measured from the lowest point. It is acknowledged that the extended built form is on top of the ‘lowest point’ of the site (around an existing site level of 17.9m AHD). The bulk is however compensated by excavating majority of the terrace area to 16.9m AHD and setting back the development from boundaries.

1. Visual Privacy from outdoor living area, roof top garden and from additional fill to the garden bed.

The rooftop garden has been removed from the plans dated 30 October 2023.

Administration supports the proposed setbacks as outlined in the report above. There are no visual privacy implications because of the setbacks as all major openings, balconies and outdoor living areas meet the deemed-to-comply criteria for visual privacy. This is by way of setbacks and screening. A screening condition is recommended to ensure all areas meet deemed-to-comply.

Amended plans dated 22 November have removed the previous additional 0.34m fill for the garden bed and paving area along the eastern boundary. It is now referred to on the plans as ‘the sunken garden’. The level remains as 20.5m AHD.

1. Building height exceeds Restrictive Covenant.

The amended plans dated 30 October 2023 have reduced the height of the western portion of dwelling and removed the roof top garden and various plants and structures to comply with the Restrictive Covenant height limit. No portion of the proposed building (within the Restrictive Covenant Area) exceeds a height of 23.92m AHD.

1. Impact views of the Swan River

In considering views of significance, the proposal has been reduced in height to comply with the Restrictive Covenant thereby maintaining views for properties to the north of the site. Although the eastern portion of the building extends further south, the predominate building height is the same as the existing single house on site which also has a maximum height of 9.9m. As such, it is Administrations view it will not impact views beyond the pre-development condition. This is detailed in clause 5.1.6 Building height discussion earlier in this report.

1. Concerns with noise from basketball court.

The basketball court has been removed from the plans dated 30 October 2023. Notwithstanding, noise from a basketball court is not a planning consideration.

1. Concerns with boundary walls.

The application proposes one boundary wall to the northern boundary with 28 Jutland Parade. This wall is abutting an existing retaining of equal dimension and is deemed-to-comply.

1. Wind Impact

The applicant proposes extended awnings to protect against wind, rain and sun. Notwithstanding, the consideration of wind impact to adjoining properties is not covered by planning framework.

1. Overshadowing and impacts to solar panels

The shadow cast meets the deemed-to-comply. Further studies were requested and provided by the applicant as concerns were raised on the pragmatic impacts to solar panels outside the deemed-to-comply time. This is illustrated in the latest plans.

**Strategic Implications**

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

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

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

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

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

**Budget/Financial Implications**

Nil

**Legislative and Policy Implications**

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

**Decision Implications**

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

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

**Conclusion**

The application for a single house 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.

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

**Further Information**

Nil.

# Divisional Reports - Corporate Services



## CPS49.12.23 – RFQ – 2023.24.01 Provision of Pavement Marking

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting – 12 December 2023 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil. |
| **Report Author** | Natalia Rychkova – Acting Coordinator Contracts and Procurement |
| **Director** | Michael Cole – Director Corporate Services |
| **Attachments** | 1. Confidential – Evaluation and Recommendation Report – Award RFQ 2023-24.01 Provision of Pavement Marking 2. Confidential – Tagsat Schedule of Rates |

**Purpose**

The purpose of the report is for Council to accept the evaluation and recommendation for the award of RFQ 2023-24.01 Provision of Pavement Marking to Retro Roads trading as Tagsat Pty Ltd, for an initial term of 3 years with a further 2 extensions of one year each.

**Recommendation**

**That Council:**

1. **approves the award of the contract for the "Provision of Pavement Marking" in accordance with the City's request for quotation number RFQ 2023-24.01 and comprising of that request, the City's conditions of Contract and Retro Roads trading as Tagsat Pty Ltd submission;**
2. **instructs the CEO to arrange for a Letter of Acceptance and a Contract document to be sent to Retro Roads trading as Tagsat Pty Ltd; and**
3. **instructs the CEO to arrange for all other quote respondents to be advised of the outcome.**

**Voting Requirement**

Absolute Majority.

**Background**

The City has invited suitable Contractor/s to provide the following goods and services in accordance with requirements set out within this document:

* Supply and application of Pavement Marking and glass beads,
* Supply and application of Thermoplastic and cold applied plastic material and glass beads,
* Supply and application of polymer tape for new installations of longitudinal lines,
* Supply and application of Line marking and spotting as per As-construct delineation works drawings.
* Supply and application of Marking median islands and roundabouts with reflective tape The works shall include all necessary insurances, qualified personnel, mobilization, traffic management and JSEA reporting as required by the Principal.

Due to the specialised skills set and equipment requirements needed to undertake this function, the City is required to engage the services of an experienced contractor to undertake such works.

The City undertook a request for quotation process for the Provision of Pavement Marking via RFQ 2023-24.01 during the period from 5th October 2023 to 23rd October 2023. The City received one (1) submission.

**Discussion**

After the closure of the Request for Quotation period, the evaluation panel members completed the analysis and evaluation of the submission from Retro Roads trading as Tagsat Pty Ltd. The submission was rated against the following criteria:

* Relevant Experience (30%)
* Key Personnel Skills and Experience (10%)
* Respondents Resources (20%)
* Demonstrated understanding (40%)

Upon completion of the evaluation the Panel nominated Retro Roads trading as Tagsat Pty Ltd as the preferred Contractor. As the City’s Contractor Retro Roadsdemonstrated that they have the resources and relevant experience to perform the requirements of the contract to a high standard. They currently perform very similar services for other local authorities in the Perth Metropolitan region and can guarantee availability within an acceptable timeframe.

**Consultation**

Not required.

**Strategic Implications**

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

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

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

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

**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.

**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**

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

**Budget/Financial Implications**

The works undertaken by this contract will be covered by the road maintenance operational budget. The historic and projected costs for line marking in the City are:

|  |  |
| --- | --- |
| Financial Year | Annual Cost  $ |
| 2018-19 | $68,656 |
| 2019-20 | $59,656 |
| 2020-21 | $68,291 |
| 2021-22 | $87,246 |
| $2022-23 | $59,045 |
| Average Annual | $68,619 |
| Projected initial 3 year total | $205,858 |
| Projected contract with 2 year extension total | $343,097 |

**Legislative and Policy Implications**

[Procurement of Good and Services Council Policy](https://www.nedlands.wa.gov.au/documents/608/procurement-of-good-and-services-council-policy)

[Local Government (Functions and General) Regulations 1996](https://www.austlii.edu.au/cgi-bin/viewdb/au/legis/wa/consol_reg/lgagr1996474/)

**Decision Implications**

If Council endorses the recommendation, City staffs can make progress to proceed with the procurement process and carry out the pavement marking works as planned.

If Council doesn’t endorse the recommendation, then the planned works for the project will be postponed.

**Conclusion**

By endorsing the officer recommendation, a contractor will be appointed to provide the required services to enable the City to deliver the ongoing improvements associated with supply and application of Pavement Marking and glass beads. If Council doesn’t endorse the recommendation, then the planned works for the project will be postponed affecting the safety and efficiency in various environments as clear and well-maintained line marking contribute to a safer and more organized environment.

**Further Information**

Nil.

## CPS50.12.23 – RFT 2023.24.04 Tree Planting and Young Tree Maintenance

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting – 12 December 2023 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil |
| **Report Author** | Natalia Rychkova – Acting Coordinator Contracts and Procurement |
| **Acting CEO** | Tony Free |
| **Attachments** | 1. Confidential – Evaluation and Recommendation Report – Award RFT 2023-24.04 Tree Planting and Young Tree Maintenance 2. Confidential – Baroness Holdings Pty Ltd Schedule of Rates |

**Purpose**

The purpose of the report is for Council to accept the evaluation and recommendation for the award of RFT 2023-24.04 Tree Planting and Young Tree Maintenance to Baroness Holdings Pty Ltd, for an initial term of 2 years with a further 2 extensions of one year each.

**Recommendation**

**That Council:**

* + - 1. approves the award of the contract for the Tree Planting and Young Tree Maintenance in accordance with the City's request for tender number RFT 2023-24.04 and comprising of that request, the City's conditions of Contract and Baroness Holdings Pty Ltd submission;
      2. instructs the CEO to arrange for a Letter of Acceptance and a Contract document to be sent to Baroness Holdings Pty Ltd; and
      3. instructs the CEO to arrange for all other quote respondents to be advised of the outcome.

**Voting Requirement**

Absolute Majority.

**Background**

The City has invited suitable Contractor/s to provide for the planting of approximately five hundred trees annually, and the watering and maintenance services of approximately one thousand trees within residential streetscapes, arterial road reserves and or parks in the City for a period of two (2) years, plus the options to extend for a further two (2) x 12-month terms, at the City’s discretion.

Due to the specialised skills set and equipment requirements needed to undertake this function, the City is required to engage the services of an experienced contractor to undertake such works.

The City undertook a request for tender process for the provision of Tree Planting and Young Tree Maintenance services via RFT 23-24.04 during the period from September 29, 2023, to November 1, 2023. The City received a total of three (3) submissions.

**Discussion**

After the closure of the tender period, the evaluation panel members completed the analysis and evaluation of the submission from Baroness Holdings Pty Ltd, Environmental Industries Pty Ltd and Natural Area Management and Services. The submission was rated against the following criteria:

* Relevant Experience (30%)
* Key Personnel Skills and Experience (20%)
* Respondents Resources (20%)
* Demonstrated understanding (30%)

Upon completion of the evaluation the Panel nominated Baroness Holdings Pty Ltd as the preferred Contractor. The respondent provided information on similar works that they have recently undertaken, successfully demonstrating an ability to complete the requirements of this tender.

Key personnel listed were experienced, suitably skilled and have experience delivering similar works.

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

**Consultation**

Not required.

**Strategic Implications**

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

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

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

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

**High standard of services**

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

**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.

**Reflects Identities**

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

**Priority Area**

* Urban form - protecting our quality living environment.

**Budget/Financial Implications**

The works undertaken by this contract will be covered by the operational budget. Estimated costs for 2 years of the contract are:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  | **Pricing estimations based**  **on potentially**  **most frequent services -- quantities** |  |  |  |
|  |  | Total | Year 1 | Year 2 |
| 1 | Planting/Staking/Mulching  12ltr – 35ltr trees (Per Tree) | 400 Trees | $27,200.00 | $28,560.00 |
| 2 | Planting/Staking/Mulching  36ltr – 75ltr trees (Per Tree) | 100 Trees | $9,200.00 | $9,660.00 |
| 7 | Traffic Management Per Tree  (Basic Only) | 50 Trees | $3,250.00 | $3,412.50 |
| 8 | Tree Watering (40ltr  Water) Weeding, Mulch  Bowl Maintenance, Stake &  Tie Maintenance. | (500 x 22  services) 11,000 | $60,500.00 | $63,470.00 |
| 11 | Established Tree Watering  (100ltr Water) | (50 x 22) 1,000 | $7,800.00 | $8,190.00 |
| 9 | Tree Watering (40ltr Water)  With Added Wetting  Agent (Provided by The  Contractor) | (500 x 3) 1,500 | $9,270.00 | $9,720.00 |
| 17 | Blanket Watering Allowing an Approximate Rate of  10mm Coverage per 100m2 | 6 | $9.00 | $9.42 |
| 5 | Dead Tree and Stake Removal  12ltr - 90ltr | 20 | $1,120.00 | $1,176.00 |
|  |  |  |  |  |
|  | **TOTAL** |  | **$118,349.00** | **$124,197.92** |

**Legislative and Policy Implications**

[Procurement of Goods and Services Council Policy](https://www.nedlands.wa.gov.au/documents/608/procurement-of-good-and-services)

[Local Government (Functions and General) Regulations 1996](https://www.austlii.edu.au/cgi-bin/viewdb/au/legis/wa/consol_reg/lgagr1996474/)

**Decision Implications**

If Council endorses the recommendation, City staffs can make progress to proceed with the procurement process and carry out the Tree Planting and Young Tree Maintenance works as planned.

If Council doesn’t endorse the recommendation, then the planned works for the project will be postponed.

**Conclusion**

By endorsing the officer recommendation, a contractor will be appointed to provide the required services to enable the City to deliver the ongoing improvements associated with the Tree Planting and Young Tree Maintenance works. If Council doesn’t endorse the recommendation, then the planned works for the project will be postponed affecting the efficiency in various environments.

**Further Information**

Nil.

## CPS51.12.23 - Monthly Financial Report - November 2023

This item will be dealt with at the Council Meeting.

## CPS52.12.23 - Monthly Investment Report – November 2023

This item will be dealt with at the Council Meeting.

## CPS53.12.23 - List of Accounts Paid - November 2023

This item will be dealt with at the Council Meeting.

# Divisional Reports – Reports from the Audit & Risk Committee



## ARC21.11.23 – Adoption Strategic Risk Register

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting – 12 December 2023  Audit and Risk – 20 November 2023 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil. |
| **Report Author** | Libby Kania - Coordinator Governance and Risk |
| **CEO** | Tony Free – Acting Chief Executive Officer |
| **Attachments** | 1. Risk Management Framework 2. Confidential Attachment Strategic Risk Register |

**Committee Recommendation / Recommendation**

**That the Audit and Risk Committee recommends that Council:**

1. adopts the Strategic Risk Register as contained in Confidential Attachment 1 to this report; and
2. adopts the updated Risk Management Framework as contained in Attachment 2 to this report.

**Purpose**

The purpose of this report is for the Council to consider and adopt the proposed Strategic Risk Register, and to adopt the updated Risk Management Framework as recommended by the Audit & Risk Committee.

**Voting Requirement**

Simple Majority.

**Background**

In July 2022, the City’s internal auditors, Moore, identified in its report on the City’s compliance with regulation 17 of the *Local Government (Audit) Regulations 1996*, that the City’s risk management systems required development and improvement. Indeed, paragraph 2.4 of the Key Observations of the 5 July 2022 Internal Audit Risk Management Report states –

2.4 Risk Register - The Risk Register is out of date and does not adequately identify strategic risks but rather is a task list of matters which need to be actioned within the City. It does not include Risk Identification, Business Unit Risk Registers, Regular Risk Review, Evidence of controls effectiveness rating, Risk Assessment using an effective weighting of elements, Management of Shared Risks, Risk Categories, complete risks and controls rating of implemented controls. There is no comparison to Risk Appetite and Risk Tolerance. These observations limit the effectiveness of risk management.

The report found that –

2.6 Risk Management Framework – The Risk Management Framework is out of date and has not been approved and has been in progress for many years. It has not been aligned to the relevant legislation and standards and does not fully outline the documentation which underpins the Risk Management Framework.

At the Audit and Risk Committee meeting held on 21 August 2023, the Committee considered and recommended approval of the Risk Management Policy to Council. This formally recognised the role of Council and the Audit and Risk Committee in the risk management process. The policy recognised the importance of risk management to the function of the City’s operations and committed the City to the principles outlined in the AS/NZS ISO 31000 2018 standard.

Following on from the Policy is the consideration of the Risk Management Framework, that includes the adopted policy, and the Strategic Risk Register. These have been updated and form part of the review of the risk management system.

**Discussion**

The City is currently looking at the appropriateness and effectiveness of its systems and procedures in relation to risk management to fulfil its obligations under Regulation 17 of the *Local Government (Audit) Regulations 1996*. Risk management is important to achieving the City’s objectives through continuous review of its processes and systems. To that end, the City is required to ensure that it establishes a risk management framework and has a formal process for managing risks.

**1. Risk Management Framework**

All Local Governments are required to develop and adopt a Risk Management Framework. This forms part of the statutory planning requirements under the IPR legislation. With the Strategic Community Plan, the Corporate Business Plan, Long-term financial plan, Workforce Plan, and the Asset Management Plan, the Risk Management Framework creates value for the City and the community, contributing to the demonstrated achievement of the City’s strategic objectives. The risk management framework establishes the boundaries within which risks are managed and provides the scope of the risk management assessment. The risk management context for the organisation needs to be aligned with the structure, capacity, strategic direction and business planning objectives of the City.

A review was undertaken of the Risk Management Framework and associated procedures to ensure compliance with AS/NZS ISO 31000 2018 and amendments made to the organisational structure at the City. The updated framework, that includes the policy, has been provided for the Committee’s consideration.

**2. Strategic (Organisational) Risk Register**

The Strategic Risk Register has been included to this report as a confidential attachment under s. 5.23(2)(f)(ii) of the *Local Government Act 1995* on the basis that the register contains information that if made public would endanger the security of the City’s property.

The Strategic Risk Register was reviewed to ensure that strategic risks are –

* Identified
* Assessed
* The effectiveness of existing controls are evaluated
* Residual risk is assessed
* Risk treatment options are considered

The register has been completed from data sourced through –

* Consultation with executive, representatives of the internal audit team,
* audit reports, consideration of previous risk registers at the City of Nedlands,
* validating against known categories/types of strategic risks,
* researching risks identified by other local government authorities

Council is in the process of finalising the Council Plan. The identified strategic risk areas are linked to the Council Plan priorities of –

* People
* Planet
* Place
* Prosperity/financial sustainability
* Performance/service delivery

In September 2023, the Executive Management Team was tasked with completing the risk assessment of the risks identified in the Strategic Risk Register. In completing the task, it was identified that the area of asset maintenance was of specific concern. This will be the subject of an upcoming Council forum, but at present there are a number of Council assets that require significant attention and officers have completed substantial work in this area to provide detailed analysis of the City’s current position.

The Strategic Risk Register has been provided to the Committee for its consideration and now to Council for adoption.

**Consultation**

The proposed Strategic Risk Register and Risk Management Framework were presented to EMT for their consideration and feedback in September 2023. The feedback received was noted and amendments were made. This item as then considered by the Audit & Risk Committee on 20 November 2023.

**Strategic Implications**

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

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

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

**Budget/Financial Implications**

Nil.

**Legislative and Policy Implications**

*Local Government Act 1995* section 2.7 – Role of Council.

*Local Government (Audit) Regulations 1996*

Regulation 17 CEO to review certain systems and procedures

(1) The CEO is to review the appropriateness and effectiveness of a local government’s systems and procedures in relation to —

(a) risk management; and

(b) internal control; and

(c) legislative compliance.

(2) The review may relate to any or all of the matters referred to in subregulation (1)(a), (b) and (c), but each of those matters is to be the subject of a review not less than once in every 3 financial years.

(3) The CEO is to report to the audit committee the results of that review.

**Decision Implications**

Failure to adopt a comprehensive Risk Management system places the City at risk of non-compliance with its legislative responsibilities, and with its ability to adequately prepare for and address risks within the organisation and for the local government district. Adoption of the proposed framework will assist efforts to improve the governance arrangement at the City and meet statutory obligations.

**Conclusion**

The Stratgegic Risk Register and the Risk Management Framework have been updated to meet the requirements of the legislation and the findings of the internal audit. They have been provided to the Audit and Risk Committee for consideration and now presented to Council for adoption.

**Further Information**

Nil.

# Reports by the Chief Executive Officer



## CEO36.12.23 – Meeting Schedule for 2024

|  |  |
| --- | --- |
| **Council** | Ordinary Council Meeting – 12 December 2023 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil. |
| **Report Author** | Nicole Ceric – Executive Officer |
| **CEO** | Tony Free – Acting Chief Executive Officer |
| **Attachments** | Nil. |

**Purpose**

The purpose of this report is for Council to adopt the meeting dates for 2024 for public advertising purposes.

**Recommendation to Council**

**That Council:**

1. **adopt the Agenda Forum Dates Schedule for 2024 as per below:**

**Tuesday 13 February 2024**

**Tuesday 12 March 2024**

**Tuesday 9 April 2024**

**Tuesday 14 May 2024**

**Tuesday 11 June 2024**

**Tuesday 9 July 2024**

**Tuesday 13 August 2024**

**Tuesday 10 September 2024**

**Tuesday 8 October 2024**

**Tuesday 12 November 2024**

**Tuesday 3 December 2024**

1. **adopt the Council Meeting Dates Schedule for 2024 as per below:**

**Tuesday 27 February 2024**

**Tuesday 26 March 2024**

**Tuesday 23 April 2024**

**Tuesday 28 May 2024**

**Tuesday 25 June 2024**

**Tuesday 23 July 2024**

**Tuesday 27 August 2024**

**Tuesday 24 September 2024**

**Tuesday 22 October 2024**

**Tuesday 26 November 2024**

**Tuesday 10 December 2024**

1. **adopt the Audit & Risk Committee Meeting Dates Schedule for 2024 as per below:**

**Monday 19 February 2024**

**Monday 20 May 2024**

**Monday 19 August 2024**

**Monday 18 November 2024**

1. **adopt the Public Art Committee Meeting Dates Schedule for 2024 as per below:**

**Monday 11 March 2024**

**Monday 10 June 2024**

**Monday 9 September 2024**

**Voting Requirement**

Simple Majority.

**Background**

Every year Council adopts the meeting dates schedule for the year ahead for advertising.

**Discussion**

Council Meeting Agenda Forums are generally held on the 2nd Tuesday of each month and Council Meetings are generally held on the 4th Tuesday of each month.

**Council Meeting Agenda Forums**

The purpose of the Agenda Forum is for Council Members to ask questions and seek information in respect to items that are to be considered at the forthcoming Ordinary Council Meeting.

No debate is allowed, nor decisions made at Agenda Forums. Agenda Forums are open to the public.

Any items that are not listed on the Council Meeting Agenda Forum, must be treated as urgent business as provided for in section 3.10 of the Standing Orders Local Law 2016. This will alleviate the significant variance that currently exists between what is considered at the Council Meeting.

**Council Meetings**

Ordinary Council Meetings will commence at 7.00pm. Council will not meet in October every second year to coincide with the Ordinary Election cycle to allow a thorough induction process for new Councillors.

**Consultation**

N/A

**Strategic Implications**

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

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

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

**Budget/Financial Implications**

The proposed meeting schedule for 2024 will be advertised in accordance with the requirements for local public notice.

**Legislative and Policy Implications**

Under section 12 of the [Local Government (Administration) Regulations 1996](https://www.legislation.wa.gov.au/legislation/prod/filestore.nsf/FileURL/mrdoc_43667.pdf/$FILE/Local%20Government%20(Administration)%20Regulations%201996%20-%20%5B03-m0-00%5D.pdf?OpenElement) the CEO must publish before the beginning of the year in which the meetings are to be held meeting details for ordinary council meetings and committee meetings that are required under the Local Government Act to be open to the members of the public.

**Decision Implications**

Nil.

**Conclusion**

It is recommended that the proposed Schedule of Meetings for 2024 be adopted to provide transparency to the community and allow participation and ensure the City is compliant with the Local Government Act 1995.

**Further Information**

Nil.

## CEO37.12.23 – Register of Outstanding Council Resolutions

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting – 12 December 2023 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | No officer involved in the preparation of this report has a declarable interest. |
| **Report Author** | Libby Kania – Coordinator Governance and Risk |
| **Director/CEO** | Tony Free – Acting Chief Executive Officer |
| **Attachments** | 1. Register of Outstanding Council Resolutions (This will be provided to Councillors with the Council agenda). |

**Purpose**

For Council to consider the Register of Outstanding Council Resolutions (OCR) and the actions taken by Administration in progressing these items.

**Recommendation**

**That Council receives the Register of Outstanding Council Resolutions dated December 2023.**

**Voting Requirement**

Simple Majority.

**Background**

Council has requested that all Outstanding Council Resolutions be tabled on a monthly basis at the Ordinary Council Meeting. The first Outstanding Council Resolutions report was tabled at the March Ordinary Council Meeting.

**Discussion**

Attached to the Council report is the register of Outstanding Council Resolutions for Council’s noting and consideration. The report has been updated by officers when required. Information will be periodically provided to Councillors on previous resolutions of Council that:

(i) have been completed since the last update and

(ii) have not yet been fully implemented.

Reasons for any delays or unforeseen challenges are included. Councillors are able to seek an update on any particular project or resolution outside of the reporting period, by contacting the CEO directly for information.

**Consultation**

Nil.

**Strategic Implications**

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

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

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**Budget/Financial Implications**

Nil.

**Legislative and Policy Implications**

*Local Government Act 1995*.

**Decision Implications**

Councillors have oversight of the implementation of previous Council decisions, through access to the Register and the Councillor portal. Information on decisions may be provided through the CEO Weekly update, and direct request to the CEO. The City may include the register on the website to provide transparency to the community, although the community is able to access the document through the Council agenda.

**Conclusion**

That the Council receives the Register of Outstanding Council Resolutions for noting.

**Further Information**

Nil.

## CEO38.12.23 – Adoption of Council Member Professional Development Training Policy

|  |  |
| --- | --- |
| **Meeting & Date** | Ordinary Council Meeting – 12 December 2023 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil. |
| **Report Author** | Libby Kania - Coordinator Governance and Risk |
| **CEO** | Tony Free - Acting Chief Executive Officer |
| **Attachments** | 1. Draft Council Member Professional Development Policy 2. Council Member and Employee Training and Conference Attendance Policy 3. Elected Member Expenses and Equipment Policy 4. Interstate and International Travel Policy |

**Purpose**

The purpose of this report is for Council to adopt the draft Council Member Professional Development Policy, amend the Elected Member Expenses and Equipment Policy, repeal the existing Council Member and Employee Training Conference Attendance policy, and the Interstate and international Travel Policy.

**Recommendation**

**That Council resolves to:**

1. **adopt the Council Member Professional Development Policy as contained in Attachment 1;**
2. **repeal the existing Council Member and Employee Training and Conference Attendance Policy as contained in Attachment 2;**
3. **make the amendments to the Elected Member Expenses and Equipment policy as contained in Attachment 3; and**

**4.**  **repeal the Interstate and International Travel Policy as contained in Attachment 4.**

**Voting Requirement**

Absolute Majority.

**Background**

The City is currently reviewing its policy manual to ensure that all Council policies are relevant, useful and up to date. Council policies are required to assist with the efficient running of the local government and to address and provide guidance on matters within the district. Amendment was made in 2019 to the *Local Government Act 1995* that requires all local governments to prepare and adopt a policy in relation to the continuing professional development of elected members and adopt it as a requirement under the *Local Government Act 1995*.

The current Council Member and Employee Training and Conference Attendance Policy that was adopted by Council in 2016 and updated in 2021, does not take into consideration the mandatory training requirements that now appear in the Act. Further, it was considered that amendment to the current policy would be extensive to ensure compliance with the Act. As a result, it was determined that a new policy be drafted providing a transparent and accountable framework to Council Member professional development.

At a June 2023 Council forum, Council was presented with a draft Council Member Professional Development Policy. Since that forum, two Elected Members provided feedback. The proposed policy has been amended to reflect the changes requested.

**Discussion**

The *Local Government Act 1995* requires a local government to prepare and adopt a policy related to the continuing professional development of elected members. The policy requires adoption by an absolute majority. Once adopted, the policy is required to appear on the City’s website.

The proposed policy creates a comprehensive framework for Council Member attendance at training and professional development. It covers the requirements of mandatory training as well as continuing professional development.

The proposed policy provides a framework around Council Members’ participation in continuing professional development, including attendance at metropolitan and regional intrastate courses, interstate and overseas courses. It ensures that any future attendance and involvement by Council Members at such courses is to be in accordance with the framework established under the policy.

As with all expenditure of public monies, any decision is to be based on objective criteria and be in the interest of the district. A decision will also need to be based on the availability of funds and be reasonably and equitably apportioned.

The proposed policy also includes direction on the City’s liability to pay for the expenses incurred by an accompanying person. The proposed policy clearly establishes that any costs associated with an accompanying person will need to be covered by the attending Council Member as a private expense by that person. The exception is where a Council Member has a disability, and the accompanying person provides ongoing care and assistance to the Council Member, these expenses will be partially paid for by the City. This ensures that the City meets its obligations for inclusiveness under the *Disability Discrimination Act 1992*.

If Council adopts the draft policy, it will require amendment to the Elected Member Expenses and Equipment Policy, by deleting part of clause 5 of the policy. This will provide harmonization between the policies. Council will also need to consider the repeal of the existing Council Member and Employee Training and Conference Attendance Policy, and Interstate and International Travel Policy.

The draft Council Member Professional Development Policy makes provision for Council to allocate funds in the annual budget for Council Member training. No specified amount was included in the draft policy. Council is to determine the appropriate allocation when considering the budget.

**Consultation**

The proposed policy was provided to the Executive Management Team for consideration and feedback. Council Members were provided with a copy of the draft policy at the Council forum held in June. Two Elected Members provided feedback. The feedback received was noted and amendments were made.

**Strategic Implications**

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

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

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

**Budget/Financial Implications**

A budget allocation is approved by Council providing for the professional development of Council Members.

**Legislative and Policy Implications**

*Local Government Act 1995*

S. 5.128 Policy for continuing professional development

(1) A local government must prepare and adopt\* a policy in relation to the continuing professional development of council members.

\* Absolute majority required.

(2) A local government may amend\* the policy.

\* Absolute majority required.

(3) When preparing the policy or an amendment to the policy, the local government must comply with any prescribed requirements relating to the form or content of a policy under this section.

(4) The CEO must publish an up-to-date version of the policy on the local government’s official website.

(5) A local government –

(a) must review the policy after each ordinary election; and

(b) may review the policy at any other time.

*Local Government (Administration) Regulations 1996* regulation 35 and 36.

**Decision Implications**

The City is required under the *Local Government Act 1995* to prepare and adopt a policy in relation to the continuing professional development of elected members. The current policy requires amendment and failure to do so would mean that the policy is non-compliant with the act. Furthermore, it is a requirement that the policy be reviewed after an ordinary election.

**Conclusion**

The draft Council Member Professional Development policy will ensure that the City has an up to date policy and will repeal superfluous Council policies that are able to be consolidated into one stand-alone policy.

**Further Information**

Nil.

## CEO39.12.23 – Adoption of City of Nedlands Dogs Local Law 2023

|  |  |
| --- | --- |
| **Meeting & Date** | Ordinary Council Meeting – 12 December 2023 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil. |
| **Report Author** | Libby Kania - Coordinator Governance and Risk |
| **CEO** | Tony Free – Acting Chief Executive Officer |
| **Attachments** | 1. Proposed City of Nedlands Dogs Local Law 2023 2. List of places where dogs are prohibited absolutely and dog exercise areas 3. City of Nedlands Dogs Local Law 2012 4. Confidential – List of submissions |

**Purpose**

The purpose of this report is for Council to consider the public submissions on the proposed City of Nedlands Dogs Local Law 2023 and to make the local law.

**Recommendation**

**That Council:**

1. **notes the submissions received at the close of the public submission period for the proposed City of Nedlands Dogs Local Law 2023 as contained in Confidential Attachment 4;**
2. **by an absolute majority makes the City of Nedlands Dogs Local Law 2023 as contained in Attachment 1 to this report and authorises the common seal to be affixed;**
3. **requests the CEO to progress the remaining actions to finalise the local law adoption process as detailed in section 3.12 and section 3.15 of the *Local Government Act 1995*;**
4. **advises all submitters of Council's decision; and**
5. **adopts** **the list of places where dogs are prohibited absolutely and places which are dog exercise areas under section 31(3a) of the *Dog Act 1976* as listed in Attachment 2; and**
6. **requests the CEO to provide local public notice of the list of places where dogs are prohibited absolutely and places which are dog exercise areas.**

**Voting Requirement**

Absolute Majority.

**Background**

At its meeting held on 28 March 2023, Council resolved to advertise the proposed *City of Nedlands Dogs Local Law* for public comment. The draft local law is to replace the current local law made in 2012.

In accordance with section 3.12(3) of the *Local Government Act 1995* (the Act) the City publicly advertised the proposed local law for a period of six weeks and forwarded a copy to the Minister for Local Government.

During the public submission period, the Department of Local Government, Sporting and Cultural Industries (DLGSC) provided feedback to the City under cover of a letter dated 18 July 2023, suggesting minor amendments to the local law. Members of the public also provided feedback on the proposed local law.

**Discussion**

The proposed local law takes into account changes to the *Dog Act 1976* and its associated Regulations since the 2013 local law was made.

The draft local law was advertised for comments from the public which closed on 30 June 2023. A number were received, most of which related to enforcement issues and control of dogs rather than the local law itself.

| Comment | Response |
| --- | --- |
|  |  |
| Dogs Local Law 2023  Please see comments as marked up on the attachment.  Dogs in Public Places Council Policy  Please see comments as marked up on the attachment.  Could you please advise how the Dogs in Public Places Council Policy relates to the Dogs Local Law 2023, as it removes Schedule 4 and 5 (in the Dogs Local Law 2012)? How will the policy be made available to the ratepayers as it is separate from the Dogs Local Law 2023?  Will it be available on the Local Laws section of the City of Nedlands website? https://www.nedlands.wa.gov.au/council/governance/local-laws.aspx  The Dogs Local Law 2012 defined the Swanbourne Beach Reserve as  a) SWANBOURNE BEACH RESERVE No. 23729, being the sand and dune area adjacent to the Swanbourne Beach development, between the area north of the access pathway at the intersection of Odern Crescent and Marine Parade, and south of the northernmost access pathway of the development.  The Dogs Local Law 2023 defines the Swanbourne Beach Reserve as  (d) Swanbourne Beach Reserve No. 23729, being the sand and area adjacent to the Swanbourne Beach development as indicated by signs.  Given the past difficulties in maintaining the dog prohibition signs at Swanbourne Beach, does the Dogs Local Law 2012 approach better define the prohibited area?  Can the map detailing the dog prohibition at Swanbourne Beach also be included?  Should the Swanbourne Beach Playground be listed in addition to the Karella Street Playground, Leura Street Playground and Campsie Street Playground?  Please clarify with a map the following locations:   * SWANBOURNE BEACH, Lot 500, Marine Parade * SWANBOURNE OVAL, Lot: 282 * SWANBOURNE BEACH RESERVE NORTH, Lot : 279 Reserve: 27250 (from Dogs Local Law 2012) | Noted.  The suggestions are considered minor and relate to document layout and formatting.  As reported to Council at its meeting held on 28 March 2023, areas where dogs may be exercised off leash and areas where dogs are prohibited from being are now established by Council resolution by absolute majority and the giving of local public notice under s31(3A) of the *Dog Act 1976* and are no longer included in local laws.  The list of exercise and prohibited areas can be listed in a text box in the new local law as well as on the City’s website via a hyperlink. This can also include maps, signs on site and any other initiatives to improve compliance.  Agreed. The description of the Swanbourne Beach Reserve as listed in the 2013 local law has been added to the list of areas prohibited and off leash under s31(3A) of the Dog Act and recommended for adoption by Council.  Yes - see comments above regarding listing and publicizing exercise and prohibited areas.  See comments below; the list of proposed off leash exercise areas excludes:   1. *land which has been set apart as a children's playground;* 2. *an area being used for sporting or other activities, as permitted by the City during the times of such use;* 3. *A conservation area as indicated by a sign on site; or* 4. *a car park.*   Agreed - see comments above regarding listing and publicizing exercise and prohibited areas. A map will be produced, and onsite signs reviewed and upgraded where of assistance. |
| Please ensure that the following areas are not dog exercise areas, dogs must be held by a leash:   * Shenton Bushland, Allen Park Bushland, Hollywood Reserve, Birdwood Parade Bushland, Bishop Road embankment bushland, Point Resolution Bushland, White Beach vegetation bushland area, Iris Avenue ‘Sandy Beach’, embankment to Sunset Hospital bushland area adjacent Sunset Foreshore, Swanbourne beach, vegetated dunes and bushland, and Mt Claremont Oval Bushland.   There should be:  1) Greater distinction between bushland and parkland dog exercise areas; and  2) More public education that dogs (must) remain on lead when entering all Nedlands bushland reserves.  Defining dogs off lead areas in parkland and bushland areas in Allen Park - Please see attached map of Allen Park. | Agreed - see comments above regarding listing and publicizing exercise and prohibited areas.  A map will be produced, and onsite signs reviewed and upgraded where of assistance.  Note that the proposed list of areas that are off leash exercise areas includes the following information:  *For the purposes of sections 31 and 32 of the Act, except for:*   1. *land which has been set apart as a children's playground;* 2. *an area being used for sporting or other activities, as permitted by the City during the times of such use;* 3. *A conservation area as indicated by a sign on site; or* 4. *a car park,*   *The following are dog exercise areas…* |
| Is leaving dog poo in the street really so bad? The science says it's even worse than you think. Beyond the obvious unsightliness and the likelihood of making unwanted contact with dog poo, there are other important reasons to pick up after dogs. | Clause 4.1(2) of the proposed new local law provides for a modified penalty of $200 for a dog excreting in prohibited place which is not removed by the person in control of the dog. |

The Department of Local Government, Sporting and Cultural Industries also responded on behalf of the Minister with a number of minor suggestions, and which are shown ‘marked’ on the attached updated version of the proposed local law.

Subject to a number of minor changes shown ‘marked’ on the attached draft of the local law, it can now be made.

A list of proposed places where dogs are prohibited absolutely and places which are dog exercise areas under s. 31(3a) of the *Dog Act 1976* is also attached.

**Governor’s Orders**

The City is awaiting confirmation from the Department as to the outcome of the City’s application to extend its district boundary for the purpose of this local law.

When the Governor’s Order is drafted, the Order will include a description of the extra portion of the Swan River and state that this area is now part of the City’s “district” for the purposes of the dog local law. At present, it is proposed that the local law be made with the deletion of clause 1.4(2).

**Consultation**

In accordance with s. 3.12 of the *Local Government Act 1995* and as resolved by council, local public notice was given that the City proposes to make the local law, its purpose and effect, and a copy sent to the Minister for Local Government. As required by s. 3.12, a period of at least six weeks was provided.

Approval from the Governor to extend its application outside the district (100m outside the district into the Swan River in the vicinity of the Sunset Foreshore Reserve) was sought.

**Strategic Implications**

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

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

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**Budget/Financial Implications**

There are financial and resource implications associated with the advertisement, processing of the proposed local law, and its eventual Gazettal on final adoption.

**Legislative and Policy Implications**

*Dog Act 1976* – Section 51

*Local Government Act 1995* – section 3.12

**Decision Implications**

If adopted, the proposed local law will update the City’s local law relating to dogs by reflecting changes to the *Dog Act 1976* and its associated Regulations since the previous local law was made in 2013.

**Conclusion**

The proposed local law has been advertised, and subject to a number of minor amendments can now be made. It will come into effect 14 days after publication in the Government Gazette.

**Further Information**

Nil.

## CEO40.12.23 – Establishment & Appointment of Members – Public Art Committee

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting – 12 December 2023 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil. |
| **Report Author** | Nicole Ceric - Executive Officer |
| **CEO** | Tony Free – Acting Chief Executive Officer |
| **Attachments** | Nil. |

**Purpose**

The purpose of this report is to establish the Public Art Committee, appoint Council Members and Deputy Council Members, adopt the terms of reference and call for Expressions of Interest from Community Members to be advertised and then presented to the Arts Committee and Council for consideration.

**Recommendation**

**That Council:**

1. **appoints the Mayor and Councillors (insert names) (four - one from each Ward) to the Public Art Committee for the period ending immediately prior to the next Local Government elections in 2025;**
2. **appoints the Deputy Mayor and Councillors (insert names) (four - one from each Ward) as Deputy Members to the Public Art Committee for the period ending immediately prior to the next Local Government elections in 2025;**
3. **requests the Acting CEO to call for expressions of interest from the Community for the Community Members of the Committee; and**
4. **adopts the Terms of Reference of the Public Art Committee as per below:**

**Public Art Committee**

**Purpose**

**The Public Art Committee will be established under the Local Government Act 1995 to implement public art projects within the City of Nedlands.**

**Aim**

**To ensure that the City of Nedlands includes artworks of a high standard in the public domain.**

**Scope**

**The Committee will undertake the following within the City of Nedlands:**

1. **Initiate, consider and decide on proposals for public artworks.**
2. **Oversee the implementation of public artworks.**
3. **Consider external proposals for public artworks to be donated to the City of Nedlands.**
4. **Promote awareness of the City’s existing public artworks.**
5. **Review the City’s art collection and make recommendations to Council on its conservation.**
6. **Review Council’s Public Art Policy as required and make recommendations to Council on any proposed changes.**
7. **Develop a draft Percent for Art Policy and make recommendation to Council on its adoption.**

**Procedure**

**After adoption of the City’s budget by Council each year and before commencing its work for the ensuing year the Committee shall:**

* **Consider the budget and any other available funds for art works to be acquired in the ensuing year.**
* **Formulate a plan of priorities and objectives for the year including the proposed siting of any public art works.**
* **Present that plan for review and amendment or approval by the Council.**

**Delegated Authority**

**The Committee has delegated authority to implement public artworks of not more than $10,000 each to the value of up to, in all, the budget allocation approved by Council within the current financial year’s budget. Artworks over $10,000 shall be recommended to Council for approval.**

**Membership**

1. **The membership of the committee shall comprise the Mayor and one Councillor from each ward with the Councillors being determined by nomination and if necessary, a ballot conducted at a Council Meeting.**
2. **The membership of the Committee shall comprise of one Councillor from each ward as deputy members with voting rights with the Councillors being determined by nomination and if necessary, a ballot conducted at a Council Meeting.**
3. **Deputy members are only required to attend and vote if the primary member is absent, an apology or on leave or has resigned.**
4. **If a vacancy on the committee occurs for whatever reason, then Council shall appoint a replacement in accordance with the same arrangements as for the original appointment.**
5. **The term of the presiding member and committee members will expire immediately prior to the next ordinary Council election.**
6. **The presiding member shall be determined by election amongst the members of the committee.**
7. **The election of the presiding member will take place at the first meeting following the reconstitution of the committee after each ordinary Council election.**
8. **Should the elected presiding member not be present during a meeting of the committee then a temporary presiding member shall be elected in accordance with 6 above.**
9. **Two community representatives with voting rights who have professional expertise in public art, who are residents of the City.**
10. **One youth representative with voting rights and an interest in public art, aged 12 – 25 years, who is a resident of the City.**
11. **Non-residents of the City of Nedlands may be appointed as non-voting members.**

**Meetings**

1. **The Council Committee operates under the Council’s Standing Orders Local Law.**
2. **The quorum for a meeting will be 50% of the offices of the Arts Committee as per section 5.19 of the Local Government Act 1995.**
3. **Meetings are open to community and Councillors.**
4. **Non-voting members may participate in all aspects of the meeting other than voting.**
5. **Non-voting attendees (as distinct from non-voting members) will have observer status.**
6. **Meetings with be held quarterly or as required.**

**Staff**

**The following staff will attend meetings to provide support and advice:**

* **Manager Community Development, as required.**
* **Coordinator Tresillian Arts Centre, as required.**
* **Any other officer, as required.**

**Terms of Reference**

**The Terms of Reference will be reviewed biennially.**

**Voting Requirement**

Absolute Majority.

**Background**

Previously, Council resolved to appoint the Mayor and Councillors Smyth, Youngman, Hodsdon and Brackenridge as members and the Deputy Mayor and Councillors Amiry, Bennett, Combes and Coghlan as the deputy members to the Public Art Committee to implement public art projects within the City of Nedlands.

**Discussion**

The Public Arts Committee was established in 2014 and meets at least 3 to 4 times per year, with the aim of the Committee beingto ensure that the City of Nedlands includes artworks of a high standard in the public domain. The scope of the Committee is outlined within the Terms of Reference.

**Consultation**

N/A.

**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.

**Great Communities**

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

**Budget/Financial Implications**

Nil.

**Legislative and Policy Implications**

There are no legislative or policy implications that relate to this item.

**Decision Implications**

If the Council establishes this Committee and endorses the Terms of Reference, then Council will continue to implement public art projects within the City of Nedlands.

**Conclusion**

It is recommended that Council establish the Public Art Committee, appoint members and deputy members and adopt the Terms of Reference.

**Further Information**

Nil.

## CEO41.12.23 – Re-establishment & Appointment of Members – Workforce Plan Implementation Committee

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting – 12 December 2023 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil. |
| **Report Author** | Nicole Ceric - Executive Officer |
| **CEO** | Tony Free – Acting Chief Executive Officer |
| **Attachments** | Nil. |

**Purpose**

The purpose of this report is re-establish the Workforce Plan Implementation Committee and appoint Council Members and Deputy Council Members and adopt the terms of reference.

An option is available to Council to present future workforce planning matters via the Concept Forum process to enable all of Council to provide oversight over the implementation of the City of Nedlands Workforce Plan.

**Recommendation**

**That Council:**

1. appoints the Mayor and Councillors (insert names) (four - one from each Ward) to the Workforce Plan Implementation Committee for the period ending immediately prior to the next Local Government elections in 2025;
2. appoints the Deputy Mayor and Councillors (insert names) (four - one from each Ward) as Deputy Members to the CEO Recruitment & Selection Committee for the period ending immediately prior to the next Local Government elections in 2025; and
3. adopts the Terms of Reference of the Workforce Plan Implementation Committee as per below:

# Workforce Plan Implementation Committee

**Purpose**

**This Committee is established by Council in accordance with section 5.8 of the *Local Government Act 1995* to oversee the implementation of the City of Nedlands Workforce Plan.**

**Scope**

1. To consider and approve the Workforce Plan Implementation Strategy and Tasks;
2. To work with the Administration to determine the additional information required for effective implementation, and the extra resources required, if any.
3. To approve the brief for an external consultant, if required, to facilitate the Implementation Strategy.
4. To recommend to Council, based on the City’s consultation process with the different stakeholders and benchmarking, what discretionary services should be provided by the City, and at what service levels, together with the cost-benefit analysis of such services.
5. To submit to Council recommendations for changes to the adopted Workforce Plan, if any, by 30 April 2023.
6. To collaborate with the CEO Performance Review Committee to ensure effective development of KRAs, goals, measures, and targets.

**Membership**

1. The membership of the committee shall comprise the Mayor, four Councillors (one Councillor from each ward). as voting members and the Chief Executive Officer as a non-voting member.
2. Councillors will be determined by nomination and if necessary, a ballot conducted at a Council Meeting.
3. Council may if it considers it appropriate, appoint deputies to the members of the committee.
4. Deputy members are only required to attend and vote if the primary member is absent, an apology or on leave or has resigned.
5. If a vacancy on the committee occurs for whatever reason, then Council shall appoint a replacement in accordance with the same arrangements as for the original appointment.

**Staff**

**Other staff may attend committee meetings when requested by the Committee through the Chief Executive Officer.**

**Meetings**

1. **The Workforce Plan Implementation Committee operates under the City of Nedlands Standing Orders Local Law.**
2. **The Committee shall have flexibility in relation to when it needs to meet, but as a minimum shall meet bimonthly (every 2 months). It is the responsibility of the presiding member to call the meetings of the committee.**

**Voting Requirement**

Absolute Majority.

**Background**

At its meeting held on 26 July 2022 Organisational Review Phase 1 Outcome Report and adopted the new City of Nedlands Workforce Plan. Council also established a Workforce Plan Implementation Committee to oversee the implementation of the Workforce Plan. for its first year and the activities related to Organisational Review – Stage 2 such as review of all City of Nedlands Service Areas. The Workforce Plan Implementation Committee Terms of Reference were adopted by the Workforce Plan Implementation Committee on 22 August 2022 and subsequently by Council on 27 September 2022.

At its meeting held on 22 November 2022, Council adopted the Chief Executive Officer (CEO) 2022/23 Key Result Areas and Indicators (CEO KRA/KPIs), including the following related to Workforce Planning:

* KRA 5 Statutory Requirement: KPI 5.5 Workforce Plan: Organisational Review Stage 2 (inc. review of NCC) to update the Workforce Plan – June 2022.

**Organisational Review Stage 2 and Proposed Workforce Plan – 2023 Update**

Between September 2022 and March 2023, Workforce Plan Implementation Committee Workshops were held with Committee members and the Administration to review all 42 Service Areas. This included:

* Benchmarking against other similarly sized local governments.
* Reviewing of current and projected resourcing (workforce numbers and budget) as per the Workforce Plan and current levels of service.
* Recommending changes to resourcing and levels of service based on status (discretionary or non-discretionary) and alternate models of delivery (outsourcing, diversification or rationalisation).

During this process, Committee members recommended changes to LoS and full-time equivalent (FTE) resourcing in the specific Service Areas.

Following this process, cross-checking the Committee’s recommendations against MARYKT® Community Scorecard 2023 results and incorporating other workforce planning matters that had arisen within this timeframe, the Workforce Plan Implementation Committee was presented with the Organisation Review – Stage 2 Outcomes and Workforce Plan – 2023 Update Council Report, at its meeting held 30 August 2023.

The Workforce Plan Implementation Committee requested that more information be provided to Committee members prior to closing out this process, directing the Chief Executive Officer to produce an Organisational Chart; and a breakdown of discretionary and non-discretionary FTE’s in each Service Area from 2023/2024. This request was subsequently approved by Council at its meeting held on 26 September 2023. The information requested was provided to all Councillors for consideration via email on 14 September 2023.

Furthermore, due to the 2023 Local Government Elections, all committees of Council, including the Workforce Plan Implementation Committee, were dissolved.

Previously, Council resolved to appoint the Mayor and Councillors, Amiry, Mangano, Hodsdon and Senathirajah as members and the Deputy Mayor and Councillors Smyth, Bennett, Combes and Brackenridge as the deputy members to the Workforce Plan Implementation Committee to oversee the implementation of the City of Nedlands Workforce Plan.

**Discussion**

The Workforce Plan is a critical component of the City’s Integrated Planning and Reporting Framework. It resources the service delivery and service levels, required for the City of Nedlands to implement the Council Plan and 42 Service Plans.

Given its importance, Council may wish to consider an approach of the full Council should having oversight over the implementation of the City of Nedlands Workforce Plan.

If Council wished to pursue this approach, then rather than re-establishing the Workforce Plan Implementation Committee, Council may request that future workforce planning matters be presented to the Concept Forum process, and subsequent to the Council Meeting process.

This aligns well with the Governance Framework Policy also given the reduction in numbers on the Council, from 13 to 9 Council Members, following the 2023 Ward Review and Local Government Elections.

If Council wishes to pursue this option, the resolution should read as follows:

That Council approves future workforce planning matters be presented to the Concept Forum process to enable the Council to provide oversight over the implementation of the City of Nedlands Workforce Plan.

**Consultation**

N/A.

**Strategic Implications**

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

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

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

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

**High standard of services**

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

**Budget/Financial Implications**

Nil.

**Legislative and Policy Implications**

Governance Framework Policy.

**Decision Implications**

If Council does endorse the recommendation, the Administration will continue to implement the Workforce Plan, and as per the Action 11.1.6 of the Council Plan and review the Workforce Plan annually (late 2024) to ensure the City is succulently resourced to deliver services and projects to meeting community needs.

**Conclusion**

It is recommended that Council re-establish the Workforce Plan Implementation Committee and appoint members and deputy members.

**Further Information**

Nil.

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

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

# Urgent Business Approved By the Presiding Member or By Decision

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

# Confidential Items

Confidential items to be discussed at this point.

## CSD08.12.23 – Confidential – Community Citizen of the Year Awards

A confidential report has been circulated to Council Members separately.

# Declaration of Closure

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