**AGENDA**

**Council Meeting**

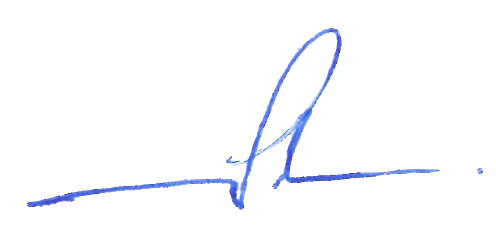
**13 December 2022**

**Notice of Meeting**

**To Mayor & Councillors**

A Council Meeting of the City of Nedlands is to be held on Tuesday, 13 December 2022 in the Council chambers at 71 Stirling Highway Nedlands commencing at 6pm.

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



Bill Parker

Chief Executive Officer

8 December 2022

**Information**

Council Meetings are run in accordance with the City of Nedlands Standing Orders Local Law. If you have any questions in relation to items on the agenda, procedural matters, public question time, addressing Council or attending 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 question time at a Council Meeting is available for members of the public to ask a question about items on the agenda. Questions asked by members of the public are not to be accompanied by any statement reflecting adversely upon any Council Member or Employee.

Questions should be submitted as early as possible via the online form available on the City’s website: [Public question time | City of Nedlands](https://www.nedlands.wa.gov.au/public-question-time)

Questions may be taken on notice to allow adequate time to prepare a response and all answers will be published in the minutes of the meeting.

**Addresses by Members of the Public**

Members of the public wishing to address Council in relation to an item on the agenda 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)

The Presiding Member will determine the order of speakers to address the Council and the number of speakers is to be limited to 2 in support and 2 against any particular item on a Special Council Meeting Agenda. The Public address session will be restricted to 15 minutes unless the Council, by resolution decides otherwise.

**Disclaimer**

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

Any plans or documents in agendas and minutes may be subject to copyright. The express permission of the copyright owner must be obtained before copying any copyright material.

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# Declaration of Opening

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

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

**Leave of Absence** Councillor L J McManus Coastal Districts Ward

**(Previously Approved)**

**Apologies** Councillor N R Youngman Dalkeith Ward

# Public Question Time

Questions received from members of the public will be read at this point.

The order in which the CEO receives questions shall determine the order of questions unless the Mayor determines otherwise. Questions must relate to a matter affecting the City of Nedlands.

# Addresses by Members of the Public

Addresses by members of the public who have completed Public Address Registration Forms to be made at this point.

# Requests for Leave of Absence

Any requests from Council Members for leave of absence will be dealt with at this point.

# Petitions

Petitions to be tabled at this point.

# 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

Members who have not read the business papers to make declarations at this point.

# Confirmation of Minutes

**10.1 Ordinary Council Meeting Minutes – 22 November 2022**

The minutes of the Ordinary Council Meeting held 22 November 2022 are to be confirmed.

# Announcements of the Presiding Member without discussion.

This item will be dealt with at the Ordinary Council Meeting. Any written or verbal announcements by the Presiding Member to be tabled at this point.

# Members Announcements without discussion.

Written announcements by Council Members to be tabled at this point. Council Members may wish to make verbal announcements at their discretion.

# 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.

22.1 CSD06.12.22 – Confidential Community Citizen of the Year Awards

22.2 Request for Legal Advice

22.3 Request for Legal Representation

# En Bloc Items

That the officer recommendations for Items 15.1, 16.1, 16.2, 16.3, 17.1, 17.2, 17.3, 17.4 18.1, 18.2, 18.3, 18.4, 18.5, 18.6, 19.1, 19.2 and 22.1 be adopted en bloc and the remaining items 20.1, 21.1, 21.2 and 22.2 will be dealt with separately.

# 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).

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

**Audit & Risk Committee Meeting**  **21 November**

Unconfirmed, circulated to Councillors on 28 November 2022

# Divisional Reports - Planning & Development Report No’s PD80.12.22 to PD82.12.22

# PD80.12.22 Consideration of Development Application – Single House at 78 Wood Street, Swanbourne

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting – 13 December 2022 |
| **Applicant** | Robeson Architects |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | The author, reviewers and authoriser of this report declare they have no financial or impartiality interest with this matter.  There is no financial or personal relationship between City staff involved in the preparation of this report and the proponents or their consultants. |
| **Report Author** | Roy Winslow – Manager Urban Planning |
| **Director** | Tony Free – Director Planning and Development |
| **Attachments** | 1. Aerial Image and Zoning Map 2. Development Plans 3. Architectural Perspective 4. CONFIDENTIAL ATTACHMENT - Submissions |

**Purpose**

The purpose of this report is for Council to consider a development application for a single house at 78 Wood Street, Swanbourne. This proposal is being presented to Council for consideration as the proposal received two objections during the consultation period and refusal is recommended.

**Recommendation**

**That Council in accordance with Clause 68(2)(c) of the Deemed Provisions of the Planning and Development (Local Planning Schemes) Regulations 2015, refuses the development application in accordance with the plans date stamped 22 August 2022 for a single house at 78 Wood Street, Swanbourne, for the following reasons:**

1. **The development does not satisfy the design principles of Clause 5.1.2 (Street setback) of the Residential Design Codes as the primary street setback is not consistent with and does not contribute to the established streetscape.**
2. **The development does not satisfy the design principles of Clause 5.1.3 (Lot boundary setback) of the Residential Design Codes as the height, bulk and scale of the proposed west-facing boundary wall will have an adverse impact on the amenity of the neighbouring property to the west.**

**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** | R15 |
| **Land area** | 485m2 |
| **Land Use** | Residential – Single House |
| **Use Class** | ‘P’ – Permitted Use |

The site is located at 78 Wood Street, Swanbourne, south of the Swanbourne Bushland across the street. The site is irregular in shape with a curved 13.8m frontage and an area of 485m2. The land is sloping with a 0.7m fall from east to west. The site is currently occupied by a single storey single house.

The lot has density coding of R15. The site originally featured 2 grouped dwellings in a ‘built strata’ scheme configuration. The grouped dwellings were demolished in approximately 2000 and the site was converted to a survey strata scheme, resulting in two lots (78 and 80 Wood Street). In accordance with State Planning Policy 7.3 Residential Design Codes (R-Codes), the minimum size for an R15 lot is 580m2. Consequently, the lot is undersized for the R15 code, being 485m2, which is more typical of the R20 density code.

**Application Details**

The application seeks development approval for the construction of a new two storey single house at 78 Wood Street, Swanbourne. Of particular concern to this assessment is the boundary wall and primary street setback proposed for the dwelling.

**Discussion**

**Assessment of Statutory Provisions**

If a proposal does not satisfy the deemed to-comply provisions of the R-Codes, Council is required to exercise a judgement of merit to determine the proposal against the design principles of the R-Codes. 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 primary street setback, lot boundary setback, landscaping 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.

**Clause 5.1.2 – Street setback**

The dwelling proposes a minimum primary street setback of 4m on the ground floor and 4.8m on the upper floor. The design principles require the development to be consistent with the established streetscape, provide sufficient space for landscaping and parking, and not be visually imposing from the street. The application does not satisfy the design principles as:

* The street setback proposed is inconsistent with the existing streetscape. None of the dwellings on the south side of Wood Street are closer to the street than 9m. The only encroachment into the setback area currently is a carport at 72 Wood Street, which is setback 4m.



* The development does not positively contribute to the prevailing development context as it proposes walls be built up to both side boundaries within the street setback area. None of the lots on the south side of Wood Street feature multiple boundary walls visible from the street.
* As a consequence of the proposed street setback, the development does not include an adequate amount of landscaping in the front setback area. An increased street setback will provide more space for landscaping. Refer to the discussion on landscaping below.
* Whilst an appropriately reduced street setback may be considered due to the constraints of the site relating to its shape and size, the street setback proposed does not effectively respond to the established development pattern along Wood Street and will introduce a greater bulk and scale to the streetscape than currently provided.

**Clause 5.1.3 – Lot boundary setbacks**

The following lot boundary setbacks seek a design principle assessment:

* The eastern (side) garage wall on the ground floor proposes a nil setback (boundary wall).
* The western (side) wall on the ground floor proposes a nil setback (boundary wall).
* The western (side) Theatre to Bed 2 wall on the upper floor proposes a nil setback (boundary wall).
* The southern (rear) wall on the ground floor proposes a minimum 5.3m setback.

The design principles for lot boundary setbacks consider the impact of building bulk on adjoining properties, providing adequate sun and ventilation, minimising overlooking and allowing effective use of space for privacy and outdoor living areas.

**West side**

The western setbacks do not achieve the design principles as:

* The impact of the boundary wall’s bulk is not mitigated as the adjoining neighbour will perceive the wall as high and out of scale due to the combination of its 8m height and 7.6m length.
* The height of the western wall is further exacerbated for the neighbour as the ground level at 80 Wood Street is approximately 0.5m lower than the ground level at 78 Wood Street.
* The portion of the boundary wall on the ground floor does not positively contribute to the prevailing development context. Only one lot on the street features a boundary wall visible within the front setback area.

**East side**

The application proposes a garage built up to the eastern boundary. The development achieves the design principles as:

* The majority of the boundary wall is located behind the front setback area. Only 2.5m of the wall protrudes forward of the average 9m front setback observable in the street.
* The boundary wall allows for the provision of a double car garage.
* The boundary wall is a typical size for a garage, being 7.3m in length and 3.5m in height. If the residential density coding of the lot were commensurate with its size, this aspect of the proposal would be deemed-to-comply.

**South rear**

The southern setback achieves the design principles as:

* The impact of the wall’s bulk is minimised as the wall is a single storey and is 1.8m in length, comprising 12% of the lot boundary length. At a setback distance of 5.4m, the wall is adequately separated from the outdoor living area of the adjoining lot.
* Ventilation is maintained by the 5.4m setback.
* The shadow cast by the wall falls onto the subject lot and does not result in overshadowing of the adjoining southern property.
* The wall does not permit overlooking of the adjoining lots as it does contain any major openings.

**Clause 5.3.2 - Landscaping**

The application proposes 32% landscaping within the front setback area. The design principles provide for retention or planting of vegetation and a positive contribution to the streetscape.

The proposal **does not** meet the design principles as the landscaping provided is insufficient and is inconsistent with the existing streetscape. The landscape character of Wood Street is defined mostly by front gardens that comprise the majority of the street setback area. The proposal features a small garden and one tree with the remaining space occupied by the driveway, stone pavers and pea gravel.

**Clause 5.4.1 – Visual privacy**

Bed 2 on the upper floor overlooks the western lot and is seeking a design principle assessment.

The design principles for visual privacy consider the minimal overlooking of active habitable spaces and outdoor living areas of adjacent dwellings and maximum visual privacy to side and rear boundaries. The application meets the design principles as:

* The cone of vision from the bedroom window is reduced by fixed privacy louvres.
* The overlooking from the window avoids the outdoor living area and falls over an upper floor wall without major openings.
* Any overlooking will be further minimised as the window is perpendicular to the lot boundary, so overlooking is oblique rather than direct.

**Consultation**

The development application was advertised in accordance with the City’s Local Planning Policy - Consultation of Planning Proposals to 9 adjoining owners and occupiers. The application was advertised for a period of 14 days, from 30 September 2022 to 14 October 2022. At the close of the advertising period, two objections were received.

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

1. Primary street setback should be increased to improve vehicle safety and allow more space for visitor parking.

The driveway has been located as far from the corner tangent point as possible. The proposal meets the deemed-to-comply provisions for car parking.

1. The reduced primary street setback will have an adverse impact on the streetscape.

The primary street setback in its current configuration has been assessed as inconsistent with the design principles of the R-Codes and is not supported.

1. The reduced street setback will have an adverse effect on the outdoor living area of the adjoining western property.

The primary street setback in its current configuration has been assessed as inconsistent with the design principles of the R-Codes and is not supported.

1. The boundary wall construction should take care to ensure it does not damage or adversely affect the adjoining property.

Any boundary wall will be required to be contained within the lot boundaries and will be subject to building regulations.

**Strategic Implications**

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

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

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

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

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

**Budget/Financial Implications**

N/A

**Legislative and Policy Implications**

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

**Decision Implications**

If Council resolves to refuse the application, the applicant will have a right of review to the State Administrative Tribunal. The Tribunal will have regard to the R-Codes as a State Planning Policy.

If Council approves the proposal, development can proceed after receiving a Building Permit and necessary clearances. 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 and refusal being recommended. The proposal does not meet the design principles of the R-Codes related to primary street and lot boundary setback and as such will have an adverse impact on the amenity of adjoining lots and the locality. Accordingly, it is recommended that the application be refused by Council for the reasons contained in the recommendation.

**Further Information**

**Question**

Councillor Smyth – are the applicants aware of the recommendation of refusal and have they lodged any appeals? Can this information be included in the Council Agenda for Councillor information.

**Officer Response**

The applicants are made aware of the matter being tabled for consideration by Council as a standard procedure. In this case, the applicant is aware of the officer recommendation to refuse and has lodged an application for review with the State Administrative Tribunal for a “deemed refusal”. A deemed refusal is in essence an undetermined application that has exceeded the statutory 90-day time period within which a decision is normally made. On 7 December 2022, the City was advised that an Application for Review was lodged with the Tribunal.

**Question**

Mayor Argyle – can you please confirm who the City has been negotiating with on behalf of the applicant?

**Officer Response**

The Applicant is listed on the development application form as Robeson Architects. The City has been liaising with this firm and another party associated with the development (Resolve Group).

**Question**

Councillor Senathirajah – what are the planning implications associated with an undersized block in an R15 zoning?

The City applies the R15 requirements notwithstanding the lot may be ‘undersized’. Any proposal that does not meet a particular deemed-to-comply provision for the designated density code of the site will be considered against the relevant Design Principles. As part of this assessment, the need to apply discretion to allow appropriate development of the site can be considered as part of the Design Principle assessment. However, what is critical is whether the development appropriately addresses the Design Principle, rather than the fact the lot may be ‘undersized’.

# PD81.12.22 Consideration of Development Application – Four Multiple Dwellings at 5A & 5B Alexander Road. Dalkeith

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting – 13 December 2022 |
| **Applicant** | B Brackenridge |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | The author, reviewers and authoriser of this report declare they have no financial or impartiality interest with this matter.  There is no financial or personal relationship between City staff involved in the preparation of this report and the proponents or their consultants. |
| **Report Author** | Roy Winslow – Manager Urban Planning |
| **Director** | Tony Free – Director Planning and Development |
| **Attachments** | 1. Aerial Image and Zoning Map 2. Development Plans 3. R-Codes Volume 2 Assessment 4. CONFIDENTIAL ATTACHMENT - Submissions |

**Purpose**

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

**Revised Officer Recommendation**

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

1. **The proposed building form and orientation does not minimise overshadowing of the primary living area and outdoor living area of the neighbouring property at 7A Alexander Road, Dalkeith during mid-minter as required by Element 3.2 of the Residential Design Codes Volume 2.**
2. **The overall bulk and scale of the development is inappropriate for the existing and planned character of the area, specifically in relation to the bulk and scale of the building on the rear half of the lot in comparison to the rear bulk and scale of nearby dwellings and as required by Element 2.5 of the Residential Design Codes Volume 2.**
3. **The upper floor setback of 2.5m to the primary street (Alexander Road) is insufficient to reinforce and complement the existing and proposed landscape character of the street, which currently provides a minimum 4m of un-encroached front setback area for each property on the west side of Alexander Road between Philip Road and Waratah Avenue and as required by Element 2.3 of the Residential Design Codes Volume 2.**
4. **The proposed waste management facilities do not minimise negative impacts on building entries and the amenity of residents as required by Element 4.17 of the Residential Design Codes Volume 2.**

**Rationale**

**Overshadowing**

**Recent calculations of overshadowing onto the property to the south (7A Alexander Road) indicate 57.5% overshadowing at 12pm on 21 June. The dwelling to the south is oriented to face north with all major living areas to be significancy impacted by overshadowing. The proposed development has failed to minimise overshadowing of the neighbouring dwelling’s habitable rooms and open space, as required by Element Objective O3.2.2.**

**Bulk/Scale (Plot Ratio)**

**The plot ratio proposed is consistent with an R60 outcome, not R40 as the property is coded. This additional bulk and scale is best illustrated by an upper floor area that extends to the rear of the lot. Other two-storey dwellings on the west side of Alexander Road have an upper-level bulk that is directed toward the front half to front two-thirds of the lot depth. This allows for a greater level of solar access and a reduction in bulk at the rear of properties, where private indoor and outdoor living areas tend to be located.**

**Street setback**

**The development does not appropriately respond to the context and character of the Alexander Road locality. The encroachment of the upper floor into the street setback area is inconsistent with surrounding dwellings, where there is at least 4m of un-encroached open space between the street and the building line.**

**Waste Management**

**The proposed bin storage location will be detrimental to the amenity of the neighbouring resident to the south at 7A Alexander Road.**

Recommendation

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

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

Engineering and Design

1. Prior to the issue of a building permit, a Construction Management Plan shall be submitted and approved to the satisfaction of the City. The approved Construction Management Plan shall be observed at all times throughout the construction and demolition processes to the satisfaction of the City.
2. Prior to the issue of a building permit, a minimum of 20% units (1 unit) are to be designed at building permit stage to the Silver Level requirements as defined in the Liveable Housing Design Guidelines (Liveable Housing Australia) and implemented prior to occupation to the satisfaction of the City of Nedlands.
3. Prior to the issue of a building permit and the commencement of excavation works, a Dilapidation Report shall be submitted to the City of Nedlands and the owners of the adjoining properties listed below detailing the current condition and status of all buildings (both internal and external together with surrounding paved areas and rights of ways), including ancillary structures located upon these properties:

a. Lot 101 (No. 7A) Alexander Road, Dalkeith

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

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

1. Prior to occupation, walls on or adjacent to lot boundaries are to be finished externally to the same standard as the rest of the development in:

a. Face brick;

b. Painted render;

c. Painted brickwork; or

d. Other clean finish as specified on the approved plans.

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

Landscaping

1. Prior to occupation, landscaping shall be completed in accordance with the plans dated 13 September 2022 to the satisfaction of the City of Nedlands. All landscaped areas are to be maintained on an ongoing basis for the life of the development on the site to the satisfaction of the City of Nedlands.
2. The street tree(s) within the verge in front of the lot are to be protected and maintained through the duration of the demolition and construction processes to the satisfaction of the City of Nedlands. Should the tree(s) die or be damaged, they are to be replaced with a specified species at the owner’s expense and to the satisfaction of the City of Nedlands.
3. Prior to occupation, all communal and private open space areas with landscaping shall include a tap connected to an adequate water supply for the purpose of irrigation.
4. Prior to occupation, the applicant is to plant a minimum of one (1) x 200L tree located on the Alexander Road verge, at the expense of the applicant and to the satisfaction of the City of Nedlands.

Acoustics and Sustainability

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

Waste

1. The development shall comply with the approved Waste Management Plan prepared by Instant Waste Management date stamped 21 April 2022 to the satisfaction of the City of Nedlands. Any modification to the approved Waste Management Plan will require further approval by the City.
2. Prior to the issue of a Building Permit, the bin storage area shall be located and designed to meet the definition of a ‘suitable enclosure’ as defined by the City of Nedlands Health Local Law 2017.

Parking

1. Prior to occupation of the development, all car parking bays and visitor bicycle bays are to be clearly line marked, drained and with visitor car parking clearly marked or signage provided, and maintained thereafter by the landowner to the satisfaction of the City of Nedlands.
2. All car parking dimensions (including associated wheel stops and headroom clearance), manoeuvring areas, ramps, crossovers and driveways shall comply with Australian Standard 2890.1-2004 - Off-street car parking and Australian Standard 2890.6:2009 - Off-street parking for people with disabilities (where applicable) to the satisfaction of the City of Nedlands.
3. Prior to occupation, all bicycle racks shall be provided and installed to the satisfaction of the City of Nedlands and maintained for the lifetime of the development.

Screening

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

**Voting Requirement**

Simple Majority.

This report is of a quasi judicial nature as it is a matter that directly affects a person’s rights and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications and other decisions that may be appealable to the State Administrative Tribunal.

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

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

**Background**

**Land Details**

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

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

**Background**

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

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

**Application Details**

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

**Additional Information**

The application was presented to the Agenda Forum meeting on 8 November 2022. Several questions relating to different aspects of the proposal were raised. The responses to these questions are below:

1. What is the impact of noise from the air conditioning condenser units on the adjoining property?

An acoustic report prepared by Herring Storer Acoustics was submitted as part of the application. The report projects that although the condenser units have not yet been selected, they will likely comply with the most stringent assigned noise level. A condition of approval is recommended requiring an amended acoustic report is submitted which demonstrates compliance with the Environmental Protection (Noise) Regulations prior to the submission of a Building Permit.

1. Can a condition of approval be included which requires the rear laneway be paved and sealed?

Guidance issued by the Western Australian Planning Commission in Planning Bulletin 33/2017 recommends that local governments impose a condition of development approval which requires the portion of the laneway adjacent to the lot be sealed and drained. A condition requiring the sealing and paving of Shrike Lane is recommended.

1. Will the bin storage area minimise impact to adjoining properties and facilitate effective waste management?

A waste management report prepared by Instant Waste Management was submitted as part of the application. The report specifies that the bin enclosure will be fitted with ventilated doors to help control odour. A condition of approval has been recommended to ensure that the bin storage area is appropriately enclosed. The development complies with the Local Planning Policy - Waste Management and makes provision for an appropriate number of bins on site, including for FOGO waste.

1. Can waste be collected from Shrike Lane?

Waste collection is currently occurring from Shrike Lane to two properties. However, the width of the laneway is less than the normal requirements for collection by large truck using a side collection arm. This requires encroachment into private property to ensure sufficient manoeuvring space to collect bins. The current width of the laneway requires bins to be “internally collected”, where the truck driver exits the vehicle and locates the bins in a position to allow for rear or side collection. This service is provided at an additional annual fee of approximately $400. Due to the width of the laneway, City officers recommend that waste not be collected from the laneway where alternative options exist.

1. How will stormwater from the laneway and the development be managed?

The City’s Technical Services department has reviewed the plans and is satisfied that the development can accommodate appropriate on-site drainage infrastructure. Likely technical solutions include driveway gradient design at the lot boundary which prevents the ingress of water and the use of channel drains at the top and/or bottom of the ramp.

**Discussion**

**Assessment of Statutory Provisions**

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

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

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

**Local Planning Scheme No. 3**

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

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

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

**Element 2.3 – Street setbacks**

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

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

**Element 2.4 – Side and rear setbacks**

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

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

**Element 2.5 – Plot ratio**

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

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

**Element 3.2 – Orientation**

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

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

**Sustainability**

The following sustainability initiatives are incorporated in the development:

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

**Design Review Panel**

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

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

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

**Context and Character**

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

**Landscape Quality**

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

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

**Built Form and Scale**

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

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

**Amenity**

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

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

**Legibility**

The design is intuitive and easy to navigate as:

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

**Safety**

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

**Aesthetics**

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

**Consultation**

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

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

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

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

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

**Strategic Implications**

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

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

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

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

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

**Budget/Financial Implications**

N/A

**Legislative and Policy Implications**

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

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

**Decision Implications**

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

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

**Conclusion**

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

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

**Further Information**

**Correction to Additional Information**

Clause 4 of the Additional Information section of this report previously read:

“There is currently no waste collection from Shrike Lane. Collection is envisaged from Alexander Road for the foreseeable future.”

This has now been corrected to read as follows:

“4. Can waste be collected from Shrike Lane?

Waste collection is currently occurring from Shrike Lane to two properties. However, the width of the laneway is less than the normal requirements for collection by large truck using a side collection arm. This requires encroachment into private property to ensure sufficient manoeuvring space to collect bins. The current width of the laneway requires bins to be “internally collected”, where the truck driver exits the vehicle and locates the bins in a position to allow for rear or side collection. This service is provided at an additional annual fee of approximately $400. Due to the width of the laneway, City officers recommend that waste not be collected from the laneway where alternative options exist.”

**Question**

Councillor Mangano – what is the exact percentage of overshadowing on the neighbouring property?

**Officer Response**

Based on a recent recalculation of overshadowing conducted by City officers, the property to the south is overshadowed for approximately 57% of its total lot area at 12pm on 21 June.

**Question**

What is the height discrepancy on plans submitted?

**Officer Response**

A recent assessment of the levels of the development site and 7A Alexander Road, Dalkeith identify the finished floor level of 7A is approximately 0.46m lower than the finished level proposed for the development.

**Question**

Does the development need a retaining wall, and would a code compliant retaining wall impact the access ramp?

**Officer Response**

It is likely that a retaining wall of varying height will be required. Retaining walls by right are self-supporting and supportive additionally of the materials being retained. Walls over 500mm high are designed by engineers and can be incorporated into any design, such as the proposed access ramp. Their impact on neighbouring land is generally positive as they are maintaining the right of support to the land beyond where the land has been dug away or preventing encroachment of retained materials into the neighbouring land.

**Question**

Is the driveway too steep as per Australian Standards?

**Officer Response**

The ramp does not fully meet AS 2890.1 for ramp gradients. However, an alternative solution has been prepared by the traffic consultants for the development and approved by the City as sufficient to prevent ‘bottoming out’ of vehicles.

**Question**

What is the plot ratio for R40 and what is the plot ratio for this development?

**Officer Response**

The Acceptable Outcome for plot ratio in R40 is 0.6. The proposed plot ratio is 0.8.

**Question**

Councillor Bennett – Could the rubbish bins be stored in another part of the development i.e., garage or store?

**Officer Response**

An alternative area could be provided. However, to accommodate this, the development would require redesign of the ground floor layout and reconsideration of the landscaping provision for the site. The amenity impact of any new site for bin storage will then need to be considered.

**Question**

Councillor Smyth – Could an amendment for an additional condition for the storage of bins be provided for the Council Meeting?

**Officer Response**

Due to the level of redesign and additional consideration that would be required to move the bin store to another location on the site, conditioning this change on an approval is not recommended. Conditions that seek to materially alter the development from that proposed have been deemed to be invalid.

**Revised Officer Recommendation**

This notification is to advise that after considering new information which has arisen a **revised officer recommendation** is now being presented to Council.

Additional information has emerged and circumstances have changed with regards to this item. Subsequent to the publication of this item for the Council Meeting Agenda Forum, a fresh calculation of overshadowing was conducted by Officers. This was in response to the identification that the property to the south is approximately 0.46m lower than the subject site, rather than at the same level as depicted in some of the application plans. This changed circumstance required reconsideration of the R-Codes element objectives for orientation, setbacks and plot ratio. The current waste management arrangements are now considered to be problematic based on concerns raised by the neighbouring property and a site inspection. Other information that came to light required a greater emphasis to be placed on the findings of the State Administrative Tribunal in BHY Alexander Unit Trust and City of Nedlands ([2021] WASAT 41). Of particular note was the SAT finding that there were “unusual planning (subdivision and development) characteristics of the immediate locality of the site [that] require greater sensitivity from new development – in terms of height, bulk and scale fronting the street than would otherwise be the case...”.

The revised officer recommendation is bolded below and includes rationale for each reason of refusal.

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

1. **The proposed building form and orientation does not minimise overshadowing of the primary living area and outdoor living area of the neighbouring property at 7A Alexander Road, Dalkeith during mid-minter as required by Element 3.2 of the Residential Design Codes Volume 2.**
2. **The overall bulk and scale of the development is inappropriate for the existing and planned character of the area, specifically in relation to the bulk and scale of the building on the rear half of the lot in comparison to the rear bulk and scale of nearby dwellings and as required by Element 2.5 of the Residential Design Codes Volume 2.**
3. **The upper floor setback of 2.5m to the primary street (Alexander Road) is insufficient to reinforce and complement the existing and proposed landscape character of the street, which currently provides a minimum 4m of un-encroached front setback area for each property on the west side of Alexander Road between Philip Road and Waratah Avenue and as required by Element 2.3 of the Residential Design Codes Volume 2.**
4. **The proposed waste management facilities do not minimise negative impacts on building entries and the amenity of residents as required by Element 4.17 of the Residential Design Codes Volume 2.**

**Rationale**

**Overshadowing**

**Recent calculations of overshadowing onto the property to the south (7A Alexander Road) indicate 57.5% overshadowing at 12pm on 21 June. The dwelling to the south is oriented to face north with all major living areas to be significancy impacted by overshadowing. The proposed development has failed to minimise overshadowing of the neighbouring dwelling’s habitable rooms and open space, as required by Element Objective O3.2.2.**

**Bulk/Scale (Plot Ratio)**

**The plot ratio proposed is consistent with an R60 outcome, not R40 as the property is coded. This additional bulk and scale is best illustrated by an upper floor area that extends to the rear of the lot. Other two-storey dwellings on the west side of Alexander Road have an upper-level bulk that is directed toward the front half to front two-thirds of the lot depth. This allows for a greater level of solar access and a reduction in bulk at the rear of properties, where private indoor and outdoor living areas tend to be located.**

**Street setback**

**The development does not appropriately respond to the context and character of the Alexander Road locality. The encroachment of the upper floor into the street setback area is inconsistent with surrounding dwellings, where there is at least 4m of un-encroached open space between the street and the building line.**

**Waste Management**

**The proposed bin storage location will be detrimental to the amenity of the neighbouring resident to the south at 7A Alexander Road.**

# PD82.12.22 Reconsideration of Development Application – Amendments of Approval Conditions at 13, 15, 17 and 19 Jenkins Avenue, Nedlands

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting – 13 December 2022 |
| **Applicant** | G Nathan, B Liu, J Coetzee and S Lee |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | The author, reviewers and authoriser of this report declare they have no financial or impartiality interest with this matter.  There is no financial or personal relationship between City staff involved in the preparation of this report and the proponents or their consultants. |
| **Report Author** | Roy Winslow – Manager Urban Planning |
| **Director** | Tony Free – Director Planning and Development |
| **Attachments** | Nil. |

**Purpose**

The purpose of this report is for Council to reconsider its refusal of an amendment to an approval condition at 13, 15, 17 and 19 Jenkins Avenue, Nedlands, pursuant to the orders set by the State Administrative Tribunal (SAT).

**Recommendation**

**In accordance with clause 77(b) of the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015,* Council amends Condition 14 of the approval for four grouped dwellings at 13-19 Jenkins Avenue, Nedlands (DA20-55087) to read as follows:**

**14. All balcony balustrades for the ground floor balcony at No. 13-19 Jenkins Avenue, Nedlands shall be either opaque material or frosted glass to a minimum height of 500mm as measured from the finished floor level of the balcony.**

**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** | Ranges from 191m2 to 203m2 |
| **Land Use** | Residential – Single House |
| **Use Class** | ‘P’ – Permitted Use |

The subject sites are located at 13, 15, 17 and 19 Jenkins Avenue, Nedlands. All properties have a primary frontage to Jenkins Avenue.

**History**

The original application (Ref DA20-55087) included five grouped dwellings on one development application. At the 25 May 2021 Ordinary Council Meeting, Council resolved to approve the development subject to a number of conditions. Condition 14 states:

14. All balcony balustrades shall be either opaque material or frosted glass.

Since the original approval, the lot has been subdivided into five lots (one per dwelling).

At the 23 August 2021 Ordinary Council Meeting, Council refused the development application to amend Condition 14 of the approval for the dwellings at 13, 15, 17 and 19 Jenkins Avenue, Nedlands. The applicants have subsequently lodged a review of this decision with the State Administrative Tribunal. The matter has been subject to further discussion and liaison with affected parties, including neighbouring properties. The Tribunal has made orders inviting the City of Nedlands to reconsider its decision based on a modified screening outcome.

**Proposal**

The applicants are seeking Council reconsider its decision based on approving the following amendment to Condition 14:

14. All balcony balustrades for the ground floor balcony shall be either opaque material or frosted glass to a minimum height of 500mm as measured from the finished floor level of the balcony.

It is recommended that the application be approved by Council as it is considered to satisfy the deemed-to-comply provisions of the State Planning Policy 7.3: Residential Design Codes (R-Codes) relating to visual privacy. There is no discretion being sought by this application to the deemed to-comply provisions of the R-Codes.

**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**

Should Council refuse to amend Condition 14, the applicant will have a right of review through a full hearing by the Tribunal. In this case, the City will be responsible for legal fees to defend its decision. Based on recent State Administrative Tribunal cases, costs of $30,000 to $50,000 can be anticipated.

**Legislative and Policy Implications**

The State Administrative Tribunal has invited the City to reconsider its decision in accordance with section 31 of the State Administrative Tribunal Act 2004. This section provides for a decision-maker to reconsider its original decision in the light of new information in the spirit of streamlining the review process by avoiding a full hearing and consideration by the Tribunal.

Council is requested to make a decision in accordance with clause 77 of the [Deemed Provisions](https://www.dplh.wa.gov.au/getmedia/6e4785e3-d40f-45cd-95e8-85d3115ee32e/PD_LPS_Deemed_Provisions). This clause allows for a local government to consider amendments to current approvals.

**Decision Implications**

If Council resolves to approve the proposal, the development will proceed with the modified requirements for Condition 14 in place.

In the event of a refusal, the applicant has the right to continue the matter at the State Administrative Tribunal. The Tribunal is able to review the proposal in the original form first considered and refused by Council rather than be fettered to the current proposal. The Tribunal will have regard to the R-Codes as a State Planning Policy. In this case, the application is not seeking any discretion to the deemed-to-comply provisions of the R-Codes.

**Conclusion**

The application for an amendment of Condition 14 from the properties at 13- 19 Jenkins Avenue, Nedlands has been presented to Council for reconsideration in accordance with section 31 of the *State Administrative Tribunal Act 2004 (WA).*

The proposed wording of Condition 14 reflects the discussions and liaison with affected parties, including neighbours that have taken place since the refusal was made.

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

**Further Information**

Nil.

# Divisional Reports - Technical Services Report No’s TS25.12.22 to TS28.12.22

# TS25.12.22 Tawarri Car Park Drainage Improvement

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting - 13 December 2022 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil. |
| **Report Author** | Bhavesh Bhavsar – Asset Officer |
| **Director** | Daniel Kennedy-Stiff – Acting Director Technical Services |
| **Attachments** | 1. Tawarri Car Park Drainage Improvement Option 1 |

**Purpose**

The purpose of this report is to provide a response to the 27 September 2022 Council Resolution (22.3) on presenting probable solutions to resolve flooding at the Tawarri car park. This report will provide comparison between the proposed solutions, complexity of work, and magnitude of cost for Council consideration.

**Recommendation**

**Council request the CEO to further investigate the suitability of the proposed options and present a report to Council detailing preferred options, concept designs, and estimated costs, once all information on the feasibility of options is gathered.**

**Voting Requirement**

Simple Majority.

**Background**

At the 27 September 2022 Ordinary Council Meeting, Council resolved:

“That Council requests the CEO to present a report to Council at the December Ordinary Council Meeting detailing solutions to the flooding in the Tawarri car park including increased soakwell capacity at the current location, additional soakwells, raising the roadway, or any other solutions.”

The Administration investigated the probable cause(s) and contributing factors for the drainage issues at the Tawarri car park. It was identified that the drainage infrastructure within the Tawarri car park has a limited rate of infiltration due to the close proximity to the Swan River and the shallow ground water level. In addition, the existing road profile is not appropriately graded creating a trapped low point in the south-east corner of the carpark.

During a recent site investigation, it was noted that the existing drainage infrastructure was full and did not have the capacity for additional stormwater due to the very poor rate of natural infiltration.

Consultation has commenced between the Administration and the Department of Biodiversity, Conservation and Attractions (DBCA) on the feasibility of collection, treatment and discharging of the stormwater directly into the Swan River. The Administration is awaiting formal response from DBCA on the requirements and extent of treatment required for this to be appropriately assessed for feasibility across sustainability, environmental impact and cost implications (capital and ongoing maintenance).

The works undertaken to date are preliminary only and Administration recommends additional investigation, risk assessment and further liaison with DBCA are undertaken before a further report is brought to Council.

**Discussion**

The Tawarri car park provides additional access to the Beaton Park for community recreational activity including Jo Wheatley All Abilities Play Space. It provides a dedicated bus parking bay and 26 car parking bays. This car parking space is suitable considering the traffic and parking requirements, however, improvement in the design and provision of drainage infrastructure is required, with due consideration to the proximity to the Swan River and high water table throughout the year.

The Administration has proposed three solutions for further investigation to confirm the viability and suitability of the solutions. The proposed solutions are:

**Option 1**

Raising of roadway from the Tawarri Car Park to the Perth Flying Squadron Yacht Club entry. A concept sketch for this option was prepared by the Administration to allow for additional formal parking along the Esplanade and ties in with the works that were proposed by the Tawarri Hot Springs development. This concept also targets existing drainage issues at parking spaces along the Esplanade, drainage issues at the south-east corner of the carpark and improves drainage capacity by grading the carpark away from the current trapped low point along with additional drainage infrastructure along the proposed road section. It is anticipated that this option would be significantly higher capital cost compared to other proposed solutions, however, would allow a more wholistic approach to the renewal of the infrastructure and mitigating the drainage issues, provide improved economies of scale and be more enticing to potential contractors. Please refer Attachment 1 – Tawarri Car Park Drainage Improvement Option-1 for additional information.

If this option becomes the preferred solution, then detailed investigation and designs will need to be completed to ensure the works will remediate the drainage issues currently experienced on the site.

**Option 2**

This option proposes provision of stormwater collection, treatment, and disposal to the Swan River. The Administration is in consultation with the Department of Biodiversity, Conservation and Attractions (DBCA) and are awaiting a formal response on the feasibility of this treatment solution. The Administration believe that this option likely to be the most cost effective and efficient option available, however will require significant further investigation, design and liaison with DBCA. Due to the treatment technical requirements and approvals needed for water discharge into the Swan River this process is expected to take a significant amount of time.

**Option 3**

Do nothing and maintain current status quo. This option will see the carpark continue to flood during winter months, however, will not incur a capital cost to the City. Upgrades to the drainage of the carpark could then be considered at the time of any future development on the Tawarri site.

Please refer below options comparison to prioritise proposed solutions.

|  |  |  |  |
| --- | --- | --- | --- |
|  | **Option 1** | **Option 2** | **Option 3** |
| **Type of solution** | Longer term solution | Longer term solution | Short to medium term solution |
| **Magnitude of Cost** | Estimated $1,200,000 | TBA | No cost implication |
| **Complexity of Work** | High | Medium | Nil |
| **Design need** | Detailed design Feature Survey | Appropriate design  Feature Survey  DBCA approval | Nil |
| **Benefits** | Improvement to:   * Road Infrastructure * Formal Parking increase * Drainage capacity | Improvement to:   * Drainage capacity | * No immediate cost implication * Potential cost savings by tying any works to |
| **Drawbacks** | * Added operation/ maintenance cost * High cost | * Added operation/ maintenance cost | * Drainage issues will remain unresolved |

**Consultation**

Consultation with internal stakeholders was conducted and feedback sought to ensure wholistic approach to the proposed solutions. Further engagement with both internal and external stakeholders (DBCA) will be required dependent on preferred proposed solution.

**Strategic Implications**

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

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

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

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

**Great Natural and Built Environment**

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

**High standard of services**

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

**Great Governance and Civic Leadership**

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

**Great 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.

**Priority Area**

* Urban form - protecting our quality living environment
* Renewal of community infrastructure such as roads, footpaths, community and sports facilities
* Providing for sport and recreation
* Managing parking

**Budget/Financial Implications**

It is anticipated that the Council will instruct the administration to further investigate the suitability of the proposed options and present a report at a future Ordinary Council Meeting to explore range of cost implications for Council consideration.

Any detailed design works required to progress towards a solution will be unfunded as part of this year’s budget and will require an adjustment at the Mid-Year review.

**Legislative and Policy Implications**

* [Community Engagement Council Policy](https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww.nedlands.wa.gov.au%2Fdocuments%2F259%2Fcommunity-engagement&wdOrigin=BROWSELINK) – the City is required to consult with stakeholders on all proposals and new initiatives in accordance with Council’s policy.
* [Planning for Stormwater Management Affecting the Swan Canning Development Control Area – Corporate policy statement no. 49](https://www.dbca.wa.gov.au/sites/default/files/2020-12/Corporate%20Policy%20Statement%2049%20-%20Planning%20for%20Stormwater%20Management.pdf) – The City is obligated to:
* Not result in further water quality degradation of the Swan Canning river system, and where possible, improve the situation; and
* Protect and enhance the ecological health, community benefits and amenity of the river system.

**Decision Implications**

The proposed solutions or any other suggested solution(s) need further investigation into their suitability and implications. It is anticipated that the Administration will present a report to formalise the solution at a future Ordinary Council Meeting for Council consideration.

**Conclusion**

The Administration has proposed three options for the drainage at the Tawarri Carpark considering interim to long-term solutions, comparing their complexity of work and magnitude of cost.

Further investigation will be required to determine the most effective solution from the proposed options or any other suggested option(s). It is anticipated that the administration will present a report detailing the suitability of the proposed / suggested solutions and their cost implications to formalise the long-term approach to drainage issue at the Tawarri carpark at a future Ordinary Council Meeting for Council consideration.

Considering nature and complexity of the probable solution(s) for Tawarri carpark the Administration recommends that all options are given due consideration of time and are thoroughly investigated to ensure long term effective and sustainable solution(s) are identified and implemented.

**Further Information**

**Question**

Councillor Mangano – is there a parcel of land where we can filter/treat storm water off rather than it being pumped into the river and so the carpark is not flooded.

**Officer Response**

The most appropriate parcel of land which could be used to treat the stormwater is the Tawarri site which is managed by the State Government. Alternate surrounding land parcels would require significant rework of the car park levels and grade to be used.

Administration will liaise with the Department of Planning, Lands and Heritage to investigate the possibility of using this area to store and treat stormwater.

**Question**

Could the City investigate the large green patches on the proposed Tawarri site?

**Officer Response**

The Administration can liaise with the Department of Planning, Lands and Heritage on the feasibility of utilising the parcel of land to the south of the Tawarri carpark as this parcel of land is wholly controlled by the State Government.

# TS26.12.22 Revised Crossover Construction and Maintenance Council Policy

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting – 13 December 2022 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil. |
| **Report Author** | Aaron MacNish – Coordinator Transport and Development |
| **Director** | Daniel Kennedy-Stiff - Acting Director Technical Services |
| **Attachments** | 1. Revised Crossover Construction and Maintenance Policy (with track changes) 2. Revised Crossover Guidelines and Specifications (with track changes) |

**Purpose**

The purpose of this Council report is to present the revised Crossover Construction and Maintenance Policy and revised Specification for the Construction of Crossover for endorsement by Council.

**Recommendation**

**That Council:**

1. **approves the revised Crossover Construction and Maintenance Policy as per attachment 1; and**
2. **receives the revised Crossover Guidelines and Specifications as per attachment 2.**

**Voting Requirement**

Simple Majority.

**Background**

At the OCM on 22 March 2022 Council resolved:

That Council:

1. receives the Drainage Infrastructure Upgrade Study, noting that further investigation is occurring at the following sites:
   1. Charles Court Reserve, Nedlands
   2. The Bulimba Road catchment (Bulimba Road, Taylor Road and Jenkins Avenue)
   3. Allen Park Oval
   4. 153,161 and 165 Broadway, Nedlands
   5. 2 Joyce Street, Dalkeith
   6. 111 Dalkeith Road, Dalkeith
   7. Further properties as they arise through the ongoing consultation
   8. Government Road Sump System
2. directs the Chief Executive Officer to include the Drainage Infrastructure Upgrade Study recommendations into the long-term financial plan.
3. endorses the following capital works projects for 2021 – 22:
   1. Taylor Road Basin
   2. Waroonga Road Basin
   3. 30 Bulimba Road, Nedlands
   4. 55 Adderley Street, Mount Claremont
   5. 57 Adderley Street, Mount Claremont
   6. 54 Jenkins Road, Nedlands
   7. 3A Bulimba Road, Nedlands
   8. 12 Edwards Green, Floreat
   9. 105 Broadway, Nedlands
   10. 1A Doonan Road, Nedlands
4. Endorses the administration proposal to acquire temporary flood barriers to mitigate risk for those properties identified in this Study that have not been included in the updated 2021-22 capital works projects.
5. Directs the Chief Executive Officer to review the City’s Stormwater Policy; and
6. Directs the Chief Executive Officer to review the City’s Crossover Specifications.
7. Directs the Chief Executive Officer to review the flooding issues along the Safe Active Street in consideration of this drainage report and present an item to Council for consideration.

This Council Report is in response to item 6 of the above Council resolution.

The City adopted the current Crossover Construction and Maintenance Policy in October 2000. The policy was revised several times between 2003 and 2019.

The Western Australia Planning Commission endorsed Local Planning Scheme 3 (LPS3) in February 2019. LPS3 targets an additional 2,540 dwellings by the Year 2031 and an additional 6,500 dwellings by the Year 2050. Following the introduction of LPS3 lots have been re-zoned with increased density. The City is receiving more crossover applications than previous years due to this re-zoning and increased construction works.

While reviewing the guidelines as directed, it became evident to Administration that the current policy is unclear about the acceptable number of crossover(s) per lot and does not consider the safety of footpath users.

**Discussion**

The revised Crossover Construction and Maintenance Policy has been written to address the following key items:

1. The draft policy limits the number of crossovers to one per lot. However, the Policy will allow for additional crossovers in specific circumstances such as corner lots or lots with large street frontages.
2. Footpath users are given priority over a motorist on a crossover by requiring footpaths to be continuous through the crossover; and
3. The proposed draft policy puts emphasis on the safety of footpath users and limits the number of crossovers per lot. These initiatives will improve safety and encourage active transport across the City of Nedlands.
4. A wider crossover in a residential area may be perceived like an intersection, as such, where a crossover combining two driveways of adjacent lots exceeds 9.0m in width, it is recommended to provide 1.0m separation between crossovers.
5. If this policy is adopted, the City will be in a stronger position to limit the number of crossovers being constructed, increasing efficiency in assessment process and providing more opportunity for landscaped verges.
6. Provides clear direction that the whole vehicle crossover is the responsibility of the property owner to maintain and repair. This includes the apron at the interface between the road and verge.

The Crossover Guidelines and Specifications have been updated to align with the revised policy and addressing known concerns with the current specification such as:

1. Changes to apron design: In the current specification, the vertical transition occurs over 0.6m, which was found to be steep and prone to vehicles scraping. In the draft specification, the transition is proposed to be over 1.0m. It will reduce a chance of scraping.
2. Path User Safety: 80% visible fence is proposed within the vision triangles at the interface for a crossover and the property boundary. It is also proposed to continue a footpath through crossover.
3. Reversing Area: The new crossover Guidelines and Specifications shows the geometries of the reversing areas within the property boundary.
4. Exiting from a Property: As per the current requirement, properties fronting District Distributor B and above, motorists are required to enter and exit properties in a forward gear. In the proposed specification in addition to this requirement, if a property is fronting a busy street (traffic volume is 5,000 vehicles per day or above, or peak hour traffic volume is 500 vehicles per hour), motorists should enter or exit the property in a forward gear.

The current material choices for crossover construction within the City of Nedlands is brick paving or concrete. Consideration shall also be given to permeable paving that can demonstrate similar durability as concrete and brick alternatives. Permeable paving allows stormwater run-off to infiltrate back into the groundwater and has been shown to be beneficial to the health of adjacent street trees.

**Consultation**

Nil.

**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.

**Great Natural and Built Environment**

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

**High standard of services**

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

**Great Governance and Civic Leadership**

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

**Great Communities**

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

**Reflects Identities**

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

**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**

* Urban form - protecting our quality living environment
* Renewal of community infrastructure such as roads, footpaths, community and sports facilities
* Encouraging sustainable building
* Managing parking

**Budget/Financial Implications**

It is expected that this policy amendment will lead to a reduction in expenditure on maintenance of private crossovers by clarifying maintenance and repair responsibilities. The extent of works required when there is a conflict between a footpath and crossover will also reduce by having footpaths continue through a crossover.

There will be an associated increase in footpath maintenance and renewal expenditure as a result of a slightly larger footpath area.

**Legislative and Policy Implications**

[Local Government (Uniform Local Provisions) Regulations 1996](https://nedlands365.sharepoint.com/sites/technical/management/reporting/2022%20-%20Council%20Report%20Prep%20-%20December/Local%20Government%20(Uniform%20Local%20Provisions)%20Regulations%201996.pdf)

[Local Government Act 1995 1995 Schedule 9.1(7)](https://nedlands365.sharepoint.com/sites/technical/management/reporting/2022%20-%20Council%20Report%20Prep%20-%20December/Local%20Government%20Act%201995.pdf)

[City of Nedlands Council Policy – Crossover Construction and Maintenance](https://nedlands365.sharepoint.com/:w:/r/sites/controlled_documents/Council_Policies_Procedures/_layouts/15/Doc.aspx?sourcedoc=%7BFB6AA99A-989F-42F5-A6FD-897016A41C80%7D&action=view&source=https%3A%2F%2Fnedlands365.sharepoint.com%2Fsites%2Fcontrolled_documents%2FCouncil_Policies_Procedures%2Fdefault.aspx)

**Decision Implications**

Should Council choose to endorse the revised Crossover Construction and Maintenance Policy the City will be in a stronger position to refuse multiple crossover requests per lot and can begin enforcing a more uniform approach to crossover approvals within the City. The endorsement of the revised specification with make clear the property owners’ responsibilities and provide clear direction for the minimum construction standard expected in the City.

Should the Council not choose to endorse the Crossover Construction and Maintenance Policy it will continue to be difficult to control the number of crossovers resident have to their properties and there will be continued ambiguity over the maintenance responsibilities of vehicle crossovers especially the crossover aprons which comes at a significant cost to the City.

**Conclusion**

The revised Crossover Construction and Maintenance Policy and Guidelines and Specifications bring the City documents in-line with current best practices and provide the City the best opportunity to continue to deliver a safe street space with amenity for all users not just those in cars.

It is recommended that Council endorse the revised Crossover Construction and Maintenance Policy and accept the updated Guidelines and Specifications.

**Further Information**

**Question**

Councillor Mangano – What is specification of materials for crossover when a new footpath is constructed through existing crossovers?

**Officer Response**

Administration recommends that the priority of the footpath be highlighted through the requirement for new footpaths to be grey brushed concrete, except in town centre areas which would be assessed and treated on an individual basis.

**Question**

Stormwater management – is there any risk if the ratepayer constructs the aprons as opposed to the City?

**Officer Response**

There is minimal risk to the City. The City has clear specifications that are required to be followed when a new crossover is constructed. Newly constructed crossovers shall be inspected by the City and the City has powers to instruct the resident to reconstruct to the City’s satisfaction and specification, or undertake the work ourselves and recoup the cost should the resident fail to comply with the request.

**Question**

Councillor Smyth – are aprons on commercial or public utility land required to comply with this Policy?

**Officer Response**

Yes. Specifications for commercial crossovers are included within the updated specification.

**Question**

Mayor Argyle – what are the safety implications associated with commercial crossovers?

**Officer Response**

Safety implications of commercial crossovers are typically associated with higher traffic volumes, larger vehicles and larger crossovers meaning longer crossing distances for pedestrians.

Australian Standard 2890 – Parking Facilities requires crossover with certain volumes of traffic to be considered as intersections. All Australian Standards remain in effect without a need to specifically reproduce them in the proposed policy.

**Question**

Councillor Bennett – Could the administration consider amendments to this policy so it references the street tree policy and reducing the minimum distance of street trees from 2m to 1m from crossovers?

**Officer Response**

Administration will include a specific reference to the Street Tree Policy within the Crossover Policy.

The clearance to street trees of 2m is consistent with the City’s Street Tree Policy and Administration recommends not altering this minimum distance.

**Question**

Could a Grandfather clause to be added to ensure the policy only applies to new crossovers not existing?

**Officer Response**

Clause 10 of the Policy states “ The compliance of a crossover shall be determined by the crossover policy in place at the time of construction”

**Question**

Could a non-standard driveway provision be added to be applied when trying to preserve a significant tree.

**Officer Response**

Administration recommends a new clause could be added to the Policy as follows:

Where a verge tree is registered as a “significant tree” on the City of Nedlands Significant Tree Register discretion may be applied to the approved form of the proposed crossover. This is at the sole discretion of the City and does not guarantee a crossover will be approved where a significant tree is present.

**Question**

Councillor Youngman (submitted via email):

Can Point 8 (page 125 of the agenda) which is proposed to read:

Where applicable the City will encourage applicants to consider a single crossover to a double garage.

Could be modified along the lines of:

A property Coded R30 or greater shall only be permitted a maximum 4.5m wide crossover, unless the crossover services more than 2 dwellings.

**Officer Response**

4.8m is the minimum width of a standard double garage, as such this is proposed to be adopted as the maximum crossover width in place of 4.5m.

Administration recommends amending Where applicable the City will encourage applicants to consider a single crossover to a double garage in the Policy as follows:

A property coded R30 or greater shall only be permitted a maximum 4.8m wide crossover, unless the crossover services more than 4 dwellings, where a maximum of a 6m crossover can be permitted.

**Revised Officer Recommendation:**

**That Council:**

1. **approves the revised Crossover Construction and Maintenance Policy as per attachment 1 including the following amendments:**
   1. **Adds a clause stating - Where a verge tree is registered as a “significant tree” on the City of Nedlands Significant Tree Register discretion may be applied to the approved form of the proposed crossover. This is at the sole discretion of the City and does not guarantee a crossover will be approved where a significant tree is present.**
   2. **Amend Clause 8 to state: ‘A property coded R30 or greater shall only be permitted a maximum 4.8m wide crossover, unless the crossover services more than 4 dwellings where a maximum of a 6m crossover can be permitted’.**
2. **receives the revised Crossover Guidelines and Specifications as per attachment 2.**

# TS27.12.22 Revised Stormwater Policy

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting – 13 December 2022 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil. |
| **Report Author** | Aaron MacNish – Coordinator Transport and Development |
| **Director** | Daniel Kennedy-Stiff - Acting Director Technical Services |
| **Attachments** | 1. Revised Stormwater Policy (with track changes) |

**Purpose**

The purpose of this report is to provide Council with an revised Stormwater Policy for endorsement.

**Recommendation**

**That Council approves the revised Stormwater Policy as per attachment 1.**

**Voting Requirement**

Simple Majority.

**Background**

At the OCM on 22 March 2022 Council resolved:

That Council:

1. Receives the Drainage Infrastructure Upgrade Study, noting that further investigation is occurring at the following sites:
   1. Charles Court Reserve, Nedlands
   2. The Bulimba Road catchment (Bulimba Road, Taylor Road and Jenkins Avenue)
   3. Allen Park Oval
   4. 153,161 and 165 Broadway, Nedlands
   5. 2 Joyce Street, Dalkeith
   6. 111 Dalkeith Road, Dalkeith
   7. Further properties as they arise through the ongoing consultation
   8. Government Road Sump System
2. Directs the Chief Executive Officer to include the Drainage Infrastructure Upgrade Study recommendations into the long term financial plan.
3. Endorses the following capital works projects for 2021 – 22:
   1. Taylor Road Basin
   2. Waroonga Road Basin
   3. 30 Bulimba Road, Nedlands
   4. 55 Adderley Street, Mount Claremont
   5. 57 Adderley Street, Mount Claremont
   6. 54 Jenkins Road, Nedlands
   7. 3A Bulimba Road, Nedlands
   8. 12 Edwards Green, Floreat
   9. 105 Broadway, Nedlands
   10. 1A Doonan Road, Nedlands
4. Endorses the administration proposal to acquire temporary flood barriers to mitigate risk for those properties identified in this Study that have not been included in the updated 2021-22 capital works projects.
5. Directs the Chief Executive Officer to review the City’s Stormwater Policy;
6. Directs the Chief Executive Officer to review the City’s Crossover Specification; and
7. Directs the Chief Executive Officer to review the flooding issues along the Safe Active Street in consideration of this drainage report and present an item to Council for consideration.

This council report addresses point 5 of the above Council resolution.

Administration proposes to amend the existing stormwater policy to align with current best practices of stormwater management, whilst maintaining the fundamentals of the existing Stormwater Policy. The update to the Policy provides more concise guidance on the arrangements for the disposal of stormwater for residential, commercial, and industrial properties including new land development and modification/alteration/extension of existing developments.

**Discussion**

The intent of the review of the Stormwater Policy is to provide updated guidance to Developers within the City of Nedlands on the required design criteria for drainage infrastructure within the City. The updated policy includes:

1. Details the City’s preferred method of Stormwater volume management - the use of infiltration systems at the source.
2. The updated policy will provide guidance on the design capacity of soak wells via the City of Nedlands soak well calculator spreadsheet for residential developments up to five dwellings, which is proposed to be available online. New infiltration systems shall be required to be designed based on the 1% Annual Exceedance Probability (AEP), and Infiltration coefficient of 8.0m /day. This recommendation is in line with the recommendation provided by GHD following the July 2021 storm.
3. All drainage systems designed for other developments (commercial, industrial & mixed-use multilevel developments) shall be certified by a suitably qualified drainage engineer (registered with Engineers Australia) to the satisfaction of the City for a 1% AEP rainfall event.
4. Connection to the City’s stormwater drainage system is only supported where on-site stormwater cannot be accommodated due to unsuitable ground condition for onsite disposal. All works and cost associated with connecting the developments internal drainage system to the City’s stormwater drainage system, including the design, construction and cost of all necessary extensions and upgrades to the City’s stormwater drainage system, shall be borne by the applicant.
5. For modification, extension and/or alteration to existing properties, the applicant must provide evidence that the existing drainage system has sufficient capacity to accommodate both existing development and additional new development. If the existing drainage system is not capable of accommodating additional stormwater from the proposed new/additional development, then a drainage system with additional capacity shall be designed by a suitably qualified Engineer to the satisfaction of the City and installed to cater for the additional stormwater.
6. The costs and works associated with the ongoing maintenance of onsite systems is the responsibility of the property owner, including cleaning of debris and removal of sediment from the base of the pit/tank, where required.
7. If offsite discharge is required and approved, the stormwater should be treated prior to discharging from the site to the City’s stormwater drainage system in accordance with Table 3.3.6 – 3.3.7 of National Water Quality Management Strategy - Australian and New Zealand - Guidelines for Fresh and Marine Water Quality 2000 – Volume 1.

**Consultation**

Consultation was undertaken with GHD as part of the City-wide drainage investigation and the recommendations have been incorporated into the proposed Policy update.

**Strategic Implications**

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

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

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

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

**Great Natural and Built Environment**

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

**High standard of services**

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

**Priority Area**

* Urban form - protecting our quality living environment
* Renewal of community infrastructure such as roads, footpaths, community and sports facilities

**Budget/Financial Implications**

The adoption of this policy will lead to an increase in rainfall run off being retained on private lots resulting is less storm water that the City needs to retain and capture within the road reserve and therefore less storm water infrastructure being required.

The adoption of this policy may lead to an increased cost of development within the City due to an increased requirement for drainage infrastructure on private property.

**Legislative and Policy Implications**

[City of Nedlands Stormwater Council Policy](https://nedlands365.sharepoint.com/:w:/r/sites/controlled_documents/Council_Policies_Procedures/_layouts/15/Doc.aspx?sourcedoc=%7B1C1BB6F5-E325-45C2-8CE0-BDAD283DA935%7D&action=view&source=https%3A%2F%2Fnedlands365.sharepoint.com%2Fsites%2Fcontrolled_documents%2FCouncil_Policies_Procedures%2Fdefault.aspx)

**Decision Implications**

Should Council resolve to endorse this Policy development costs within the City of Nedlands will increase slightly due to a larger volume of storm water needing to be retained on site.

If Council resolves not to endorse this Policy there is a higher likelihood of more frequent flooding events with a need for the City to dramatically upgrade the storm water infrastructure within City land this will include new kerbing, soak wells, drainage pipe, storm cells and other associated infrastructure to cope with the higher storm water run-off.

**Conclusion**

In response to increased urban infill and a reduction in permeable surfaces within the City of Nedlands there is a requirement for private developments to retain a higher intensity rain fall event wholly onsite to reduce the stormwater runoff into the public realm and reduce the likelihood of flooding occurring throughout the City.

City officers recommend that Council endorses the updated Stormwater Policy.

**Further Information**

**Question**

Councillor Mangano – has administration got any plans regarding width and consequences of the drainage on the Safe Active Street.

**Officer Response**

The drainage on the Safe Active Street is a separate matter not applicable to this revised Stormwater Policy. Notwithstanding Administration are developing a solution to improve drainage along the Safe Active Street and this will be presented to Council for consideration during the 2023/24 budget process.

**Question**

Councillor Bennett – can some consideration be given to stormwater in low lying areas with high water tables and designated flood risk areas.

**Officer Response**

The following paragraph in the proposed policy covers these situations:

‘Although soak wells are the most common infiltration system employed within the City of Nedlands applicants are able to submit alternative infiltration designs provided they are prepared by a qualified civil engineer with the design to be satisfactory to and approved by the City of Nedlands.’

Administration recommends updating this paragraph as follows:

‘Although soak wells are the most common infiltration system employed within the City of Nedlands, in areas where applicants can demonstrate that infiltration is not a suitable stormwater treatment option, applicants are able to submit alternative designs provided they are prepared by a qualified civil engineer with the design to be satisfactory to and approved by the City of Nedlands.’

**Question**

Stronger wording for reuse of stormwater i.e. watering street trees.

**Officer Response**

Each site is different, so the Policy does not stipulate specific treatments. The Policy refers to the requirement to retain, use and infiltrate stormwater at the source, integrate stormwater treatments into the landscape. It further states that Stormwater Management Planning should be in accordance with Department of Water and Environmental Regulation’s “Better Urban Water Management” documentation.

**Revised Officer Recommendation**

**That Council approves the revised Stormwater Policy as per attachment 1 with the following amendments:**

**Updates the following paragraph “Although soak wells are the most common infiltration system employed within the City of Nedlands applicants are able to submit alternative infiltration designs provided, they are prepared by a qualified civil engineer with the design to be satisfactory to and approved by the City of Nedlands.” to read as follows: “Although soak wells are the most common infiltration system employed within the City of Nedlands, in areas where applicants can demonstrate that infiltration is not a suitable stormwater treatment option, applicants are able to submit alternative designs provided they are prepared by a qualified civil engineer with the design to be satisfactory to and approved by the City of Nedlands.**

# TS28.12.22 RFT 2022-23.14 Tree Pruning Services – Streetscapes, Parks, Powerline Clearance & Natural Areas

|  |  |
| --- | --- |
| **Meeting & Date** | Council – 13 December 2022 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil. |
| **Report Author** | Jac Scott – Manager Parks Services |
| **Director** | Daniel Kennedy-Stiff – Acting Director Technical Services |
| **Attachments** | 1. CONFIDENTIAL Evaluation and Recommendation Report –Award RFT 2022-23.14 – Tree Pruning Services – Streetscapes, Parks, Powerline Clearance & Natural Areas |

**Purpose**

The purpose of the report is for Council to accept the evaluation and recommendation for the award of RFT 2022-23.14 – Tree Pruning Services – Streetscapes, Parks, Powerline Clearance & Natural Areas to Liveable Group Pty Ltd t/as Professional Tree Surgeons.

**Recommendation**

**That Council:**

1. **approves the award of the contract for** **Tree Pruning Services – Streetscapes, Parks, Powerline Clearance & Natural Areas in accordance with the City’s Request for Quote number RFT 2022-23.14 and comprising of that request, the City’s Conditions of Contract and the Liveable Group Pty Ltd t/as Professional Tree Surgeons submission; and**
2. **instructs the CEO to arrange for a Letter of Acceptance and a Contract document be sent to Liveable Group Pty Ltd t/as Professional Tree Surgeons for execution.**

**Voting Requirement**

Simple Majority.

**Background**

There are approximately 24,300 trees within the City of Nedlands that are located within streetscapes and parks. In addition, there is an undetermined number of trees located in natural conservation/bushland areas. A proportion of the trees located in streetscapes are situated under or adjacent to Western Power above ground power distribution/transmission infrastructure.

The City is required to undertake pruning of street trees as required (generally once annually) to maintain statutory clearances to Western Power overhead powerline infrastructure. The main objective of the Works is to maintain statutory clearances to overhead powerlines in accordance with Western Power guidelines whilst maintaining tree canopy and health

The purpose of this contract is for the Contractor to assist the City’s Parks and Environmental Conservation teams undertake tree pruning and associated works in streetscapes, parks and natural areas on an as required basis. The main objective of the Works is to manage tree associated risks, maintain tree health, preserve aesthetic and environmental values, and reduce fuel loads in addition to:

* Repairing storm damage;
* Under pruning;
* Pathway pruning/hedging;
* Side pruning;
* Removal of dead wood, and/or selective branch removal;
* Crown thinning;
* Tree removal;
* Stump grinding;
* Chipping of green waste or dead material; and
* Habitat pruning.

To ensure that the City can continue to undertake these vital works, a Request for Tender was offered to open market through Tenderlink during the period 22 October 2022 – 15 November 2022. The City received one (1) submission.

**Discussion**

After the closure of the tender period, the evaluation panel completed the analysis and evaluation of the one (1) submission.  At the conclusion of the process Liveable Group Pty Ltd t/as Professional Tree Surgeons is the preferred supplier for this package of works. The submissions were rated against the following criteria:

* Relevant Experience (30%),
* Key personnel skills and experience (20%),
* Respondents resources (20%), and
* Demonstrated Understanding (20%)

Liveable Group Pty Ltd t/as Professional Tree Surgeons provided information on similar works that they have recently undertaken, successfully demonstrating an ability to complete the requirements of this request.

Key personnel listed were well experienced, suitably skilled and have experience delivering similar works to other local government organisations.

The Respondent’s resources were well detailed and provided good information on contingency planning to ensure the tree maintenance works would be delivered.

Liveable Group Pty Ltd t/as Professional Tree Surgeons have provided a comprehensive understanding of the City’s requirements.

Following the due diligence processes that the City has undertaken, the City is confident that Liveable Group Pty Ltd t/as Professional Tree Surgeons 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.

Our gardens, streets, parks and bushlands will be clean, green and tree-lined and we will live sustainably within the natural environment.

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

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

**Great Natural and Built Environment**

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

**High standard of services**

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

**Reflects Identities**

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

**Priority Area**

* Urban form - protecting our quality living environment
* Retaining remnant bushland and cultural heritage

**Budget/Financial Implications**

Council provides funding for the operation and maintenance of the public trees in the urban environment within the City’s annual operational budget. Currently, the annual operational budget provides for inspections, minor tree surgery and regulatory assessments on the City’s existing tree canopy. The works covered by this contract would be undertaken within the annual operational budget allocation for Parks and Reserves Maintenance.

The forecast annual expenditure under this contract is estimated to be approximately $250,000 in its first year and is accounted for in the Parks operational budgets.

**Legislative and Policy Implications**

The award of this quote is governed by the City of Nedlands [Procurement of Goods and Services Policy](https://www.nedlands.wa.gov.au/documents/608/procurement-of-good-and-services-council-policy).

The works to be delivered under this contract are in line with the City of Nedlands [Asset Management Policy.](https://www.nedlands.wa.gov.au/documents/251/asset-management-council-policy)

**Decision Implications**

By endorsing the officer recommendation, a contractor will be appointed to provide remedial tree pruning operations in streetscapes, parks and natural areas as and when required to support tree health, improve amenity value, repair storm damage, undertake crown lifting, maintain statutory clearances, remove dead wood, manage risk and remove whole trees as required.

By not endorsing the recommendation, tree assets will continue to not be effectively maintained, and may lead to safety issues resulting from lack of pruning.

**Conclusion**

Liveable Group Pty Ltd t/as Professional Tree Surgeons have completed tree surgery and maintenance projects for other metropolitan local governments, have the required skills and experience necessary to complete the works. It is for these reasons that they are the recommended organisation for this contract of works.

Liveable Group Pty Ltd t/as Professional Tree Surgeons scored highly in a number of areas. The price schedule provided by Liveable Group Pty Ltd t/as Professional Tree Surgeons Civil was the lowest of the assessed submissions. Their submission demonstrated suitable organisational capabilities, high quality outcomes from similar work backed up by references and an excellent understanding of the requirements of the contract. Assessment officers were in agreement that Liveable Group Pty Ltd t/as Professional Tree Surgeons offered a competitive market rate value for money.

**Further Information**

**Question**

Councillor Mangano – how much money would we save if underground power was completed?

**Officer Response**

Analysis of current programs which will be impacted/influenced by Underground Power will be undertaken as part of the business case.

# Divisional Reports - Corporate & Strategy Report No’s CPS57.12.22 to CPS62.12.22

# CPS57.12.22 Delegation of Authority – Award Tenders during Council Recess

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting – 13 December 2022 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil. |
| **Report Author** | Brett Jenkins – Procurement Officer |
| **Director** | Michael Cole – Director Corporate Services |
| **Attachments** | Nil |

**Purpose**

This report is being presented to Council to seek approval for the CEO, in conjunction with the Mayor, to individually award contracts listed in this report up to the value of $2,000,000 during the New Year Council Recess period. Council approval is also sought for the CEO, in conjunction with the Mayor, to approve the awarding of request for quotations between $50,001 and $350,000 where the minimum number of required quotations received have not been met. This will be an amendment to the City of Nedlands' Register of Delegated Authority if required, with respect to the Council recess period.

**Recommendation**

**That Council:**

1. **amends delegation 1.1.17 Tenders for Goods and Services – Accepting and Rejecting Tenders; Varying Contracts; Exercising Contract Extension Options to add the following:**
2. **the CEO in consultation with the Mayor accept a tender to a maximum value of $2,000,000 and may decline to accept any tender during the yearly Council recess period from the date following the last Ordinary Council Meeting of the year in December 2022 until 31 January 2023; and**
3. **amends delegation 1.1.18 Tenders for Goods and Services - Exempt Procurement to add the following:**
4. **the CEO award request for quotations, between $50,001 and $350,000 where the minimum number of required quotations received have not been met during the yearly Council recess period from the date following the last Ordinary Council Meeting in December 2022 until 31 January 2023.**

**Voting Requirement**

Absolute Majority.

**Background**

The City of Nedlands Procurement of Goods and Services Council Policy requires tenders to be approved by Council where the procurement threshold is above $350,000. The policy also states where the request for quotation is between $50,001 and up to $350,000, and the minimum number quotations received is not satisfied, Council approval will be required to award the request for quotation.

**Discussion**

It is proposed to increase the amount the CEO can approve under delegated authority for procurement over the Christmas/New Year Council recess period.

For example, during the 2022/23 Council Recess period, it is anticipated that following request for tenders will require CEO, in conjunction with the Mayor, approval;

* EOI 2022-23.10 – Rehabilitation Smyth Road & Rochdale Road (value estimate $1.9 million and $1.0 million respectively)
* RFT 2022-23.12 – Provision of Electrical Services (value estimate $350,000)

Where possible, City staff aim to seek quotations above the minimum number outlined in the City of Nedlands Procurement of Goods and Services Policy. As a contingency measure, the following request for quotations maybe subjected to not receiving the required number of quotation responses for expenditure estimated to be between $50,001 and $350,000.

* RFQ 2022-23.12 – Strategic Community Plan (value estimate $50,000)
* RFQ 2022-23.13 – Fleet 118 & 119 changeover (value estimate $150,000)
* RFQ 2022-23.14 – Greenways Maintenance (value estimate $220,000)

**Consultation**

Internal consultation was undertaken by the procurement team with the City’s two largest procurers in Technical Services and Information Technology. All procurements expected to be undertaken during the Council Recess period have been stated in this report.

**Strategic Implications**

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

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

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

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

**Budget/Financial Implications**

Nil.

**Legislative and Policy Implications**

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

Under the Local Government Act 1995:

5.42. Delegation of some powers and duties to CEO

(1) A local government may delegate\* to the CEO the exercise of any of its powers or the discharge of any of its duties under —

(a) this Act other than those referred to in section 5.43; or

(b) the Planning and Development Act 2005 section 214(2), (3) or (5).

\* Absolute majority required.

(2) A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation.

5.43. Limits on delegations to CEO

A local government cannot delegate to a CEO any of the following powers or duties —

(b) accepting a tender which exceeds an amount determined by the local government for the purpose of this paragraph.

**Decision Implications**

If Council endorses the recommendation, City staff can progress the procurement process to carry out works early and meet capital works and other budgeted obligations.

If Council does not endorse the recommendation, then the procurement process will be delayed causing planned works to be postponed resulting in project delays.

**Conclusion**

To ensure there is no delay to the services and projects the City will deliver, it is recommended Council approve:

1. To delegate authority to the CEO to award request for tenders listed in this report during the annual Council Recess period, in conjunction with the Mayor, up to a value of $2,000,000; and
2. To delegate authority to the CEO to award request for quotations listed in this report during the annual Council Recess period, in conjunction with the Mayor, where the minimum number of quotations received has not been met for procurements between $50,001 and $350,000.

**Further Information**

**Question**

Councillor Coghlan – Could you please advise if this delegation applies in October of an election year?

**Officer Response**

The delegation will only apply during the Christmas and January recess.

# CPS58.12.22 Quarterly Budget Review – September 2022

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting – 13 December 2022 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil. |
| **Report Author** | Stuart Billingham – Manager Financial Services |
| **Director** | Michael Cole – Director Corporate Services |
| **Attachments** | Attachment 1 - Quarterly Budget Review September 2022. |

**Purpose**

To present to Council the Quarterly Budget Review for the period ending 30 September 2022, detailing budget amendments and any material variances which may impact upon the 2022/23 budget and provide recommendations on how to accommodate these variations.

**Recommendation**

**That Council:**

1. **adopts the September 2022 Quarterly Budget Review as contained within the attached; and**
2. **approves the budget amendments contained in the 2022-2023 September Quarterly Budget Review, detailed as listed in Note 5 as attached.**

**Voting Requirement**

Absolute Majority.

**Background**

1. A Quarterly Budget Review for the period ending 30 September 2022 has been undertaken by the Financial Services department.
2. The September 2022 Quarterly Budget Review has been prepared and is now presented to Council for consideration and approval of the recommended budget amendments.

**Discussion**

* The Quarterly Budget Review is an early assessment of how the City is financially performing to date and is used to identify variations from the adopted budget expected by the year end. It may include new works and/or services not identified in the adopted budget.
* The Quarterly Budget review, although not a legislative requirement, is however presented to Council as industry best practice to ensure reporting timeliness and organisational agility to respond to known changes since budget adoption. Any Budget amendments are to be approved in accordance with section 6.8 of the *Local Government Act 1995* by and absolute majority vote.
* The Quarterly Budget Review does consider the unaudited opening position for the 2022/23 financial year. The main Mid-Year Budget Review to be presented to Council in February 2023, after the Annual Financial Audit is completed, will consider any final changes to the opening position.
* Known material variations to the Annual Budget are addressed in this report, including the funding identified to accommodate these variations.

**Consultation**

The City’s administration has provided details for the Quarterly Budget Review report and provided commentary on identified budget amendments requested relevant to their service area.

**Strategic Implications**

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

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

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

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

**Budget/Financial Implications**

As per note 5 in the attached quarterly budget review report, a list of requested budget amendments is submitted for consideration of Council for approval.

Increase in Carry Forward Surplus/(Deficit) $449,173

Fees & Charges revenues reduced ($393,641)

Other Revenue reduced ($ 68,940)

Materials & Contracts increased ($ 55,532)

Non-Operating Grants increased $ 83,155

Transfers to/from reserve No change

Capex F&E reduced $ 27,000

Capex Roads Infrastructure increased ($ 83,155)

Purchase of Intangibles increased ($ 27,000)

**Total movement**  **($ 0)**

**Legislative and Policy Implications**

Nil.

**Decision Implications**

Council not adopting the September 2022 Quarterly Budget Review would affect budget allocations required for this year's projects and funding.

This can be addressed by adopting the September 2022 Quarterly Budget Review and recommended budget amendments.

**Conclusion**

The Quarterly Budget Review for the period ending 30 September 2022 recommends budget amendments resulting in a rebalanced 2022/23 Rate Setting Statement. It is anticipated at Mid-Year Budget Review the audited Carry forward Surplus/(Deficit) will be finalised and adjusted accordingly.

**Further Information**

Nil.

# CPS59.12.22 Microsoft Enterprise Licensing Agreement Renewal

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting – 13 December 2022 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil. |
| **Report Author** | Tony Benson, Manager ICT |
| **Director** | Michael Cole, Director Corporate Services |
| **Attachments** | Nil. |

**Purpose**

This report is for the renewal of the City’s Microsoft Enterprise Licensing Agreement. These agreements are three-year contracts that afford the City access to a range of Microsoft services and products.

**Recommendation**

**That Council approves the Microsoft Enterprise Agreement submitted by Insight for a period of three years for the value of $672,396.60.**

**Voting Requirement**

Simple Majority.

**Background**

For all information technical services, Microsoft is one of two key partners. Microsoft products currently underpin all Communication (telephony), Collaboration (Document Creation, Editing, Updating and Storage), Malware protection (Anti-Virus and Fraud protection) and Security Access Management (User ID and access control) activities that the City and its’ employees undertake.

**Discussion**

The City’s Microsoft Enterprise Agreement requires renewal.

Microsoft underpins all Communication (telephony), Collaboration (Document Creation, Editing, Updating and Storage), Malware protection (Anti-Virus and Fraud protection) and Security Access Management (User ID and access control) activities that the City and its’ employees undertake.

Microsoft will only engage directly with an organisation when the organisation is of a certain size. The City is not one of those. Therefore, the method of engagement is via a transacting partner. This can either be done under the auspices of the State’s Common Use Agreement (CUA) or WALGA’s Panel Contract mechanism.

Previously, the City has used the CUA mechanism to obtain licensing. However, the CUA limits the City to a single transacting partner option. In seeking to renew the Microsoft Enterprise Licensing agreement, it was decided that for this renewal period to engage multiple vendors, as per WALGA’s Panel Contract.

Each Panel supplier was given the same licensing requirement brief and asked to provide quotes thereupon. The City received three proposals:

* Insight
* Data#3
* Datacom

The similarity of the pricing was to be expected as the underlying cost is set by Microsoft, as the sole supplier of the product. Any variation in pricing from the suppliers would be as a result of collective bargaining power each supplier may have negotiated with Microsoft for themselves

The preferred offer was from Insight, which was marginally lower than the other two. Insight’s single year cost is $224,132.20, or over the three-year period is $672,396.60.

For clarity:

* other licensing methodologies (annual, month-to-month) are available. However, this limits the City’s ability to access the higher-level discounts available to Governmental agencies.
* Regardless of Transacting Partner, it is still the same suite of products and services being delivered by Microsoft.

The Chief Executive Officer has delegated authority up to $250,000 and therefore this is referred to Council for approval.

**Consultation**

Nil.

**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.

**Budget/Financial Implications**

While the engagements are three years in total length, the contract value is split into three annualised invoices. IT budgets have and will continue to include the necessary provision to satisfy the contract obligations. The current financial year’s (FY2223) adopted budget includes sufficient provision for this Licensing requirement.

**Legislative and Policy Implications**

[City of Nedlands Procurement of Goods and Services Council Policy](https://nedlands365.sharepoint.com/sites/controlled_documents/Council_Policies_Procedures/Published/Procurement%20of%20Good%20and%20Services%20Council%20Policy.docx)

**Decision Implications**

Should the Council choose not to endorse then the City’s ability to operate on a daily basis would be compromised.

**Conclusion**

While no IT vendor is irreplaceable, the continued licensing of Microsoft products is necessary for the smooth delivery of City operations currently. As such, it is recommended Council endorses Insight as the transacting partner as they are offering the best value to the City.

**Further Information**

**Question**

Councillor Smyth – what extent can Council Members access services under this agreement.

**Officer Response**

The City’s agreement with MS is based upon licensing the person, rather than the software itself. Councillor members using their City of Nedlands provided ID can install and licence MS Office Suite products on up to 5 different machines at once.

# CPS60.12.22 Monthly Financial Report – November 2022

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting – 13 December 2022 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil. |
| **Report Author** | Lauren Fitzgerald – Senior Project Accountant |
| **Director** | Michael Cole – Director Corporate Services |
| **Attachments** | 1. Statement of Financial Activity – 30 November 2022  2. Statement of Net Current Assets – 30 November 2022  3. Statement of Comprehensive Income – 30 November 2022  4. Statement of Financial Position – 30 November 2022  5. Reserve Movements – 30 November 2022  6. Borrowings – 30 November 2022  7. Capital Works Program – 30 November 2022 |

**Purpose**

Administration is required to provide Council with a monthly financial report in accordance with regulation 34(1) of the *Local Government (Financial Management) Regulations 1996*. The monthly financial variance from the budget of each business unit is reviewed with the respective manager and the Executive to identify the need for any remedial action. Material variances are highlighted to Council in the attached Monthly Financial Report.

**Recommendation**

**That Council receive the Monthly Financial Report for 30 November 2022.**

**Voting Requirement**

Simple Majority.

**Background**

Nil.

**Discussion**

The monthly financial management report meets the requirements of regulation 34(1), 34(3), and 34(5) of the *Local Government (Financial Management) Regulations 1996*.

The attached report shows the month end position as at the end of November 2022. Please note that the opening position is a preliminary result for the year ended 30 June 2022 as the Financial Statements for 2021/22 are still being finalised and as a result will be subject to change. The municipal closing surplus as at 30 November 2022 is $20,430,115 which is a $1,135,436 favourable variance, compared to a budgeted surplus for the same period of $19,294,678.

The operating revenue at the end of November 2022 was $31,915,683 which represents a $756,492 unfavourable variance compared to the year-to-date budget, primarily in operating grants, subsidies, and contributions.

The operating expense at the end of November 2022 was $13,855,177, which represents a $2,603,313 favourable variance compared to the year-to-date budget, primarily in employee costs, and materials and contracts.

The attached Statement of Financial Activity compares Actuals with Amended Budget by Nature or Type as per regulation 34 (3) of the *Local Government Financial Management Regulations 1996*. Material variances, as defined by a previous decision of Council, from the budget of revenue and expenditure are detailed below.

**Operating Activities**

**Operating grants, subsidies, and contributions**

Unfavourable variance of $1,089,500 primary due to timing of revenue recognition of FOGO grant of $174,300, and Nedlands Community Care grants of $751,870.

**Fees and charges**

No variance analysis required as variance to budget is less than $20,000 and 10%.

**Service charges**

No variance analysis required as variance to budget is less than 10%.

**Interest earnings**

Favourable variance of $118,622 primarily due to high interest earnings on municipal cash in transactional account prior to investment of $92,786.

**Other revenue**

Favourable variance of $104,124 primarily due to design work fee for Aldi Nedlands site of $37,497 and building application assessment advice to regional councils of $37,335.

**Employee costs**

Favourable variance of $1,415,694 primarily due to current vacancies, timing of leave accruals, and EBA negotiations.

**Materials and contracts**

Favourable variance of $1,077,255 primary due to contract services for waste of $405,487, parks maintenance $185,259, buildings maintenance of $177,185, and civil maintenance $131,113.

**Utility charges**

No variance analysis required as variance to budget is less than 10%.

**Depreciation and amortisation**

No variance analysis required as variance to budget is less than 10%.

**Insurance expenses**

Favourable variance of $53,986 due to timing of instalment payments to LGIS.

**Interest expenses**

No variance analysis required as variance to budget is less than $20,000 and 10%.

**Other expenditure**

Unfavourable variance of $46,831 due to misallocation of budget for subsidies for local cricket clubs of $62,505, offset by savings in other service areas.

**Loss on disposal of assets**

No variance analysis required as variance to budget is less than $20,000 and 10%.

**Investing Activities**

**Non-operating grants, subsidies, and contributions**

Favourable variance of $460,601 primary due to budget phasing of capital projects. To be adjusted at mid-year review.

**Proceeds from disposal of assets**

No variance analysis required as variance to budget is less than $50,000.

**Purchase of property, plant, and equipment**

Unfavourable variance of $528,616 primary due to budget phasing of capital projects. To be adjusted at mid-year review.

**Purchase and construction of infrastructure**

Unfavourable variance of $2,375,034 primary due to budget phasing of capital projects. To be adjusted at mid-year review.

**Payments for intangible assets**

Favourable variance of $139,270 primary due vacant positions within the OneCouncil team.

**Financing Activities**

**Repayment of borrowings**

No variance analysis required as variance to budget is less than $20,000 and 10%.

**Recoup from self-supporting loans**

No variance analysis required as variance to budget is less than $20,000 and 10%.

**Payment for principal portion of lease liability**

No variance analysis required as variance to budget is less than $20,000.

**Transfer to reserves**

Unfavourable variance of $975,417 due to timing of transfers being processed.

**Transfer from reserves**

No variance analysis required as variance to budget is less than $20,000 and 10%.

**Rates**

No variance analysis required as variance to budget is less than 10%.

Outstanding rates debtors are $8,244,643 as at 30 November compared to $6,580,000 as at 30 November 2021. Breakdown as follows:

|  |  |  |  |
| --- | --- | --- | --- |
| **Receivable** | **30-Nov-22 ($)** | **30-Nov-21 ($)** | **Variance ($)** |
| Rates & UGP | 7,248,101 | 5,672,000 | 1,576,101 |
| Rubbish & Pool | 182,512 | 176,000 | 6,512 |
| Pensioner Rebates | 498,757 | 543,000 | -44,243 |
| ESL | 315,273 | 189,000 | 126,273 |
| **Total** | **8,244,643** | **6,580,000** | **1,664,643** |

**Employee Data**

|  |  |
| --- | --- |
| **Description** | **Number** |
| Full time / Part time / Casual Head - Total Headcount | 186.00 |
| Establishment (Budgeted FTE) | 169.04 |
| Occupied positions (FTE) | 149.89 |
| Casual positions (FTE) | 11.83 |
| Contract employees - temporary/agency (FTE) | 0.00 |
| Resignations (employee number) | 3.00 |

The figures reported are as at the end of the calendar month of November.

**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.

The 2022/23 approved budget is in line with the City’s strategic direction and was prepared in line with the City’s level of tolerance of risk and it is managed through budgetary review and control. The budget was based on a zero-based budgeting concept which requires all income and expenses to be thoroughly reviewed against data and information available to perform the City’s services at a sustainable level. Our operations and capital spend, and income is undertaken in line with and measured against the budget. This ensures that there is an equitable distribution of benefits in the community.

**Budget/Financial Implications**

At the Special Council Meeting on 11 August 2022, item CPS36.08.22, Council adopted the following thresholds for the reporting of material financial variances in the monthly statement of financial activity reports:

a. Operating items – Greater than 10% and a value greater than $20,000

b. Capital items – Greater than 10% and a value greater than $50,000

pursuant to regulation 34(5) of the *Local Government (Financial Management) Regulations 1996*, and *Australian Accountings Standard AASB 1031 Materiality*.

**Legislative and Policy Implications**

[*Local Government Act 1995*, *Local Government (Financial Management) Regulations 1996*](https://www.legislation.wa.gov.au/legislation/prod/filestore.nsf/FileURL/mrdoc_45568.pdf/$FILE/Local%20Government%20(Financial%20Management)%20Regulations%201996%20-%20%5B03-k0-00%5D.pdf?OpenElement)*,* and *Australian Accounting Standards.*

**Decision Implications**

Nil.

**Conclusion**

The municipal surplus as at 30 November 2022 is $20,430,115 which is favourable, compared to a budgeted surplus for the same period of $19,294,678 being a 5.88% variance.

The operating revenue at the end of November 2022 was $31,915,683 which represents a $756,492 or 2.32% unfavourable variance compared to the year-to-date budget of $32,672,175, primarily in operating grants, subsidies, and contributions.

The operating expense at the end of November 2022 was $13,55,177, which represents a $2,603,313 or 15.82% favourable variance compared to the year-to-date budget of $16,458,490, primarily in materials and contracts and employee costs.

**Further Information**

Nil.

# CPS61.12.22 Monthly Investment Report – November 2022

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting – 13 December 2022 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil. |
| **Report Author** | Lauren Fitzgerald – Senior Project Accountant |
| **Director** | Michael Cole – Director Corporate Services |
| **Attachments** | 1. Investment Report for the period ended 30 November 2022 |

**Purpose**

In accordance with the Council’s Investment Policy, Administration is required to present a summary of investments to Council on a monthly basis.

**Recommendation**

**That Council receive the Investment Report for the period ended 30 November 2022.**

**Voting Requirement**

Simple Majority.

**Background**

Nil.

**Discussion**

Council’s Investment of Funds report meets the requirements of Section 6.14 of the *Local Government Act 1995.*

The Investment Policy is structured to minimise any risks associated with the City’s cash investments. The officers adhere to this Policy, and continuously monitor market conditions to ensure that the City obtains attractive and optimum yields without compromising on risk management.

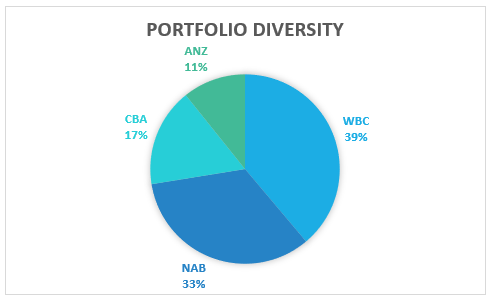
The Investment Summary shows that as at 30 November 2022 and 30 November 2021 the City held the following funds in investments:

|  |  |  |
| --- | --- | --- |
| **Funds** | **30 November 2022 ($)** | **30 November 2021 ($)** |
| Municipal | 2,139,433 | 5,322,981 |
| Reserve | 8,263,144 | 13,578,291 |
| **Total Investments** | **10,402,577** | **18,901,272** |

The total interest earned from investments as at 30 November 2022 was $99,125, comprising of $74,627 received at maturity and $24,498 accrued.

The Investment Portfolio comprises holdings in the following institutions:

|  |  |  |
| --- | --- | --- |
| **Financial Institution** | **Funds Invested** | **Proportion of Portfolio** |
| NAB | $ 3,494,493 | 33.59% |
| WBC | $ 4,041,802 | 38.85% |
| ANZ | $ 1,118,796 | 10.75% |
| CBA | $ 1,747,486 | 16.80% |
| **Total** | **$ 10,402,577** | **100.00%** |



**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.

**Budget/Financial Implications**

The November 2022 YTD Actual interest income from investments is $99,125 compared to the November 2022 YTD Budget of $90,486.

**Legislative and Policy Implications**

City of Nedlands - Investment of Operating Cash Policy

**Decision Implications**

N/A.

**Conclusion**

The Investment Report is presented to Council.

**Further Information**

Nil.

# CPS62.12.22 List of Accounts Paid – November 2022

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting – 13 December 2022 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil. |
| **Report Author** | Lauren Fitzgerald – Senior Project Accountant |
| **Director** | Michael Cole - Director Corporate Services |
| **Attachments** | 1. Creditor Payment Listing – November 2022; and 2. Credit Card and Purchasing Card Payments - November 2022 |

**Purpose**

The purpose of this report is to present list of accounts paid for the month of November 2022.

**Recommendation**

**Council receives the List of Accounts Paid for the month of November 2022.**

**Voting Requirement**

Simple Majority.

**Background**

*Regulation 13* of the *Local Government (Financial Management) Regulations 1996* requires a list of accounts paid to be prepared each month, showing each account paid since the last list was prepared. This list is to include the following information:

1. the payee’s name;
2. the amount of the payment:
3. the date of the payment; and
4. sufficient information to identify the transaction.

**Discussion**

The accounts payable procedures ensure that risk is managed, and no fraudulent payments are made by the city, and these procedures are strictly adhered to by the officers. These include the final vetting of approved invoices by the Coordinator Revenue and the Manager Financial Services (or designated alternative officers).

**Consultation**

Nil.

**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.

**Priority Area**

Nil.

**Budget/Financial Implications**

The payments are made in accordance with the approved budget.

**Legislative and Policy Implications**

In accordance with regulation 13 of the [*Local Government (Financial Management) Regulations 1996*](https://www.legislation.wa.gov.au/legislation/prod/filestore.nsf/FileURL/mrdoc_45568.pdf/$FILE/Local%20Government%20(Financial%20Management)%20Regulations%201996%20-%20%5B03-k0-00%5D.pdf?OpenElement) administration is required to present the List of Accounts Paid for the month of September 2022 to Council.

**Decision Implications**

Nil.

**Conclusion**

The List of Accounts Paid for the months of November 2022 complies with the relevant legislation and can be received by Council (see attachments).

**Further Information**

Nil.

# Reports by the Chief Executive Officer CEO15.12.22 to CEO16.12.22 (copy attached)

# CEO15.12.22 Governance Framework Policy Review and Meeting Schedule for 2023

|  |  |
| --- | --- |
| **Council** | Council Meeting 13 December 2022 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil. |
| **CEO** | Bill Parker |
| **Attachments** | 1. Draft Amended Governance Framework Policy |

**Purpose**

The purpose of this report is for Council to review the Governance Framework Policy which has been in place for almost 12 months and to adopt the meeting dates for 2023 for public advertising purposes.

**Recommendation to Council**

**That Council:**

1. **adopt the Governance Framework Policy as per attachment 1 to apply from 1 January 2023; and**
2. **adopt the Agenda Forum Dates Schedule for 2023 as per below:**

**Tuesday 14 February 2023**

**Tuesday 14 March 2023**

**Tuesday 11 April 2023**

**Tuesday 9 May 2023**

**Tuesday 13 June 2023**

**Tuesday 11 July 2023**

**Tuesday 8 August 2023**

**Tuesday 11 September 2023**

**Election Year No meeting in October**

**Tuesday 14 November 2023**

**Tuesday 5 December 2023**

1. **adopt the Council Meeting Dates Schedule for 2023 as per below:**

**Tuesday 28 February 2023**

**Tuesday 28 March 2023**

**Wednesday 26 April 2023**

**Tuesday 23 May 2023**

**Tuesday 27 June 2023**

**Tuesday 25 July 2023**

**Tuesday 22 August 2023**

**Wednesday 26 September 2023**

**Election Year No Meeting in October**

**Tuesday 28 November 2023**

**Tuesday 12 December 2023**

1. **adopt the Audit & Risk Committee Meeting Dates Schedule for 2023 as per below:**

**Monday 20 February 2023**

**Monday 22 May 2023**

**Monday 21 August 2023**

**Monday 20 November 2023**

1. **adopt the Public Art Committee Meeting Dates Schedule for 2023 as per below:**

**Monday 13 March 2023**

**Monday 12 June 2023**

**Monday 11 September 2023**

**Monday 11 December 2023**

**Voting Requirement**

Simple Majority.

**Background**

In local government, a policy void can exist between the legislative requirements of the *Local Government Act 1995*, meeting procedure local laws and contemporary decision making. To fill this void, governance framework policies are often developed.

Upon commencement, Council adopted five (5) Key Responsibility Areas (KRA) for the Chief Executive Officer (CEO). One of these KRAs was the development of a new Governance Framework Policy for the City of Nedlands.

Council adopted a Governance Framework Policy in December 2021 that has been operational since February 2022. Given that the Policy has been operational for almost 12 months, a review has been undertaken in consultation with Elected Members.

This item recommends that Council adopt a revised Governance Framework Policy and meeting dates schedule for 2023.

**Discussion**

Prior to the implementation of the Policy, the City’s governance framework comprised:

* Councillor Briefings (1st and 3rd Tuesday of each month)
* Committee Meetings (2nd Tuesday of each month)
* Council Meetings (4th Tuesday of each month)

Feedback from both elected members and City staff at the time suggested that the:

* Framework was ‘unofficial’ and not governed by policy
* Agenda was often received late
* Framework was inefficient in dealing with applications and customer requests
* Council Briefings had limited procedural controls
* Committee Meetings were not being convened correctly. This included the election of the presiding member and application of the *Standing Orders Local Law 2016*
* The application of the framework was inconsistent in that some items were presented directly to Council and bypassed the briefing and committee process.

In response, the City worked with Elected Members to develop a new Governance Framework Policy that comprised:

1. Concept Forums; and
2. Council Meeting Agenda Forums

In addition to introducing Concept Forums and Council Meeting Agenda Forums, the Governance Framework Policy:

1. Clearly defined when Agendas would be made available to Council Members and the public for all meeting formats.
2. Introduced discussion papers for Concept Forums so that elected members had adequate background information to inform robust discussion.
3. Provided elected members with an opportunity to set the agenda for Concept Forums with the support of two Council Members.
4. Provided further clarity and a formal process with regard to revised officer recommendations, alternate motions and material amendments.

From a governance perspective, there is evidence to suggest that improvements have been realised under the new Policy. These improvements include:

1. 100% compliance with agenda distribution deadlines. Councillors and members of the public are now receiving the agenda well in advance of meetings.
2. From an administrative perspective, the introduction of Concept Forums and robust discussion ahead of public meetings has assisted shaping policy and strategy more in line with Council’s aspirations and objectives.
3. Records are now captured regarding questions that could not be answered in the Council Meeting Agenda Forums. This provides a comprehensive record of how decisions were made.
4. The formalisation of a process regarding officer recommendations, alternate motions and material amendments ensures that administrative comment is received and can be considered by all members prior to formal decisions being made.

In reviewing the Policy and based upon feedback from both Elected Members and the administration, the following amendments have been considered:

**Part 3 - Council Meeting Agenda Forums**

At a Council Meeting Agenda Forum, a member of the public may make a presentation or ask questions on items contained within the agenda. Presentations are limited to 5 minutes. This is inconsistent with the City’s *Standing Orders Local Law 2016* in that public addresses are limited to 3 minutes. It is recommended that the Policy is amended to 3 minutes to ensure consistency between Council Meeting Agenda Forums and Ordinary Council Meetings.

**Part 3 - Council Meeting Agenda Forums**

Some Elected Members have requested that all questions asked at a Council Meeting Agenda Forums be formally recorded. Currently, only questions taken on notice are recorded, with answers to these questions provided as ‘further information’ in the agenda for the corresponding Ordinary Council Meeting.

The Policy has been amended to reflect current practice so that Elected Members can request that a question is recorded.

**Part 3 – Council Meeting Agenda Forums**

Some Elected Members have stated that there should be an opportunity for more discussion at the agenda briefing session.

As stated in Local Government Operational Guideline Number 05 – Council Forums “agenda forums should be for staff presenting information and elected members asking questions, not opportunities to debate the issues. A council should have clearly stated rules that prohibit debate or vigorous discussion between elected members that could be interpreted as debate.

Rules such as questions through the chair and no free-flowing discussion between elected members should be applied.

If there is minimum debate in the ordinary meeting because the elected member attitudes have been established through the item being thoroughly canvassed in the agenda forum then the community is denied the opportunity to witness any debate and understand how the council reached its decision”.

**Part 4 - Concept Forums**

The current Policy states that Concept Forums will be held in the Meeting Room. This has been updated to reflect that Concept Forums can either be held in the Council Chamber or Board Room.

**Part 5 - Declaring Interests at Agenda Forums and Concept Forums**

In accordance with Local Government Operational Guideline Number 05 – Council Forums, further clarity is provided stating that the disclosure rules applying to meetings constituted under the *Local Government Act 1995* apply at all Council Meeting Agenda Forums.

**Other issues**

Minor amendments were made to reflect Council Meetings occurring on the 2nd Tuesday in December rather than the 3rd Tuesday. Historically, the 3rd Tuesday falls very close to Christmas and therefore can impact availability and attendance.

A clause was added to reflect that some Council Meetings could not occur on the 4th Tuesday due to public holidays falling on this date (April and September 2023).

Feedback has been received regarding start times for Council Meeting Agenda Forums and Ordinary Council Meetings. The start times have not been amended given divided opinion. However, start times can be debated at the Ordinary Council Meeting.

Various other changes have been made to correct identified errors and ensure greater consistency throughout.

It is proposed that if adopted, the Policy is reviewed after each Ordinary Local Government Election.

**Consultation**

A discussion paper was presented at a Concept Forum with Council Members on 18 October 2022, where input received from Council Members in terms of what improvements they would like to see in the updated Governance Framework Policy.

Where possible, this feedback has been incorporated into the updated Policy for Council consideration.

**Strategic Implications**

**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.

**Budget/Financial Implications**

There are no budget or financial implications in adopting this updated framework.

**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 the 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**

If Council adopts the revised Policy, the updated Policy will apply from January 2023. If Council does not adopt the revised Policy, the previous Policy will continue to apply.

**Conclusion**

It is recommended that the revised Governance Framework Policy be adopted to provide a transparent, efficient, participatory, and statutorily compliant meeting framework.

**Further Information**

**Question**

Councillor Smyth – why are only questions taken on notice recorded and not all verbal answers to questions asked at the meeting?

**Officer Response**

The current Policy aims to deliver a level of service within the current resource allocation. There may be resourcing implications should Councillors wish to record every question and answer.

# CEO16.12.22 WALGA Best Practice Governance Review

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting – 13 December 2022 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil. |
| **Report Author** | Bill Parker – Chief Executive Officer |
| **CEO** | Bill Parker – Chief Executive Officer |
| **Attachments** | 1. Consultation Paper Model Options 2. Background Paper |

**Purpose**

The purpose of this report is to gain member feedback, in the form of a Council decision, on the governance model options presented in the Consultation Paper by 23 December 2022.

**Recommendation**

**That Council endorse option (insert option number) in response to WALGA’s Best Practice Governance Review.**

**Voting Requirement**

Simple Majority.

**Background**

The Western Australian Local Government Association (WALGA) developed its Corporate Strategy 2020-25 and in doing so identified a key strategic priority, to undertake a Best Practice Governance Review. The objective of the review is to ensure WALGA’s governance and engagement models are contemporary, agile and maximise engagement with members.

This report seeks to gain member feedback, in the form of a Council decision, on the governance model options presented in the Consultation Paper.

**Discussion**

The Consultation Paper explores four potential governance model options and the structure and roles associated with each option. The four options are:

* Option 1: Two Tier Model, Existing Zones
* Option 2: Board, Regional Bodies
* Option 3: Board, Amalgamated Zones
* Option 4: Member Elected Board, Regional Groups
* Option 5: Current Model

Each of the options is outlined in Attachment 1.

**Consultation**

This report seeks to gain member feedback as part of WALGA’s consultation process.

**Strategic Implications**

**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**

There are no financial implications associated with this item.

**Legislative and Policy Implications**

There are no legislative or policy implications associated with this item.

**Decision Implications**

If Council revolves a preferred governance model, this feedback will be provided to WALGA by 23 December 2022.

**Conclusion**

This report is to gain member feedback, in the form of a Council decision, on the governance model options presented in the Consultation Paper. It is recommended that Council endorse a preferred option.

**Further Information**

**Question**

Councillor Mangano – where will independent directors be employed from?

**Officer Response**

It is proposed that the independent directors will be appointed based on skill or constituency. Nothing precludes elected members from being independent directors.

**Question**

Mayor Argyle – can the Councillors be briefed on the changes?

**Officer Response**

There is unfortunately limited time to organise a briefing prior to the Ordinary Council Meeting.

**Question**

Councillor Coghlan – allowances (amount) for Councillors if appointed as independent Directors.

**Officer Response**

Although not investigated in detail, it is likely that the independent Directors will be remunerated.

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

# Councillor Senathirajah – Strategy on Services for Senior Residents

On the 2 December 2022, Councillor Senathirajah gave notice of his intention to move the following motion.

**Council instructs the CEO**

**1. to initiate the process to develop a Strategy that will provide the framework for:**

* 1. **the provision of services by the City to the senior residents in Nedlands;**
  2. **the facilitation of opportunities for the senior residents to make positive contributions to the community; and**
  3. **taking the lead to grow Nedlands into an Age-Friendly Community; and**

**2. to report to Council in March 2023 on the proposed methodology and time frame to develop the Strategy, together with the Terms of Reference for a Working Group if that will facilitate engagement with the different stakeholders.**

Justification

The latest statistics indicate that seniors (age 60 years and above) constitute more than 20% of the residents of the City of Nedlands.  In terms of ratepayers the percentage will be higher.  Due to their age, the needs and challenges of the seniors may not be identical to that of the mainstream residents.

The proposed Strategy will help the Council to decide what services the City can provide to this key group of residents.  This will also provide clarity to Council, Administration and the community as to how these services can be delivered.

The Strategy will also look at how the senior residents not in full-time employment can still make positive contributions to the community, and what role, if any, can the City play.

Administration Comment:

The Department of Communities (Government of WA) defines Age-friendly communities as “…. those that are inclusive and accessible for people of all ages. This encompasses spaces and places, programs and initiatives that make a community better for all residents including children, young people, parents and seniors.

An age-friendly community is one that:

* recognises the great diversity among older people,
* promotes their inclusion and contribution in all areas of community life,
* respects their decisions and lifestyle choices, and
* anticipates and responds to age-related needs and preferences.

When developing an age-friendly community, older adults have the opportunity to have their opinions heard on services, supports, and activities that would enhance their lives and their community.”  ([Age-friendly communities (www.wa.gov.au)](https://aus01.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.wa.gov.au%2Forganisation%2Fdepartment-of-communities%2Fage-friendly-communities&data=05%7C01%7Cnceric%40nedlands.wa.gov.au%7C46ed60483db24f37626908dad8aaf934%7Cd583947c8c4246bd927527ca45e5e84c%7C0%7C0%7C638060526088264431%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C3000%7C%7C%7C&sdata=DtVhrlLyuic4YSacOkthou3114rmEfDvSZQu0dEAGw4%3D&reserved=0))

With consultation from older adults in our community, the development of an age friendly community strategy would provide a framework to guide and measure how the City supports our older adults to be safe, healthy, connected and celebrated.

The strategy would identify priorities, agreed outcomes and service levels, and the required resources to achieve the targets.

As Council has only just endorsed the CEO Key Result Areas for 2022/23, one of the Key Performance Indicators endorsed by Council would need to be replaced for the City to have the capacity to deliver such a body of work within the timeframes suggested.

# Urgent Business Approved By the Presiding Member or By Decision

The following items were approved by the Presiding Member.

## ARC17.10.22 Terms of Reference

|  |  |
| --- | --- |
| **Meeting & Date** | Audit and Risk Committee – 17 October 2022  Council Meeting – 13 December 2022 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil. |
| **Report Author** | Michael Cole – Director Corporate Services |
| **Director** | Michael Cole – Director Corporate Services |
| **Attachments** | Nil. |

**Purpose**

The purpose of this report is for Council to approve the proposed changes to the terms of reference of the Audit and Risk Committee as recommended by the Audit and Risk Committee following the Internal Audit report on Risk Management and the recommendations from that Internal Audit.

**Committee Recommendation**

**That Council approve amendments to the Terms of Reference for the Audit and Risk Committee as per below:**

**Audit and Risk Committee**

**Purpose**

This Committee is established by Council in accordance with the Local Government Act 1995, part 7, to assist the Council under Regulation 16 of the Local Government (Audit) Regulations 1995 to discharge its responsibilities with regard to the exercise of due care, diligence and skill in relation to:

* The reporting of financial information, the application of accounting policies, and the management of the financial affairs of the City,
* The assessment of the adequacy of the management of Risk.

**Scope**

**Local Government (Audit) Regulations 1995**

**Regulation 16 - Functions of audit committee**

An audit committee has the following functions —

(a) to guide and assist the local government in carrying out —

(i) its functions under Part 6 of the Act; and

(ii) its functions relating to other audits and other matters related to financial management;

(b) to guide and assist the local government in carrying out the local government’s functions in relation to audits conducted under Part 7 of the Act;

(c) to review a report given to it by the CEO under regulation 17(3) (the ***CEO’s Report***)and is to —

(i) report to the council the results of that review; and

(ii) give a copy of the CEO’s report to the council;

(d) to monitor and advise the CEO when the CEO is carrying out functions in relation to a review under —

regulation 17(1); and

(ii) the *Local Government (Financial Management) Regulations 1996* regulation 5(2)(c);

(e) to support the auditor of the local government to conduct an audit and carry out the auditor’s other duties under the Act in respect of the local government;

(f) to oversee the implementation of any action that the local government —

(i) is required to take by section 7.12A(3); and

(ii) has stated it has taken or intends to take in a report prepared under section 7.12A(4)(a); and

(iii) has accepted should be taken following receipt of a report of a review conducted under regulation 17(1); and

(iv) has accepted should be taken following receipt of a report of a review conducted under the *Local Government (Financial Management) Regulations 1996* regulation 5(2)(c);

(g) to perform any other function conferred on the audit committee by these regulations or another written law.

The committee shall have as its primary duties and responsibilities the following tasks:

**Audit**

1. To consider and approve the brief for the provision of external audit services;
2. To meet with Council’s external auditors and review the Audit Plan prior to the conduct of the interim audit each year;
3. To ensure that the audit is being conducted in accordance with the brief and the terms of appointment and that matters of concern to the Council and/or the Committee are being addressed;
4. Ensure that the Council’s financial affairs and systems and processes are being managed and reported in accordance with statutory requirements and Australian Accounting Standards;
5. Ensure that relevant financial information is reported to Council in a form that meets the needs and expectations of Council, clearly setting out the key relevant financial data, such that the Council can confidently understand the financial performance of the Council’s affairs;
6. Review the audit report and make appropriate recommendations to Council; and
7. Where appropriate and with the approval of Council seek advice and/or assistance in relation to matters pertaining to the audit or financial affairs of the City.
8. Monitor the implementation of the Audit Management Plan.
9. Add review at least annually the performance of the Audit and Risk Committee.

**Risk Management**

1. Twice yearly consider a report in relation to the management of risk within the City of Nedlands and satisfy itself that appropriate controls and processes are in operation and are adequate for dealing with the risks that impact on the City.
2. To address any specific requests referred to it from Council in relation to issues of risk and risk management.
3. Monitor the implementation of the Strategic Risk Management Plan.

**Membership**

1. The membership of the committee shall comprise the Mayor and one Councillor from each ward with the Councillors being determined by nomination and if necessary, a ballot conducted at a Council Meeting and up to two non-Councillor Members, being residents of The City of Nedlands.
2. Council will appoint one Councillor from each ward as deputy members of the committee.
3. If a vacancy on the committee occurs for whatever reason, then Council shall appoint a replacement in accordance with the same arrangements as for the original appointment.
4. The ward deputy will be invited to attend the Committee as a voting member if the primary ward member is absent, an apology, on leave or has resigned.
5. The term of the presiding member and committee members will expire immediately prior to the next ordinary Council election.
6. The presiding member shall be determined by election amongst the members of the committee. The election will take place at the first meeting following the reconstitution of the committee after each ordinary Council election. The Mayor is eligible to vote for a presiding member but is not eligible to sit as the presiding member.
7. Should the elected presiding member not be present during a meeting of the committee then a temporary presiding member shall be elected in accordance with 5 above.
8. Community members shall have appropriate qualifications in Audit and / or Risk Management.
9. If a Committee member is unable to attend a meeting, an apology or an approved leave of absence is required. The Committee may resolve to relinquish membership after three or more unexcused absences.

**Staff**

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

* Chief Executive Officer
* Director Corporate Services
* Coordinator Governance & Risk

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

**Invitees/Attendees**

The Committee may invite relevant persons to attend and address or advise the committee, within the ambit of its scope and where necessary with the approval of Council (e.g., if authorisation of funding is required), as it sees fit including but not limited to:

* The external auditor or his/her representative
* Internal auditors
* Relevant consultants

**Meetings**

1. The Council Committee operates under the Council’s Standing Orders Local Law.
2. The Committee shall formally meet at least quarterly. A schedule of meetings will be developed and agreed to by the members. Additional meetings may be called by the Presiding member. It is the responsibility of the presiding member to call the meetings of the committee.
3. The quorum for a meeting will be 50% of the offices of the Audit & Risk Committee as per section 5.19 of the Local Government Act 1995.

**Reporting**

The Committee shall report quarterly to the Council summarising its activities during the previous financial year.

**Delegated Authority**

The Audit and Risk Committee will have delegated authority to meet with the auditor in accordance with Section 7.12A(2) of the Local Government Act 1995.

Recommendation

That Council approve amendments to the Terms of Reference for the Audit and Risk Committee as per Attachment 1.

**Voting Requirement**

Simple Majority.

**Background**

At its meeting of 29 August 2022, the Audit and Risk Committee considered the Internal Audit report on Risk Management. Among the findings were recommended changes to the Terms of reference for the Committee. At its Audit & Risk Committee Meeting on the 17 October 2022 the Audit and Risk Committee amended the Terms of Reference as recommended by the Internal Audit and now seek Council approval.

**Discussion**

In response to the Internal Audit Report on Risk Management, the Terms of Reference for the Audit and Risk Committee have been reviewed. The following changes are proposed:

1. **Audit**

a. Remove reference to considering and approving the brief for the provision of audit services and the appointment of the auditor.

**Reason**

Following changes to the Local Government Act 1995, the Office of the Auditor General (OAG) now has oversight of local government financial audits. The OAG may appoint contract auditors to perform these financial audits.

b. Add review at least annually the performance of the Audit and Risk Committee.

**Reason**

The internal recommendation to ensure the role and responsibilities of the Committee is reviewed at least annually is supported. Moore Australia are conducting this review currently.

1. **Staff**
2. Updated to current title of Director Corporate Services. Also replaced Manager Financial Services with newly created role of Coordinator Governance and Risk.

**Reason**

To update staff attending committee meetings. Other staff members, such as the Manager Financial Services may attend when requested or required.

**Consultation**

At its meeting of 29 August 2022, the Audit and Risk Committee considered the Internal Audit report on Risk Management following which at it’s meeting on the 17 October 2022 the Audit and Risk Committee reviewed their Terms of Reference and made recommendations to Council.

**Strategic Implications**

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

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

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

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

**Budget/Financial Implications**

There are no budget or financial implications for this report.

**Legislative and Policy Implications**

This Committee is established by Council in accordance with the Local Government Act 1995, part 7, to assist the Council under Regulation 16 of the Local Government (Audit) Regulations 1995.

**Decision Implications**

Should the Committee and Council endorse the recommendations in this report, the Terms of Reference will be updated.

**Conclusion**

The changes proposed to the Terms of Reference resulted from the internal audit on Risk Management. It is recommended that Council endorse the proposed changes.

**Further Information**

Nil.

## TS29.12.22 EOI 2022-23.10 – 2 x Road Rehabilitation Projects, Smyth Road and Rochdale Road, Nedlands

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting – 13th December 2022 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil. |
| **Report Author** | Peter Gaitskell - Acting Coordinator City Projects |
| **Director** | Daniel Kennedy-Stiff – Acting Director Technical Services |
| **Attachments** | 1. CONFIDENTIAL - EOI Evaluation and Recommendation Report (EOI) 2022-23.10 2. CONFIDENTIAL - Appendix A – Final Evaluation |

**Purpose**

The purpose of the report is for Council to accept the evaluation and recommendation of the contractors of the panel for the EOI Evaluation and Recommendation Report (EOI) 2022-23.10 (Smyth and Rochdale road projects).

**Recommendation**

**Council:**

1. **approves that Civcon Civil Construction Pty. Ltd., Downer EDI Works Pty. Ltd. and West Coast Profilers be invited to participated in the Request for Tender for the Road Rehabilitation of Smyth Road, Nedlands (RFT 2022-23.16); and**
2. **approves that Civcon Civil Construction Pty. Ltd., Downer EDI Works Pty. Ltd. and West Coast Profilers be invited to participated in the Request for Tender for the Road Rehabilitation of Rochdale Road, Mount Claremont (RFT 2022-23.17).**

**Voting Requirement**

Simple Majority.

**Background**

The Rehabilitation Smyth Road and Rochdale Road projects both form part of the approved 2022/23 Capital Works Program.

As part of the Procurement process for these projects an expression of interest was undertaken to shortlist contractors to allow adequate notice that tender documentation will be presented and require pricing. It is anticipated that tender pricing will occur early in 2023, therefore those Contractors shortlisted will be required to ensure that they have adequate resources available to complete the Request for Tender.

The expression of interest was publicly advertised during the period of 22nd October 2022 – 14th November 2022. The City received a total of 3 submissions from Civcon Civil & Project Management, Downer EDI Works and West Coast Profilers.

**Discussion**

Subsequent to the closure of the Expression of Interest period, the evaluation panel completed the analysis and evaluation of the submissions. At the conclusion of the process all three companies were determined to be suitable to be included on the panel. The submissions were rated against the following criteria, Relevant Experience (40%), Key Personnel Skills and Experience (20%) and Respondents Resources (40%).

Downer EDI Works provided a superior response overall. Downer EDI Works have completed a number of similar road rehabilitation works for other local councils. Downer EDI Works have experienced and qualified personnel as well as the suitable plant and equipment to complete the works. The panel had a high level of confidence Downer EDI Works can complete the proposed works.

Civcon Civil & Project Management provided a reasonable response overall. Civcon Civil & Project Management have undertaken similar road works for various local governments however was not as experienced as other tenderers. Civcon Civil & Project Management included a satisfactory amount of information on their personnel and resourcing for the works.

West Coast Profilers provided a basic response overall and the panel has reasonable confidence in their past experience. West Coast Profilers provided some information regarding personnel and a small amount on the proposed resourcing an equipment, however more information would have been preferred.

All respondents provided enough information in their submissions to warrant being invited to tender for the Road Rehabilitation of Smyth Road, Nedlands, and Rochdale Road, Mount Claremont. The Request for Tender is expected to be open from Mid December 2022 – Mid January 2023. Construction works are expected to start in March 2023 – June 2023. All the responses during the tender evaluation will present more detailed information especially regarding methodology and price.

Smyth Road Grant has an allocation of Metropolitan Regional Road Group Funding, valued at $522,277. Rochdale Road Grant has an allocation of Metropolitan Regional Road Group Funding, valued at $407,693. If both projects are deferred the City may loose this grant allocation. The works are required to be completed within the 2022/23 financial year, by 30th June 2023.

Administration recommends accepting the three responses onto the shortlist and are invited to submit a response to the RFT’s for each project.

**Consultation**

Consultation is not required as part of these works. Notification will be provided to all affected residents, schools and businesses prior to the works starting.

**Strategic Implications**

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

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

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

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

**High standard of services**

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

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

**Budget/Financial Implications**

The purpose of this tender is to establish the shortlist for the upcoming construction RFT. The budget implications will be assessed as part of the RFT review and any subsequent contracts.

**Legislative and Policy Implications**

The award of this tender is governed by the City of Nedlands Procurement Policy.

This can be accessed by the following link:

<https://nedlands365.sharepoint.com/:w:/r/sites/controlled_documents/Council_Policies_Procedures/Published/Procurement%20of%20Good%20and%20Services%20Council%20Policy.docx?d=w41db85e762b5419bbb03a8b786773f2c&csf=1&web=1>

The works to be delivered under this contract are in line with the City of Nedlands Asset Management Policy.

**Decision Implications**

Road users, pedestrians and homeowners in the area will benefit rehabilitation of both Smyth and Rochedale Roads, as each project will ensure the City’s roads, pathways, driveway aprons and drainage are well maintained and perform to a high standard. By approving the award of this Expression of Interest the City will be one step closer to be able to undertake repairs and improvements on both Smyth Road and Rochdale Road.

Delaying the selection of the shortlist will increase accumulated project backlog, that will take longer to complete, adversely impact long term maintenance requirements and the road user experience.

By not endorsing the recommendation to form the shortlist the asset will continue to degrade, risk failure and increase unplanned maintenance costs, presenting safety risks to road users and the community.

The condition of the roads warrants intervention in the very short term, to prevent pavement failure and ensure that road user safety is not compromised.

Pavement failure would mean that a long term shut down of the roadway is required until the works can be procured and delivered. If rehabilitation works are not undertaken in the very short term, an increase in unplanned reactive maintenance costs will be experienced until the rehabilitation works are undertaken.

**Conclusion**

Civcon Civil & Project Management Pty. Ltd., Downer EDI Works Pty Ltd and West Coast Profilers all demonstrated that they have the required resources and relevant experience to be shortlisted for each project. As such the evaluation Panel recommends that Civcon Civil Construction Pty. Ltd., Downer EDI Works Pty. Ltd. and West Coast Profilers be invited to participated in the Request for Tender for the Road Rehabilitation of Smyth Road, Nedlands and Rochdale Road, Mount Claremont.

**Further Information**

Nil.

# Confidential Items

Confidential items to be discussed at this point.

# CSD06.12.22 Community Citizen of the Year Awards

A confidential report has been circulated separately to Council Members.

PLEASE NOTE: The following items were approved by the Presiding Member as Urgent Business to be considered under Confidential Items.

# Request for Legal Advice

A confidential report has been circulated separately to Council Members.

# CEO17.12.22 Request for Legal Representation

A confidential report has been circulated separately to Council Members.

# Declaration of Closure

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