**MINUTES**

**Council Meeting**

**22 November 2022**

**Attention**

**These Minutes are subject to confirmation.**

Prior to acting on any resolution of the Council contained in these minutes, a check should be made of the Ordinary Meeting of Council following this meeting to ensure that there has not been a correction made to any resolution.

**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

**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.

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# Declaration of Opening

The Presiding Member declared the meeting open at 6.00 pm, drew attention to the disclaimer on page 2 and advised the meeting was being livestreamed.

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

**Councillors** Mayor F E M Argyle (Presiding Member)

 Councillor B Brackenridge Melvista Ward

 Councillor R A Coghlan Melvista Ward

 Councillor R Senathirajah Melvista Ward

 Councillor H Amiry Coastal Districts Ward

 Councillor L J McManus Coastal Districts Ward

 Councillor K A Smyth Coastal Districts Ward

 Councillor F J O Bennett Dalkeith Ward

 Councillor A W Mangano Dalkeith Ward

 Councillor N R Youngman Dalkeith Ward

 Councillor O J Basson Hollywood Ward

 Councillor O Combes Hollywood Ward

 Councillor B G Hodsdon Hollywood Ward

**Staff** Mr W R Parker Chief Executive Officer

 Mr M R Cole Director Corporate Services

 Mr T G Free Director Planning & Development

 Mr D J Kennedy-Stiff Acting Director Technical Services

 Mrs N M Ceric Executive Officer

**Public** There were 14 members of the public present and 3 online.

**Leave of Absence** Nil.

**(Previously Approved)**

**Apologies** Nil.

# 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.

**3.1 Ms Martina Bovell**

**Question 1**

In keeping with the City of Nedlands Community Vison 2028, as described in the City’s Urban Forest Strategy, that ‘Our gardens, streets, parks and bushlands will be clean, green and tree-lined and we will live sustainably within the natural environment’, what planning for street tree planting in 2023 season has occurred?

**Answer**

There is an ongoing program that relies on budgetary approval. The ordering for street trees for planting in 2023 is in progress currently with availability of stock for ordering confirmed and selections finalised. The quotes have been assessed and an order is imminent. The City is continuing to review the Polyphagous Shot Hole Borer host species information provided by DPIRD, to ensure at risk species are minimised.

The street tree planting is directed by strategy with planting sites identified on an ongoing basis. This is informed by ward tree planting statistics that continue to be compiled.

**Question 2**

What species of trees, and how many of each, does the City currently have in stock?

**Answer**

Stock is sourced and acquired annually and generally delivered at the commencement of the winter planting program. There are 122 trees remaining in stock:

|  |  |  |
| --- | --- | --- |
| **Botanical tree name** | **Common tree name** | **Quantity** |
| ***Agonis flexuosa*** | WA Peppermint Willow | 3 |
| ***Eucalyptus torquata***  | Coral Gum  | 3 |
| ***Cupaniopsis anacardioides***  | Tuckeroo | 5 |
| ***Corymbia maculata*** | Spotted Gum | 4 |
| ***Eucalyptus sideroxylon ‘Rosea’***  | Red Flowering Ironbark  | 3 |
| ***Melaleuca quinquinervia***  | Broadleaf Paperbark  | 19 |
| ***Acer rubrum*** | Red Maple | 3 |
| ***Fraxinus angustifolia ‘Raywood’*** | Claret Ash | 3 |
| ***Liquidambar styraciflua***  | American Sweet Gum | 3 |
| ***Pistacia chinensis***  | Chinese Pistachio  | 25 |
| ***Ulmus parvifolia***  | Chinese Elm  | 20 |
| ***Eucalyptus todtiana*** | Coastal Black | 2 |
| ***Callistemon ‘Kings Park Special’***  | Bottlebrush  | 3 |
| ***Eucalyptus victrix***  | Western Coolabah  | 5 |
| ***Lagerstroma indica*** | Crepe Myrtle | 9 |
| ***Pyrus calleryana 'Chanticleer'***  | Ornamental Pear  | 12 |

**Question 3**

How many default tree species from the preferred tree species list does the City have on order for the 2023 street tree planting season?

**Answer**

There are 30 default trees currently on order. The City expects to order additional during the planting season.

|  |  |  |
| --- | --- | --- |
| ***Corymbia calophylla*** | Marri | 10 |
| ***Eucalyptus gomphocephala*** | Tuart | 10 |
| ***Melaleuca preissiana*** | Modong | 10 |

**Question 4**

How is the City deciding which particular streets to target in the 2023 planting season?

**Answer**

The list of planting sites for each financial year is then collated from: resident requests; replacements for removed trees; locations in conjunction with upcoming roadworks; and priority infill areas.

**Question 5**

How many tree-watering trucks does the City have?

**Answer**

The Parks Department has one tree-watering truck.

**Question 6**

How often will these deployed over the coming summer to water street trees planted in 2022?

**Answer**

The truck is currently in active service throughout the week. This continues during the hotter months – the focus is on juvenile trees planted in 2022, that are generally watered twice a week through to April/May depending on weather conditions.

**3.2 Mr Paul Sharman**

**Question**

We take exception to Item 3 of the recommendations in respect to underground powering the remainder of the City with the reasoning, quote: "to validate the support level from the wider community to go ahead with the project" unquote

Was the entire City community consulted for their support level prior to the provision of underground power to the City south of Stirling Highway? If this was not the case, why now is up to $100,000 to be expended to obtain the wider community's support?

**Answer**

The entire community was not consulted for the earlier underground power schemes.

However, it is noted that State Government funded 50% of the cost with ratepayers in the initial State Underground Power Schemes 1, 2 and 3 paying the remaining 50% of the total cost.

* 1. **Mr Peter Robins**

**Question1a**

In regard to Clause 26 (3) of Nedlands LPS3 the capitalized term "Acceptable Requirement" is used. This term does not appear in SPP 7.3 RDC Volume 2 Apartments, nor in any other state or local planning policy or document. What does this term mean and how has that meaning been arrived at by the City of Nedlands staff?

**Answer**

When clause 26(3) of the City of Nedlands is read in full, its meaning is clear. In relation to building height on land coded R-AC1, “Table 2.1: Primary Controls Table does not apply” for building height limits.

This position is supported by senior members of the State Government’s Department of Planning, Land and Heritage, the Western Australian Planning Commission, and Ken Pettit SC, who provided legal advice to the City following the Chellingworth JDAP approval in early 2021.

**Question1b**

If the answer to Question 1. is "Acceptable Outcome" and it is merely the City's own interpretation, then this seems ambiguous as the meaning of "requirement" and "outcome" are very different. The former is something that is needed or wanted, while the latter is the way something turns out, or a consequence. Thus, the wording used in Clause 26 (3) is undefined and confusing and open to very different interpretations by the City staff, community members and Councillors whose opinions all carry weight. Therefore, how can the City act on their own opinion of an ambiguous clause, and this action be justified without seeking clarification and a formal interpretation from the relevant authority?

**Answer**

The City is not alone in its interpretation of Clause 26(3) of the City’s Local Planning Scheme.

**Question 2**

In regard to the RAR on the development application for 37-43 Stirling Hwy and Clause 26 (3) of Nedlands LPS3, this clause purports to remove the "deemed to comply" pathway of the Acceptable Outcome for height, leaving only the performance assessment pathway. It does not however in any way address nor affect the Element Objective for height, which is what in fact needs to be achieved by either pathway for approval. Given that the Nedlands Strategic Plan 2017 and the Local Planning Policy - Primary Controls for Apartment Developments both describe a desired height limit of 7-9 storeys as the "Element Objective" for that section of Stirling Hwy, how does 17 storeys at 37-43 Stirling Hwy achieve that Element Objective on the basis of the City's performance assessment?

**Answer**

The Responsibility Authority Report has been prepared with the following the following context:

The R-Codes Volume 2 state on page (iv)

‘This is a performance-based policy. Applications for development approval need to demonstrate the design that achieves the objectives of each Design Element. While addressing the Acceptable Outcomes is likely to achieve the objectives, they are not a deemed-to-comply pathway and the proposal will be assessed in context of the entire design solution to ensure the objectives are achieved. Proposals may also satisfy the objectives by alternative means or solutions.’

Whether or not a particular aspect of a proposed development achieves the Acceptable Outcomes for that Design Element does not determine whether or not that aspect of the development is acceptable. Rather, in each case a determination must be made as to whether the Element Objective is achieved. For a variety of reasons, an Acceptable Outcome may be appropriate on certain lots but not on others (topography, existing land uses, adjacent development, lot configuration etc).

As stated in a State Administrative Tribunal decision of 2020 (WASAT 115):

82 “The R Codes are primarily focused on whether the Element Objectives are achieved or demonstrated. The answer to that question, regardless of what the Acceptable Outcomes may provide, is always as an assessment of the proposed development in its context. A proposed development must demonstrate how the relevant Element Objectives are demonstrated, achieved or met.”

Thus, the ultimate assessment must always be carried out against the performance-based Element Objectives.

The Responsible Authority Report outlines the following in relation to the proposal height:

“In relation to existing buildings which are unlikely to change, the proposal appropriately responds to the immediately adjacent Nedlands Post Office (fmr). This building is listed on the State Heritage Register which is the highest heritage recognition afforded at the State level.”

“The large tower setbacks minimise the impact of building bulk to the Post Office and ensures the Post Office is clearly able to be read and recognised for its cultural heritage significance. As confirmed by the Heritage Council WA advice, the proposed building “is not considered to detract from the setting or cultural heritage significance” of the Post Office.”

“The proposed building has a high regard to its context, particularly with relation to the Post Office building. Where the Acceptable Outcome would typically allow nine storeys across the whole site and directly abutting the Post Office, this proposal has instead kept the development at two storeys to the east and relocated the potential building mass to the south-western tower form. Whilst this results in the tower component being higher than the normal acceptable outcome for R-AC1 zoning, the height is well sited and appropriately responds to the immediate context. The concentration of building mass to the south-west of the site, as opposed to a lower building over the entire site, alleviates the sense of bulk and scale and improves access to outlook, visual privacy, solar and daylight access and ventilation for both the residents of the building and adjoining properties. Given the concentration of the built form, the shadow cast at midday on 21 June is kept to a functional minimum and will not adversely affect adjoining properties. The tower has been designed to minimise the perception of building bulk via varying setbacks and a high level of articulation to all facades. The architectural language of the tower has been supported by the DRP, noting that it “provides a high level of visual interest” as viewed from the public realm.

The development to the north of the site currently consists of low-density residential development reflective of the previous R25 zoning. The lots are now zoned R160 and it can be reasonably expected that they will be redeveloped at some point in the future. Notwithstanding the rezoning, the proposed development respects the existing development to the north by proposing northern setbacks which meet or exceed the Acceptable Outcome. The proposed northern setbacks do not result in any visual privacy intrusions or undue overshadowing and are considered to respect the amenity of the northern properties. The transition to the northern properties is further buffered by Hibbertia Lane, which is proposed to be widened by 2.1m to improve vehicle access and circulation.”

# Addresses by Members of the Public

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

The Presiding Member read an address on behalf of Ms Kerry Sanderson in opposition to item 16.1 - PD73.11.22 Consideration of Development Application – 5 Grouped Dwellings at 16 Tyrell Street, Nedlands.

Mr Geoff Bosich, spoke in opposition to item 16.1 - PD73.11.22 Consideration of Development Application – 5 Grouped Dwellings at 16 Tyrell Street, Nedlands.

Mr Ben Carter, Pinnacle Planning, spoke in support of the recommendation for item 16.1 - PD73.11.22 Consideration of Development Application – 5 Grouped Dwellings at 16 Tyrell Street, Nedlands.

Mr Rex Hubbard, spoke in opposition to the recommendation for item 16.2 - PD74.11.22 Consideration of Development Application – Four Multiple Dwellings at 5A & 5B Alexander Road, Dalkeith.

Ms Kylie Bennett, spoke in relation to item 16.2 - PD74.11.22 Consideration of Development Application – Four Multiple Dwellings at 5A & 5B Alexander Road, Dalkeith.

Mr Eric Pegrum, spoke in relation to item 18.3 - CPS52.11.22 Underground Power – Hollywood East, Nedlands North and Nedlands West.

Mr Ken Perry, spoke in opposition to item 21.2 - PD77.11.22 Consideration of Responsible Authority Report for Mixed Use Development at 37- 43 Stirling Highway, Nedlands.

Mr Ian Lunt, spoke in relation to SAS safety and functionality and granting of a liquor licence to the X Golf business on Bulimba Road.

Mrs Val Moller, spoke in relation to resurfacing road and replace kerb on Minora Road between Adelma and Hynes Road.

# Requests for Leave of Absence

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

Moved – Councillor McManus

Seconded – Councillor Bennett

**Councillor Youngman be granted leave of absence for February & March 2023.**

**CARRIED UNANIMOUSLY 13/-**

# Petitions

Petitions to be tabled at this point.

* 1. **Mr Daniel Tydde & 14 others Requesting access to Christ Church Playing Fields from Blenheim Lane**

Councillor Smyth tabled a petition on behalf of Mr Tydde and 14 others requesting Council open access to the Christ Church Playing Fields located at Stephenson Avenue, via the laneway on Blenheim Lane.

Moved – Councillor Smyth

Seconded – Councillor McManus

**That the petition be received.**

**CARRIED UNANIMOUSLY 13/-**

# Disclosures of Financial Interest

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

* 1. **Councillor Basson – Item 16.3 - PD75.11.22 Consideration of Development Application – Single House at 5 Hobbs Avenue, Dalkeith**

Councillor Basson disclosed a financial interest in Item 16.3 – PD75.11.22 Consideration of Development Application – Single House at 5 Hobbs Avenue, Dalkeith, his interest being that he is employed by Planning Solutions who is the applicant. Councillor Basson declared that he would leave the room during discussion on this item.

# Disclosures of Interests Affecting Impartiality

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

There were no disclosures affecting impartiality.

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

Nil.

# Confirmation of Minutes

**10.1 Ordinary Council Meeting Minutes – 25 October 2022**

Moved – Councillor Coghlan

Seconded – Councillor Senathirajah

**The minutes of the Ordinary Council Meeting held 25 October 2022 be confirmed.**

**CARRIED 12/1**

**(Against: Cr. Youngman)**

# Announcements of the Presiding Member without discussion.

The Mayor read the following announcement:

Good evening Ladies and Gentlemen,

It never stops in the City of Nedlands. An amazing month:

In Financials, things are slowly on the improve. The operating expense at the end of October 2022 was $11, 049, 342 which represents over $2.3  million favourable variance compared to the year to date budget, primarily in employee costs.

The FTE at today date is 166.15, against a budget of 169.04.

We have been planting trees. Public land, Waratah Ave, Ave and Masons Gardens under a grant from Her late Majesty Queen Elizabeth 11, the City planted four Purple Beech Trees. We have an allocated tree budget of $177, 220 an increase on the previous budget. City Planting on public land will begin in April 2023.

Working on protecting our green canopy on private land.

Scheme amendment 12 is now out for advertising, this will bring us in line with other states, and other cities around the world where you will need a DA to take down a tree, on zoned blocks up to R 20. Submissions close on December 11. I will be meeting the WAPC on Monday to advocate for this.

Work on our Long Term Financial Plan is drawing to a close, coming to council in Feb 2023, this is a blueprint for our sustainable financial future.

In other matters, a working group of council has been looking at resource allocation across the 44 key services, delivered by the City. This will form part of the City’s corporate business plan.

In sport news, I have met with Sailing Australia, WAIS, and the Nedlands Yacht Club, to facilitate an Olympic pathway – training program at the yacht club. This is an opportunity for sailors to stretch their skills. Not about winning a medal at the Olympics, well sometimes, but it’s mostly about participation. An Olympic pathway strategy will increase the opportunities at NYC.

A very moving Remembrance Day Service was held by the Nedlands Sub Branch of the RSL, and the City of Nedlands at Perth War Cemetery on 11/11/ 2022.

In Flanders Fields, by John McCrae, was read out by one of the Prefects at Dalkeith PS. The world famous poem speaks of the dead and encourages the living to press on. It was written by Canadian, John McCrae, a Doctor and teacher. It was originally thrown away by the writer. The poem was written for McCrae’s friend, who died in battle, and is now one of the most famous war poems in the world.

**In Flanders Fields**

In Flanders Fields, the poppies blow

Between the crosses, row on row,

That mark our place; and in the sky

The larks, still bravely singing, fly

Scarce heard amid the guns below.

We are the dead. Short days ago

We lived, felt dawn, saw sunset glow,

Loved and were loved, and now we lie,

In Flanders fields.

Take up our quarrel with the foe:

To you from failing hands we throw

The torch; be yours to hold it high.

If ye break faith with us who die

We shall not sleep, though poppies grow

In Flanders fields.

Lest we forget.

# Members Announcements without discussion.

Written announcements by Council Members were tabled at this point.

* 1. **Councillor McManus**

Councillor McManus gave the following speech:

Mayor and Councillors, I wish to pay my respects on the passing of Mrs Betty Ryan a long time resident of Melvista Avenue and wife of former City of Nedlands Deputy Mayor Tom Ryan. Betty devoted her life to helping others particularly mirgrants. She was a long tiem devoted parishioner of Holy Rosary Nedlands Parish, member of the Catenians, Catholic Woman’s League and the Nedlands St Vincent de Paul Society. Betty was also an active member of the Nedlands RSL. Betty was a wonderful lady that everyone spoke highly of. In my lifetime, along with my mother, she was the most lovely woman who put others first. She was also a devoted and loving wife to husband Tom. A life well lived. Rest in peace Betty.

# Matters for Which the Meeting May Be Closed

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

Item 22.1 CPRC05.11.22 – CEO Performance Appraisal

Councillor Hodsdon left the meeting at 6.50pm.

# En Bloc Items

Moved – Councillor Youngman

Seconded – Councillor Senathirajah

**That the officer recommendations for Items 15.1, 17.1 and 18.6, be adopted en bloc and the remaining items16.1, 16.3, 16.4, 18.1, 18.2, 18.3, 18.4, 18.5, 18.7, 19.1, 20.1, 20.2, 20.3, 21.1, 21.2, 21.3, 21.4, 21.5, and 21.6 will be dealt with separately.**

**CARRIED UNANIMOUSLY 12/-**

# 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).

Moved – Councillor Youngman

Seconded – Councillor Senathirajah

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

**Audit & Risk Committee Meeting**  **17 October 2022**

Unconfirmed, circulated to Councillors on 24 October 2022

**Integrated Transport Strategy Steering Committee Meeting**  **31 October 2022**

Unconfirmed, circulated to Councillors on 1 November 2022

**CEO Performance Review Committee Meeting**  **7 November 2022**

Unconfirmed, circulated to Councillors on 9 November 2022

**CEO Performance Review Committee Meeting**  **15 November 2022**

Unconfirmed, circulated to Councillors on 17 November 2022

**CARRIED UNANIMOUSLY EN BLOC 12/-**

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

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

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

Moved – Mayor Argyle

Seconded – Councillor Coghlan

That Council defer consideration of the application for five group dwellings at 16 Tyrell Street, Nedlands, until a traffic management plan and a waste management plan have been submitted for Council’s consideration.

Councillor Hodsdon returned to the meeting at 6.52pm.

Lost 5/8

(Against: Crs. Brackenridge Senathirajah Amiry McManus Youngman Basson Combes & Hodsdon)

Moved – Councillor Coghlan

Seconded – Councillor Mangano

In accordance with Clause 68(2)(c) of the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015,* Council refuses the development application in accordance with the plans date stamped 6 October 2022 for Five Grouped Dwellings at 16 Tyrell Street, Nedlands for the following reasons:

1. The development does not meet the design principles of the R-Codes in relation to vehicle access. The development proposes two vehicle access points which increases the vehicle access points on the streetscape from the pre-development condition. The proposed vehicle access points reduce the ability to provide high quality landscaping features on site and compromises the landscape character of the street.
2. The street setback to Units 3 & 4 does not meet the design principles of the R-Codes and are inconsistent with the future development context.
3. The development does satisfy Clause 67(2) of the Planning and Development (Local Planning Schemes) Regulations 2015 in terms of compatibility with its setting. The development does not appropriately interface with the streetscape or neighbouring lots and will have an adverse impact on neighbouring amenity and the streetscape.

Lost 5/8

(Against: Crs. Brackenridge Senathirajah Amiry McManus Youngman Basson Combes & Hodsdon)

Councillor Mangano left the meeting at 7.17pm.

The Presiding Member left the meeting at 7.18pm and the Deputy Mayor assumed the Chair.

Councillor Mangano returned to the meeting at 7.19pm.

Moved – Councillor Youngman

Seconded – Councillor Basson

**That the recommendation be adopted subject to the following conditions being added:**

1. **Rubbish bins are not to be stored within common property, or within locations visible from Tyrell Street.**
2. **Prior to occupation, the garage to Unit 1 is to be fitted with a door of a concealed type which ties into the material applied to the ground floor of the dwelling surrounding the garage door, to the satisfaction of the City of Nedlands.**
3. **Prior to occupation, the balconies located on the north elevation to Units 2-5 on the approved plans shall be screened in accordance with the Residential Design Codes Deemed to Comply provision, with the required screening being thereafter maintained to the satisfaction of the City of Nedlands.**
4. **Prior to the issue of a building permit, a Waste Management Plan shall be prepared and approved by the City of Nedlands. The approved Waste Management Plan shall be complied with at all times to the satisfaction of the City of Nedlands.**
5. **Prior the issue of a building permit, a Traffic Management Plan shall be prepared by a suitably qualified practitioner and submitted to the City of Nedlands certifying that the proposal incorporates sufficient parking to mitigate impacts on adjoining properties and road network. The measures and recommendations identified in the report shall be implemented and thereafter maintained to the satisfaction of the City of Nedlands.**
6. **Prior to occupation, the new southern vehicle crossover to Tyrell Street shall be constructed with a pervious paving material that allows for turf growth, or similar ‘greening’ outcome, with the crossover thereafter maintained to the satisfaction of the City of Nedlands.**
7. **That at least 50% of the tree plantings are to be of an endemic species to the satisfaction of the City.**

The Presiding Member returned to the meeting at 7.22pm and resumed the chair.

**CARRIED 8/5**

**(Against: Mayor Argyle Crs. Coghlan Smyth Bennett & Mangano)**

**Council Resolution**

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

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

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

1. **Prior to occupation, all air-conditioning plant, satellite dishes, antennae and any other plant and equipment on the roof of the building shall be located or screened to the satisfaction of the City of Nedlands.**
2. **Prior to occupation of the development the visitor parking bay must be clearly marked or signage provided and maintained thereafter by the landowner to the satisfaction of the City of Nedlands.**
3. **Prior to occupation, landscaping shall be completed in accordance with the approved plans dated 6 October 2022 or any approved modifications to the satisfaction of the City of Nedlands. All landscaped areas are to be maintained on an ongoing basis for the life of the development on the site to the satisfaction of the City of Nedlands.**
4. **The street tree(s) within the verge in front of the lot are to be protected and maintained through the duration of the demolition and construction processes to the satisfaction of the City of Nedlands. Should the tree(s) die or be damaged, they are to be replaced with a specified species at the owner’s expense and to the satisfaction of the City of Nedlands.**
5. **One (1) additional street tree shall be planted prior to occupation in the verge area to the specification and satisfaction of the City of Nedlands.**
6. **All stormwater discharge from the development shall be contained and disposed of on-site unless otherwise approved by the City of Nedlands.**
7. **Rubbish bins are not to be stored within common property, or within locations visible from Tyrell Street.**
8. **Prior to occupation, the garage to Unit 1 is to be fitted with a door of a concealed type which ties into the material applied to the ground floor of the dwelling surrounding the garage door, to the satisfaction of the City of Nedlands.**
9. **Prior to occupation, the balconies located on the north elevation to Units 2-5 on the approved plans shall be screened in accordance with the Residential Design Codes Deemed to Comply provision, with the required screening being thereafter maintained to the satisfaction of the City of Nedlands.**
10. **Prior to the issue of a building permit, a Waste Management Plan shall be prepared and approved by the City of Nedlands. The approved Waste Management Plan shall be complied with at all times to the satisfaction of the City of Nedlands.**
11. **Prior the issue of a building permit, a Traffic Management Plan shall be prepared by a suitably qualified practitioner and submitted to the City of Nedlands certifying that the proposal incorporates sufficient parking to mitigate impacts on adjoining properties and road network. The measures and recommendations identified in the report shall be implemented and thereafter maintained to the satisfaction of the City of Nedlands.**
12. **Prior to occupation, the new southern vehicle crossover to Tyrell Street shall be constructed with a pervious paving material that allows for turf growth, or similar ‘greening’ outcome, with the crossover thereafter maintained to the satisfaction of the City of Nedlands.**
13. **That at least 50% of the tree plantings are to be of an endemic species to the satisfaction of the City.**

Recommendation

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

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

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

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

**Purpose**

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

**Voting Requirement**

Simple Majority.

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

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

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

**Background**

**Land Details**

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

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

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

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

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

**Application Details**

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

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

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

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

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

**Discussion**

**Assessment of Statutory Provisions**

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

**Local Planning Scheme No. 3**

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

**Sustainability**

The development proposes multiple sustainability initiatives including:

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

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

**Landscaping**

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

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

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

**Design Review Panel**

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

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

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

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

**Clause 5.1.2 – Street Setback**

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

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

**Clause 5.3.5 – Vehicle Access**

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

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

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

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

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

**Consultation**

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

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

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

**Strategic Implications**

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

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

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

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

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

**Budget/Financial Implications**

Nil.

**Legislative and Policy Implications**

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

**Decision Implications**

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

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

**Conclusion**

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

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

**Further Information**

**Questions or Requests for Further Information**

**Question**

Councillor Mangano – request for additional information in regard to bin storage and placement on verge.

**Officer Response**

The bins are expected to be stored within the garage of each dwelling.

The assessment is that there is sufficient space for 10 bins to be placed along the verge of the property to allow for collection.

**Question**

Councillor Senathirajah – Could the full SAT ruling for 18 Tyrell Street be circulated to Council Members.

**Officer Response**

The SAT decision has been provided to Elected Members.

**Question**

Councillor Youngman – Lot 1 garage door material treatment to be confirmed. Minimum width of garage to be confirmed.

**Officer Response**

In terms of the garage door, the intention is the front street facing unit would have a concealed garage door which ties into the cladding material of the building, the colour perspective seeks to represent this. The balance of the garage doors to the common property driveway will standard door as per the elevations.

The minimum internal double garage width in accordance with the Australian Standard is 5.4m. This application proposes minimum internal widths between 5.4m (Lot 5) – 6.0m (Lot 2).

**Question**

Councillor Amiry – how many visitors bays are required?

**Officer Response**

The R-Codes Volume 1 Clause 5.3.3 Parking C3.2 states “On-site visitors’ car parking spaces for grouped and multiple dwelling developments provided at a rate of one space for each four dwellings, or part thereof in excess of four dwellings, served by a common access”. The subject development proposes four dwellings served by a common access, and one dwelling with its own individual access. One visitor car parking bay is required for the four dwellings served by a common access. No visitor parking is required for the dwelling with its own individual access.

**Question**

Mayor Argyle – is there an option for mediation between parties prior to the Council Meeting to resolve some of the issues identified?

**Officer Response**

Officers have reached out to Dr Skull following her presentation at the Agenda Forum, offering to meet.

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

**PLEASE NOTE: This item has been withdrawn by the applicant.**

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

Revised Officer Recommendation

That Council defer the application for four multiple dwellings at 5A and 5B Alexander Road, Dalkeith to the next appropriate Council meeting.

Recommendation

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

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

Engineering and Design

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

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

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

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

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

a. Face brick;

b. Painted render;

c. Painted brickwork; or

d. Other clean finish as specified on the approved plans

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

Landscaping

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

Acoustics and Sustainability

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

Waste

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

Screening and Lighting

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

**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.

**Voting Requirement**

Simple Majority.

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

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

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

**Background**

**Land Details**

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

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

**Background**

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

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

**Application Details**

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

**Discussion**

**Assessment of Statutory Provisions**

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

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

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

**Local Planning Scheme No. 3**

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

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

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

**Element 2.3 – Street setbacks**

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

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

**Element 2.4 – Side and rear setbacks**

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

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

**Element 2.5 – Plot ratio**

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

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

**Element 3.2 – Orientation**

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

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

**Sustainability**

The following sustainability initiatives are incorporated in the development:

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

**Design Review Panel**

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

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

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

Context and Character

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

Landscape Quality

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

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

Built Form and Scale

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

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

Amenity

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

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

Legibility

The design is intuitive and easy to navigate as:

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

Safety

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

Aesthetics

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

**Consultation**

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

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

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

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

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

**Strategic Implications**

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

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

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

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

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

**Budget/Financial Implications**

Nil.

**Legislative and Policy Implications**

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

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

**Decision Implications**

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

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

**Conclusion**

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

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

**Further Information**

**Questions or Requests for Further Information**

The applicant has requested that consideration of the application be deferred, hence the question raised at the Agenda Forum will be incorporated into a future report to Council

**Question**

Councillor Mangano – Could the Director please visit the site to consider building heights and overshadowing?

**Question**

Could further information be provided on the carparking for visitors i.e., where is this located / provided? Could off street parking be a condition of approval?

**Question**

Councillor Youngman – Could further information be provided in relation to bin storage location and number of bins?

**Question**

Councillor Mangano – Could the bins be collected from the laneway?

**Question**

Is there a risk of flooding the basement of this development from the City’s laneway? Should sealing of the laneway be a condition of approval to prevent gravel and dirt entering basement of the development?

**Question**

Councillor Amiry – air conditioning noise?

**Officer Response**

All these questions will be addressed in a future Council report.

Based on the applicants request it is recommended that Council adopted the following revised officer recommendation;

**That Council defer the application for four multiple dwellings at 5A and 5B Alexander Road, Dalkeith to the next appropriate Council meeting.**

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

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

**Councillor Basson – Financial Interest**

Councillor Basson disclosed a financial interest his interest being that he is employed by Planning Solutions who is the applicant. Councillor Basson declared that he would leave the room during discussion on this item.

Councillor Basson left the room at 7.28pm.

**Regulation 11(da) – Not Applicable – Recommendation Adopted**

Moved – Councillor Youngman

Seconded – Councillor Combes

**That the Recommendation be adopted.**

(Printed below for ease of reference)

**CARRIED8/4**

**(Against: Mayor Argyle Crs. Smyth Bennett & Mangano)**

**Council Resolution / Recommendation**

**In accordance with Clause 68(2)(b) of the Deemed Provisions of the Planning and Development (Local Planning Schemes) Regulations 2015, Council approves the development application in accordance with the plans date stamped 13 October 2022 for a single house at 5 Hobbs Avenue, Dalkeith, subject to the following conditions:**

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

**Purpose**

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

**Voting Requirement**

Simple Majority.

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

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

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

**Background**

**Land Details**

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

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

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

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

**Discussion**

**Assessment of Statutory Provisions**

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

**Local Planning Scheme No. 3**

Schedule 2, Clause 67(2) (Consideration of application by Local Government) – identifies those matters that are required to be given due regard to the extent relevant to the application. Where relevant, these matters are discussed in the following sections. Overall, the development meets these objectives and will not detrimentally impact on the amenity of the locality.

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

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

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

**Clause 5.1.2 Street Setbacks**

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

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

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

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

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

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

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

**Clause 5.1.4 Open Space**

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

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

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

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

**Consultation**

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

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

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

1. Lack of Open Space and Large Building Envelope

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

**Officer Response:**

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

1. Reduction to Street Setbacks

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

**Officer response:**

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

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

1. Reduction to Lot Boundary Setbacks

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

**Officer response:**

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

**Strategic Implications**

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

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

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

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

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

**Legislative and Policy Implications**

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

**Decision Implications**

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

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

**Conclusion**

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

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

Conditional approval of the development is recommended.

**Further Information**

Nil.

Councillor Basson returned to the room at 7.35 pm.

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

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

**Regulation 11(da) – Not Applicable – Recommendation Adopted**

Moved – Councillor McManus

Seconded – Councillor Senathirajah

**That the Revised Officer Recommendation be adopted.**

(Printed below for ease of reference)

**CARRIED 10/3**

**(Against: Crs. Coghlan Bennett & Mangano)**

**Council Resolution / Revised Officer Recommendation**

**That Council, pursuant to Clause 52 (1)(a) of the Deemed Provisions of the *Planning and Development (Local Planning Regulations),* approves the Local Development Plan dated 15 November 2022 for Lot 565 (No.101) Monash Avenue, Nedlands (Attachment 3).**

Recommendation

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

**Purpose**

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

**Voting Requirement**

Simple Majority.

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

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

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

**Background**

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

**Existing site context**

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

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

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

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

**Existing framework versus proposed**

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

1. All development and uses are to be consistent and not detrimental to the primary function of the area being medical and hospital related.
2. Where there is no approved structure plan, local development plan and/or activity centre plan, development shall comply with the following provisions:
	1. Setbacks
		1. Monash Avenue: 10m
		2. Verdun Street: 10m
		3. Western boundary: 10m
		4. Eastern boundary: Nil.
	2. Wall height:
		1. Maximum of 26.7m except in the following instances:
* No more than 10m where development is located less than 80m from Verdun Street; and
* No more than 18.3m where the development is located less 60m from Monash Avenue.

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

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

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

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

**Discussion**

**Justification for height increase**

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

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

**Impact of proposed change**

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

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

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

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

**Consultation**

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

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

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

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

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

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

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

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

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

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

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

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

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

**Strategic Implications**

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

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

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

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

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

**Budget/Financial Implications**

Nil.

**Legislative and Policy Implications**

Schedule 2, Part 6, Clause 46 of the [*Planning and Development (Local Planning Schemes) Regulations 2015*](https://www.legislation.wa.gov.au/legislation/prod/filestore.nsf/FileURL/mrdoc_44080.pdf/%24FILE/Planning%20and%20Development%20%28Local%20Planning%20Schemes%29%20Regulations%202015%20-%20%5B00-l0-00%5D.pdf?OpenElement)*,* outlines the steps relating the assessment, advertising and consideration of Local Development Plans.

**Decision Implications**

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

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

**Conclusion**

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

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

**Further Information**

**Questions or Requests for Further Information**

**Question**

Councillor Hodsdon – Confirm the status of the Hollywood Hospital Master Plan and if available to the public?

**Officer Response**

Under the City’s previous Planning Scheme, development of the Hospital site was to be in accordance with an approved Master Plan. The latest version of this Master Plan was endorsed in February 2014 by the City. When the new Local Planning Scheme was gazetted in 2019, this provision was removed which made this Master Plan no longer relevant in guiding the overall development of the hospital sitefrom a staturtory planning perspective.

**Question**

Could the City preform a noise assessment?

**Officer Response**

The offer has been made to the Holmes for a noise monitoring device to be placed in their house to allow for noise monitoring to occur.

**Question**

Councillor McManus – Could the proposed development height be 13m and the remainder at 10m - alternate motion be prepared.

**Officer Response**

The applicant has amended the Local Development Plan to further divide ‘Area 1’ into an additional two areas; Areas 1a and 1b (refer to **Attachment 3**) .

Area 1b will remain at 10m in building height with Area 1a proposing the 13m building height.

Based on the revised Local Development Plan being submitted a revised officer recommendation is as follows:

**That Council, pursuant to Clause 52 (1)(a) of the Deemed Provisions of the *Planning and Development (Local Planning Regulations),* approves the Local Development Plan dated 15 November 2022 for Lot 565 (No.101) Monash Avenue, Nedlands (Attachment 3).**

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

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

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

**Regulation 11(da) – Not Applicable – Recommendation Adopted**

Moved – Councillor Youngman

Seconded – Councillor Senathirajah

**That the Recommendation be adopted.**

(Printed below for ease of reference)

**CARRIED UNANIMOUSLY EN BLOC 12/-**

**Council Resolution / Recommendation**

**That Council:**

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

**Purpose**

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

**Voting Requirement**

Simple Majority.

**Background**

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

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

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

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

**Work Health and Safety**

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

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

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

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

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

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

**Discussion**

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

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

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

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

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

**Consultation**

Not Required.

**Strategic Implications**

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

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

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

**High Standard of Service**

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

**Priority area**

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

**Budget/Financial Implications**

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

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

**Legislative and Policy Implications**

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

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

**Decision Implications**

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

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

**Conclusion**

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

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

**Further Information**

Nil.

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

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

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

**Regulation 11(da) – Council agreed a risk assessment was required to outline any risk prior to the signing of the lease.**

Moved – Councillor Smyth

Seconded – Councillor Amiry

**That the Recommendation be adopted subject to clause 1 be replaced with the following:**

**1. notes the risk assessment for the service road and instructs the CEO to address the identified risks prior to proceeding with the lease.**

**CARRIED 11/2**

**(Against: Crs. Coghlan & Mangano)**

**Council Resolution**

**That Council:**

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

Recommendation

That Council:

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

**Purpose**

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

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

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

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

**Voting Requirement**

Simple Majority.

**Background**

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

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

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

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

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

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

**Discussion**

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

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

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

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

**Consultation**

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

**Strategic Implications**

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

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

**Values Great Governance and Civic Leadership**

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

**Budget/Financial Implications**

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

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

**Legislative and Policy Implications**

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

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

**Decision Implications**

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

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

**Conclusion**

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

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

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

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

**Further Information**

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

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

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

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

**Questions or Requests for Further Information**

**Question**

Councillor Smyth – Deferred for Risk Assessment - Has this Risk Assessment been provided to the Leo Heaney PL lease proponents?

**Officer Response**

Yes

**Question**

If so, what comments have they provided relevant to the proposed lease?

**Officer Response**

Leo Heaney Pty Ltd agree with the recommendations to reduce risk.

**Question**

Councillor Smyth - Risk Mitigation Costs - Can administration provide an estimate of the cost associated with each of the 7 Risk Factors identified?

**Officer Response**

Initial estimate is $50,000 subject to final designs. This amount will be included for consideration in the Mid-year Budget Review.

**Question**

Councillor Smyth – Could administration assist with an amendment for the Council Meeting for adding the following clause 2: instructs the CEO to address the identified risks prior to proceeding with the lease.

**Officer Response**

The City will prepare an amendment with supporting officer comments prior to the Council Meeting.

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

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

**Regulation 11(da) - Council agreed a risk assessment was required to outline any risk prior to the signing of the lease.**

Moved – Councillor Smyth

Seconded – Councillor Amiry

**That the Recommendation be adopted subject to clause 1 be replaced with the following:**

**1. notes the risk assessment for the service road and instructs the CEO to address the identified risks prior to proceeding with the lease.**

**CARRIED 9/4**

**(Against: Crs. Coghlan Smyth Bennett & Mangano)**

**Council Resolution**

**That Council:**

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

Recommendation

That Council:

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

**Purpose**

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

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

**Voting Requirement**

Simple Majority.

**Background**

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

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

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

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

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

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

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

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

**Discussion**

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

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

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

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

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

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

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

* Throughput FY21/22: 3000t of Garden Organic (GO) Bin Greenwaste and 4000t of Bulk Green waste. With more councils moving from GO to Food Organics Garden Organics (FOGO) the GO throughput is expected decrease in future years.
* FOGO is not being stored or processed on this site.
* Estimated throughput for FY22/23 is 5800t.
* City of Nedlands delivered 248t of Greenwaste in the last FY.
* Truck movement per week: The number of truck movements average 80 per week, including 7 semi-trailers need to be loaded per week for transfer to processing sites.
* Current opening hours: 7am to 4pm Monday to Friday
* The current site is licenced for 20,000 tonnes annual throughput

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

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

An overview of the proposed lease area is shown in attachment 2. The summary above has been updated following advice from the CEO of the WMRC.

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

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

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

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

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

**Consultation**

Consultation with WRMC has occurred on their initial proposal.

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

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

**Strategic Implications**

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

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

**Values Healthy and Safe**

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

**Great Natural and Built Environment**

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

**High standard of services**

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

**Great Governance and Civic Leadership**

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

**Great for Business**

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

**Priority Area**

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

**Budget/Financial Implications**

The lease would be at no cost to Council.

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

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

**Legislative and Policy Implications**

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

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

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

**Decision Implications**

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

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

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

**Conclusion**

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

**Further Information**

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

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

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

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

Crash likelihood: Possible;

Severity: Serious.

Priority: High

* 1. Recommendation - The priority of the intersection should be changed to give cars priority over pedestrians, as would be the case if the Reserve were a Gazetted Road. This would include removing the portion of footpath in the intersection and installing pram ramps
1. **Delineation of auxiliary left lane.**
	1. There is an existing ‘Left Turn’ pavement marking prior to the entrance of the carparking area. The line marking delineating the auxiliary left lane is missing. This can misguide a driver new to the area and cause confusion for road users.
	2. Assessment:

Crash likelihood: Possible

Severity: Insignificant.

Priority: Low.

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

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

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

Priority: Low to Medium.

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

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

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

Priority: Low.

* 1. Recommendation: Provide uniform grade and sealed surface. If the surface is not sealed, dust suppression measures should be taken.
1. **Overgrown branches obstructing visibility:**
	1. Overgrown vegetation is partially obstructing drivers’ visibility from John XXIII Catholic College carpark.
	2. Assessment:

Crash likelihood: Possible;

Severity: Insignificant;

Priority: Low.

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

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

* 1. Assessment***:***

Crash likelihood: Possible.

Severity: Insignificant.

Priority: Low.

* 1. Recommendation: - The existing ‘STOP’ sign at the intersection of the Reserve and the car parking area should be replaced with a ‘Give way’ sign. This will assist with all roads users behaving as expected in this area.
1. **Other minor items:**
	1. Depending on the future prospect of the Reserve, installation of street lighting may be considered.
	2. The existing waste container should be relocated.
	3. Consideration for stormwater management should be given.

**Questions or Requests for Further Information**

**Question**

Councillor Smyth – WRMC Truck Activity via Lease Site - Mr Frodsham indicated that the volume of trucks would be less, and weekends movements were not scheduled. Can you please confirm if these estimates stated in the report are accurate with WMRC actual requirements?

**Officer Response**

The WMRC have updated their estimates since they submitted their initial proposal. These estimated truck movements have been updated in the report.

**Question**

If the parameters are excessive to current operations, can the actual figures be referenced in the lease rather than ballooning for future capacity?

**Officer Response**

The CEO of the WMRC has confirmed that the number of truck movements average 80 per week Monday to Friday, including 7 semitrailer loadouts. They expect the number of truck movements over time to decrease as member councils switch from GO Bin services to FOGO Bin services. The above truck movements are estimates provided by WMRC and has been updated in the report.

**Question**

Councillor Smyth – Deferred for Risk Assessment - Has this Risk Assessment been provided to the WMRC lease proponents? If so, what comments have they provided relevant to the proposed lease?

**Officer Response**

Yes. The WMRC confirmed their current greenwaste yard lease has been extended to 30 June 2023. This gives them sufficient time for their officers to work through terms and conditions of a greenwaste yard lease with the City and for any action to be taken arising from the risk assessment.

**Question**

Councillor Smyth – Risk Mitigation Costs - Can administration provide an estimate of the cost associated with each of the 7 Risk Factors identified?

**Officer Response**

Initial estimate is $50,000 subject to final designs. This amount will be included for consideration in the Mid-year Budget Review.

**Question**

Councillor Smyth – Council administration assist with an amendment for the Council Meeting for adding the following clause 2: instructs the CEO to address the identified risks prior to proceeding with the lease.

**Officer Response**

The City will prepare an amendment with supporting officer comments prior to the Council Meeting.

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

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

**Regulation 11(da) – Council agreed that money could be saved by only surveying those affected ratepayers and to outline items for the business case and survey.**

Moved – Councillor Mangano

Seconded – Councillor Youngman

**That the Recommendation be adopted subject to the following amendments:**

1. **amends clause 2 by replacing “$100,000” with “$43,000”**
2. **adds an additional clause 4 as follows:**
3. **the business case and survey is subject to the following:**
	1. **Survey only to be done in the affected ratepayers, not the whole city;**
	2. **All OPEX (lead-ins) to be funded by the affected ratepayers;**
	3. **Discounts only to those directly below transmission lines;**
	4. **Business case to be produced by February 2023; and**
	5. **Deferred payments to be repaid within 4 years.**

Amendment

Moved – Councillor Youngman

Seconded – Councillor Amiry

**That 4 d be amended by replacing “February” with “March”**

**The Amendment was PUT and was**

**CARRIED 12/1**

**(Against: Cr. Mangano)**

Amendment

Moved – Councillor McManus

Seconded – Councillor Amiry

That 4 c and e be removed.

The Presiding Member agree to vote on the amendment in two parts.

That 4 c be removed.

The Amendment was PUT and was

Lost 3/10

(Against: Mayor Argyle Crs. Brackenridge Coghlan Senathirajah Smyth Bennett Mangano Youngman Combes & Hodsdon)

That 4 e be removed.

The Amendment was PUT and was

Lost 4/9

(Against: Mayor Argyle Crs. Brackenridge Coghlan Senathirajah Smyth Bennett Mangano Youngman & Combes)

Amendment

Moved – Councillor Senathirajah

Seconded – Councillor Smyth

1. add the following at the end of clause 1 - “noting that cost estimates to + or – 10% accuracy are to be provided when the Request for Tender is finalised”;
2. add the following at the end of clause 2 - “including the impact on the City’s Long Term Capital Works Program of the different possible funding options and payment terms”;
3. add the following at the end of clause 3 “ensuring that all ratepayers in the City are given the opportunity to comment on the proposed expenditure of City’s funds”; and
4. Clause 4 (a) be deleted.

The Amendment was PUT and was

Lost 2/11

(Against: Mayor Argyle Crs. Brackenridge Coghlan Amiry McManus Bennett Mangano Youngman Basson Combes & Hodsdon)

**The Substantive Motion was PUT and was**

**CARRIED 11/2**

**(Against: Crs. Senathirajah & McManus)**

**Council Resolution**

**Council:**

1. **receives the designs and cost estimates provided by Western Power for underground power to Hollywood East, Nedlands North and Nedlands West;**
2. **authorises the CEO to prepare a business case on underground power for Hollywood East, Nedlands North and Nedlands West; and**
3. **approves an allocation of $43,000 from the Underground Power Reserve to fund the business case and community engagement.**
4. **the business case and survey is subject to the following:**
	1. **Survey only to be done in the affected ratepayers, not the whole city;**
	2. **All OPEX (lead-ins) to be funded by the affected ratepayers;**
	3. **Discounts only to those directly below transmission lines;**
	4. **Business case to be produced by March 2023; and**
	5. **Deferred payments to be repaid within 4 years.**

Recommendation

Council:

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

**Purpose**

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

**Voting Requirement**

Absolute Majority.

**Background**

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

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

Council:

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

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

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

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

**Discussion**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Consultation**

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

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

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

**City of Nedlands Community**

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

**Residents in Project Areas**

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

**Strategic Implications**

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

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

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

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

**Great Governance and Civic Leadership**

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

**Priority Area**

* Underground power

**Budget/Financial Implications**

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

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

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

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

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

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

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

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

**Legislative and Policy Implications**

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

**Decision Implications**

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

**Conclusion**

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

**Further Information**

**Questions or Requests for Further Information**

**Question**

Councillor Mangano – Could you please confirm cost spent to date on the detailed design?

**Officer Response**

A review of actual expenditure confirms that $940,500 has been spent on design.

**Question**

Councillor McManus – CEO to organise meeting with Local Member re Minister Johnston newspaper article of 7 November 2022. To cover all issues raised in the newspaper article.

**Officer Response**

The CEO met with Dr Katrina Stratton on Monday 14th November 2022.

**Question**

Councillor Senathirajah – Could you please confirm amount in the underground power reserve as at 30 Jun 2022.

**Officer Response**

The balance as at 30 June 2022 was $2,191,096

**Question**

Councillor Hodsdon – Could a table to show breakdown of percentage comparisons from previous stages of underground power?

**Officer Response**

This can be included in the proposed Business Case.

**Question**

Councillor Smyth – Could the business case include history of underground power provision in the City including who paid for each stage?

**Officer Response**

This can be included in the proposed Business Case.

# CPS53.11.22 Rate Exemption – Kindy in the Park

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

**Regulation 11(da) – Not Applicable - Recommendation**

Moved – Councillor Youngman

Seconded – Councillor McManus

**That the Recommendation be adopted.**

(Printed below for ease of reference)

**CARRIED 11/2**

**(Against: Crs. Coghlan & Mangano)**

**Council Resolution / Recommendation**

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

**Purpose**

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

**Voting Requirement**

Simple Majority.

**Background**

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

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

**Discussion**

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

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

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

**Consultation**

Not applicable.

**Strategic Implications**

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

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

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

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

**Budget/Financial Implications**

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

**Legislative and Policy Implications**

[Local Government Act 1995](https://www.legislation.wa.gov.au/legislation/prod/filestore.nsf/FileURL/mrdoc_43454.pdf/%24FILE/Local%20Government%20Act%201995%20-%20%5B07-t0-00%5D.pdf?OpenElement)

**Decision Implications**

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

**Conclusion**

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

**Further Information**

Nil.

# CPS54.11.22 Monthly Financial Report – October 2022

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting – 22 November 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 – 31 October 2022 2. Statement of Net Current Assets – 31 October 2022 3. Statement of Comprehensive Income – 31 October 20224. Statement of Financial Position – 31 October 20225. Reserve Movements – 31 October 20226. Borrowings – 31 October 20227. Capital Works Program – 31 October 2022 |

**Regulation 11(da) – Not Applicable – Recommendation Adopted**

Moved – Councillor McManus

Seconded – Councillor Hodsdon

**That the Recommendation be adopted.**

(Printed below for ease of reference)

**CARRIED 12/1**

**(Against: Cr. Mangano)**

**Council Resolution / Recommendation**

**That Council receive the Monthly Financial Report for 31 October 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.

**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 October 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 31 October 2022 is $22,405,685 which is a $871,279 unfavourable variance, compared to a budgeted surplus for the same period of $21,534,406.

The operating revenue at the end of October 2022 was $31,354,258 which represents a $798,878 unfavourable variance compared to the year-to-date budget, primarily in operating grants, subsidies, and contributions.

The operating expense at the end of October 2022 was $11,049,342, which represents a $2,327,826 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 $996,757 primary due to timing of revenue recognition of FOGO grant of $174,300, and Nedlands Community Care grants of $731,032.

**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 $68,593 primarily due to high interest earnings on municipal cash in transactional account prior to investment of $52,913.

**Other revenue**

Favourable variance of $100,978 primarily due to design work fee for Aldi Nedlands site of $37,497 and building application assessment advise to regional councils of $37,335.

**Employee costs**

Favourable variance of $1,149,546 primarily due to current vacancies, timing of leave accruals, and EBA negotiations.

**Materials and contracts**

Favourable variance of $1,016,674, primary due to contract services for waste of $834,472 and buildings maintenance of $175,856.

**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 $52,818 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**

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

**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**

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

**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 $381,483 primary due to budget phasing of capital projects. To be adjusted at mid-year review.

**Purchase and construction of infrastructure**

Unfavourable variance of $1,961,327 primary due to budget phasing of capital projects. To be adjusted at mid-year review.

**Payments for intangible assets**

No variance analysis required as variance to budget is less than $50,000 and 10%.

**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 $962,489 primary due to timing 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 $20,000 and 10%.

Outstanding rates debtors are $11,231,214 as at 31 October 2022 compared to $8,709,000 as at 31 October 2021. Breakdown as follows:

|  |  |  |  |
| --- | --- | --- | --- |
| **Receivable** | **31-Oct-22 ($)** | **31-Oct-21 ($)** | **Variance ($)** |
| Rates & UGP | 9,864,883 | 7,471,000 | 2,393,883 |
| Rubbish & Pool | 244,449 | 266,000 | -21,551 |
| Pensioner Rebates | 561,897 | 590,000 | -28,103 |
| ESL | 559,985 | 373,000 | 186,985 |
| **Total** | **11,231,214** | **8,709,000** | **2,531,214** |

**Employee Data**

|  |  |
| --- | --- |
| **Description** | **Number** |
| Full time / Part time / Casual Head - Total Headcount | 186.00 |
| Establishment (Budgeted FTE)  | 169.04 |
| Occupied positions (FTE)  | 151.69 |
| Casual positions (FTE)  | 9.47 |
| Contract employees - temporary/agency (FTE) | 1.00 |
| Resignations (employee number)  | 2.00 |

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

**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*,](https://www.legislation.wa.gov.au/legislation/prod/filestore.nsf/FileURL/mrdoc_45568.pdf/%24FILE/Local%20Government%20%28Financial%20Management%29%20Regulations%201996%20-%20%5B03-k0-00%5D.pdf?OpenElement) and *Australian Accountings Standard AASB 1031 Materiality*.

**Legislative and Policy Implications**

*Local Government Act 1995*, *Local Government (Financial Management) Regulations 1996,* and *Australian Accounting Standards.*

**Decision Implications**

Nil.

**Conclusion**

The municipal surplus as at 31 October 2022 is $22,405,685 which is favourable, compared to a budgeted surplus for the same period of $21,534,406 being a 4.05% variance.

The operating revenue at the end of October 2022 was $31,354,258 which represents a $798,878 or 2.48% unfavourable variance compared to the year-to-date budget of $32,153,136, primarily in operating grants, subsidies, and contributions.

The operating expense at the end of October 2022 was $11,049,342, which represents a $2,327,826 or 17.40% favourable variance compared to the year-to-date budget of $13,377,168, primarily in materials and contracts.

**Further Information**

Nil.

# CPS55.11.22 Monthly Investment Report – October 2022

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting – 22 November 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 31 October 2022 |

**Regulation 11(da) – Not Applicable – Recommendation Adopted**

Moved – Councillor Youngman

Seconded – Councillor Senathirajah

**That the Recommendation be adopted.**

(Printed below for ease of reference)

**CARRIED UNANIMOUSLY EN BLOC 12/-**

**Council Resolution / Recommendation**

**That Council receive the Investment Report for the period ended 31 October 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.

**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 31 October 2022 and 31 October 2021 the City held the following funds in investments:

|  |  |  |
| --- | --- | --- |
| **Funds** | **31 October 2022 ($)** | **31 October 2021 ($)** |
| Municipal | 2,085,426 | 5,322,981 |
| Reserve  |  8,263,144  | 13,578,291 |
| **Total Investments** | **10,348,570**  | **18,901,272** |

The total interest earned from investments as at 31 October 2022 was $72,777, comprising of $28,943 received at maturity and $43,834 accrued.

The Investment Portfolio comprises holdings in the following institutions:

|  |  |  |
| --- | --- | --- |
| **Financial Institution** | **Funds Invested** | **Proportion of Portfolio** |
| NAB |  $ 3,463,667  | 33.47% |
| WBC |  $ 4,019,181  | 38.84% |
| ANZ |  $ 1,118,796  | 10.81% |
| CBA |  $ 1,746,926  | 16.88% |
| **Total** |  **$ 10,348,570**  | **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 October 2022 YTD Actual interest income from investments is $72,777 compared to the October 2022 YTD Budget of $90,486.

**Legislative and Policy Implications**

[City of Nedlands - Investment of Operating Cash Policy](https://www.nedlands.wa.gov.au/documents/285/investment-of-council-funds)

**Decision Implications**

N/A.

**Conclusion**

The Investment Report is presented to Council.

**Further Information**

Nil.

# CPS56.11.22 List of Accounts Paid – October 2022

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting – 22 November 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 – October 2022; and
2. Credit Card and Purchasing Card Payments - October 2022
 |

**Regulation 11(da) – Not Applicable – Recommendation Adopted**

Moved – Councillor Youngman

Seconded – Councillor Combes

**That the Recommendation be adopted.**

(Printed below for ease of reference)

**CARRIED 11/2**

**(Against: Crs. Coghlan & Mangano)**

**Council Resolution / Recommendation**

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

**Purpose**

The purpose of this report is to present list of accounts paid for the month of October 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/%24FILE/Local%20Government%20%28Financial%20Management%29%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 October 2022 complies with the relevant legislation and can be received by Council (see attachments).

**Further Information**

Nil.

# Reports by the Chief Executive Officer CEO14.11.22

# CEO14.11.22 Foreshore Management Steering Committee Replacement Member

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

**Regulation 11(da) – Not Applicable – Recommendation Adopted**

Moved – Councillor Hodsdon

Seconded – Councillor Youngman

**Council Resolution**

**That Council appoints Councillor Basson as Member and Councillor Hodsdon as Deputy Member to the Foreshore Management Steering Committee.**

**CARRIED UNANIMOUSLY 13/-**

Revised Officer Recommendation

That Council appoints Councillor Basson as Member and Councillor (insert Councillor name) as Deputy Member to the Foreshore Management Steering Committee.

**Recommendation**

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

**Purpose**

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

**Voting Requirement**

Absolute Majority.

**Background**

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

**Discussion**

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

**Consultation**

Nil.

**Strategic Implications**

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

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

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

**Great Communities**

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

**Budget/Financial Implications**

There are no budget / financial implications.

**Legislative and Policy Implications**

Section 5.8 of the [Local Government Act 1995](https://www.legislation.wa.gov.au/legislation/prod/filestore.nsf/FileURL/mrdoc_43454.pdf/%24FILE/Local%20Government%20Act%201995%20-%20%5B07-t0-00%5D.pdf?OpenElement) allows Council to establish Committees to assist the Council to exercise the power and discharge the duties of the Local Government.

Section 5.10 of the [Local Government Act 1995](https://www.legislation.wa.gov.au/legislation/prod/filestore.nsf/FileURL/mrdoc_43454.pdf/%24FILE/Local%20Government%20Act%201995%20-%20%5B07-t0-00%5D.pdf?OpenElement) states that a committee is to have its members appointed by absolute majority.

[Regulation 4 of the Local Government (Administration) Regulations:](https://www.legislation.wa.gov.au/legislation/prod/filestore.nsf/FileURL/mrdoc_43667.pdf/%24FILE/Local%20Government%20%28Administration%29%20Regulations%201996%20-%20%5B03-m0-00%5D.pdf?OpenElement) outlines that a committee member may resign from membership of a committee by giving the CEO or the committee’s presiding member written notice of the resignation.

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

**Membership**

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

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

**Decision Implications**

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

**Conclusion**

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

**Further Information**

In further review of the Terms of Reference for this committee under Membership it states:

1. Council will appoint one Councillor from each ward as deputy members of the committee.

Therefore, an amended recommendation is provided to ensure a Deputy Member is also appointed to this committee to ensure compliance with the Terms of Reference.

**Revised Officer Recommendation**

**That Council appoints Councillor Basson as Member and Councillor (insert Councillor name) as Deputy Member to the Foreshore Management Steering Committee.**

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

# Councillor Mangano – Reimbursement of Local Government Elected Members Association Membership Fee

On the 31 October 2022, Councillor Mangano gave notice of his intention to move the following motion.

Moved – Councillor Mangano

Seconded – Councillor Coghlan

That the City of Nedlands reimburses elected members’ membership fees of LGEMA (Local Government Elected Members Association), currently $60 per annum per elected member.

Lost 6/7

(Against: Mayor Argyle Crs. Brackenridge Senathirajah

Amiry McManus Basson Hodsdon)

Justification

1. Staff memberships of LG Pro and other organisations have been reimbursed.
2. LGEMA provides valuable advice and mentoring to elected members.
3. LGEMA is dedicated to supporting Elected Members achieve the best possible community outcomes on behalf of their constituents.

Administration Comment

WALGA

The City of Nedlands is a member of WALGA paying an annual subscription of $20,403.48 and additional $25,542 for annual subscriptions for Procurement, Council Connect, Employee Relations, Local Laws and Governance which provides access to workshops and training, a large range of professional development for both elected members and city officers and essential courses including legislative required elected member courses which can be done individually or as a group.

WALGA’s purpose is to leverage the collective strength and influence of the Local Government sector for the benefit of WA Local Governments and their communities. Allowing Elected Members to contact WALGA at any time for advice or support.

LGEMA

The Local Government Electors Members Association (LGEMA) was incorporated in 2019 and costs $60 for an individual annual membership with additional services at an extra cost or $5,000 for an annual corporate council membership including all elected members.

The Local Government Elected Members’ Association (WA) Inc. (LGEMA) is dedicated to supporting Elected Members achieve the best possible community outcomes on behalf of their constituents. These resources cover one-on-one and group activities including mentoring, workshops and advocacy services.

Councillor Youngman left the meeting at 8.47pm.

# Councillor Mangano – Real Estate Sign Placement

On the 31 October 2022, Councillor Mangano gave notice of his intention to move the following motion.

Moved – Councillor Mangano

Seconded – Councillor Bennett

That the CEO writes to all active builders, real estate agents and sign companies that operate within the City of Nedlands a letter explaining the City of Nedlands signs policies applicable to them, by 31st December 2022.

Councillor Coghlan left the meeting at 8.48pm.

Councillor Youngman returned to the meeting at 8.49pm.

Councillor Coghlan returned to the meeting at 8.51pm.

Lost 6/7

(Against: Mayor Argyle Crs. Brackenridge Senathirajah

Amiry McManus Basson & Combes)

Justification

1. Signs are constantly placed obstructing verges, sometimes blocking sightlines
2. Often signs are oversized
3. Where placed can damage tree roots and other services
4. Compliance costs adds to the cost of Ranger Services

Administration Comment

The City acknowledges that the sale/auction of houses and the associated placement of ‘For Sale’ signs is a normal practice in any residential area.

Builder’s signs are required to be displayed during the construction phase in a clear prominent position on the site.

**Consideration of For Sale Signs**

With regards to the placement of For Sale, the *Local Law Relating to Thoroughfares 2000* states that an item cannot be placed on a thoroughfare without a permit. Compliance activities associated with the placement signs are generally in response to complaints whereby the agent is instructed to remove the sign from the verge and placed within private property. The City wrote to real estate agents within the district on the 3 March 2022 advising of the requirements that signs cannot be placed on a verge. The City has continued with enforcement action to ensure compliance with the local law.

The opposing argument to the placement of real estate signage on the verge by residents and businesses is commonly about the impracticalities of this local law provision. The City recently feedback received 1 November 2022 stating:

*“*Residents maintain their street verge. Water it. Landscape it. Spend money looking after it. Yet when they want to sell their homes, you don't allow them to put up a temporary FOR SALE sign on the street verge. Your current rules are that it must be back on the property line. My feedback is that this is not fair, reasonable, or practical, in many cases. A sign that is parallel to the road does not block any sight lines. They are not permanent fixtures. Why can they not be in the street verge, in front of the house, that has been maintained by the owner, in many cases, for many years? My feedback is that I think it is ridiculous and I ask that the policy be reviewed and changed.”

**Consideration of Builder’s Signs**

Builder’s signs are placed in accordance with the *Building Services (Registration) Regulations 2011* (the Regulations) which states that builders, painters, owner-builders and building surveyors must display a sign placed on the site with the inclusion particular detail. A Verge Permit may be further obtained for the duration of the construction allowing a builder to store conditional building construction materials on the verge which may include sign. Compliance activities ensure that a verge permit is obtained and that the sign is displayed in accordance with the Regulations.

The Administration recommends a specific council policy for signs on the thoroughfare should be developed which outlines a consistent and equitable approach to deal with a variety of signs. This policy should ensure public safety while allowing businesses and residents to advertise through signage placement on public land.

**Administration Recommendation**

**That Council request that the Chief Executive Officer prepare a Discussion Paper for presentation at a Concept Forum outlining options open to Council with respect to the placement of signage on the thoroughfare, including the preparation of a draft Policy for discussion purposes.**

# Councillor Mangano – 40km/h limit on Waratah Avenue, Dalkeith

On the 1 November 2022, Councillor Mangano gave notice of his intention to move the following motion.

Moved – Councillor Mangano

Seconded – Councillor Bennett

**Council Resolution**

**That Council:**

1. **direct the CEO to make a submission to Main Roads Western Australia (MRWA) for the reduction of the speed limit on Waratah Ave between Adelma and Alexander Roads with updated traffic information following completion of the Waratah Ave project; and**
2. **inform Council of the outcome of the submission to MRWA.**

**CARRIED 12/1**

**(Against: Cr. Brackenridge)**

The Council directs to CEO to prepare a report on the reduction of speed limits on Waratah Avenue, between Adelma and Alexander Roads in both directions to 40km/h, after monitoring of driver behaviours, no later than the February 2023 Ordinary Council Meeting.

Justification

* 1. The Waratah Ave works are near completion
	2. The implementation of a median strip and planting of trees has narrowed the carriageways significantly
	3. Speed reductions are required for safety reasons, particularly with a school crosswalk and 2 other pedestrian crossings.

Administration Comment

Main Roads WA has the sole authority to make speed zone changes on the Western Australian Road Network.

The setting of regulatory speed limits for all public roads in Western Australia is done so in accordance with MRWA Speed Zoning Policy.

Under this policy MRWA would likely assess Waratah Avenue’s default speed limit of 50km/h as being appropriate for the form and function of the road.

Notwithstanding the above, the city officers are able to prepare an application to Main Roads WA to request a review of the speed zone for Waratah Avenue between Adelma and Alexander, noting that the final decision rests with Main Roads WA.

**Administration Recommendation**

**That Council:**

1. **direct the CEO to make a submission to Main Roads Western Australia (MRWA) for the reduction of the speed limit on Waratah Ave between Adelma and Alexander Roads with updated traffic information following completion of the Waratah Ave project; and**
2. **inform Council of the outcome of the submission to MRWA.**

# Urgent Business Approved By the Presiding Member or By Decision

The following items were approved by the Presiding Member.

# CPRC06.11.22 – Key Results Areas and Key Performance Indicators for 2022/23

|  |  |
| --- | --- |
| **Meeting & Date** | CEO Performance Review Committee Meeting – 15 November 2022 |
| **Applicant** | City of Nedlands  |
| **Employee Disclosure under section 5.70 Local Government Act 1995**  | Nil. |
| **Report Author** | Margaret Hemsley – LG People and CultureNicole Ceric – Executive Officer |
| **Attachments** | 1. Draft CEO Key Results and Key Performance Indicators for 2022/23
 |

**Regulation 11(da) – Not Applicable – Recommendation Adopted**

Moved – Councillor Coghlan

Seconded – Councillor Youngman

**That the Recommendation be adopted.**

(Printed below for ease of reference)

CEO, Mr Bill Parker left the meeting at 8.53pm.

**CARRIED 11/2**

**(Against: Crs. Bennett & Mangano)**

**Council Resolution / CEO Performance Review Committee Recommendation**

**That Council adopts the CEO Key Results Areas and Key Performance Indicators for 2022/23 as per attachment 1.**

**Purpose**

The purpose of this report is for Council to finalise the draft CEO Key Results Areas and Key Performance Indicators for 2022/23 as recommended by the CEO Performance Review Committee.

**Voting Requirement**

Absolute Majority.

**Background**

The Performance Review Committee has followed the principles and processes of the Chief Executive Officer Performance Review Policy and has ensures compliance with s 5.38(1) of the Local Government Act 1995.

**Discussion**

The attached Draft Key Results Area’s and Key Performance Indicators has been complied by Consultant Margaret Hemsley following the survey of elected members, CEO suggestions and discussions with the Committee at meetings and via emails. The draft is now presented to the Council as recommended by the CEO Performance Review Committee for adoption.

**Consultation**

The Performance Review Process has included an invitation to all Elected Members to participate in a survey relating to the CEO’s performance against KPIs adopted by Council in September 2021. It also covered their perception of his performance of key results areas outlined in the Council’s Chief Executive Office Performance Review Policy and some general questions about achievements, strengths, and potential areas for improvement. All Councillors responded and those responses are captured in the Annual CEO Performance Review Report.

Following which the facilitator has assisted the Committee in drafting the CEO’s KRAs and KPIs 2022/23 from survey feedback, CEO suggestions and discussions at the committee meetings.

**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 budget or financial implications.

**Legislative and Policy Implications**

[Local Government Act 1995](https://www.legislation.wa.gov.au/legislation/prod/filestore.nsf/FileURL/mrdoc_43454.pdf/%24FILE/Local%20Government%20Act%201995%20-%20%5B07-t0-00%5D.pdf?OpenElement)

[CEO Performance Review Council Policy](https://www.nedlands.wa.gov.au/documents/763/ceo-performance-review)

**Decision Implications**

The acceptance of the report will enable the Council to move forward in implementation of priority areas of the KRAs and KPIs.

**Conclusion**

The Council appointed the CEO Performance Review Committee to work with the consultant and the CEO to draft the CEO KRAs and KPIs 2022/23 this process has now been completed and the KRAs and KPIs 2022/23 are now presented for Council’s consideration and adoption.

**Further Information**

Nil.

CEO, Mr Bill Parker returned to the meeting at 9.03pm.

# PD77.11.22 Consideration of Responsible Authority Report for Mixed Use Development at 37- 43 Stirling Highway, Nedlands

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting – 22 November 2022 |
| **Applicant** | Element |
| **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/CEO** | Tony Free – Director Planning and Development |
| **Attachments** | 1. Draft Responsible Authority Report and Attachments
 |

Councillor Mangano left the meeting at 9.04pm.

Moved – Councillor Hodsdon

Seconded – Councillor Combes

**Council Resolution**

**That Council:**

1. **resolves to make the following Responsible Authority recommendation for the development of a Mixed-use development at 37-43 Stirling Highway, Nedlands:**

**It is recommended that the Metro Inner-North Joint Development Assessment Panel resolves to:**

**Refuse DAP Application reference DAP/22/02232 and accompanying plans dated 2 November 2022 in accordance with Clause 68 of Schedule 2 (Deemed Provisions) of the *Planning and Development (Local Planning Schemes) Regulations 2015* and the provisions of the City of Nedlands Local Planning Scheme No. 3 for the following reasons:**

1. **The overall bulk and scale of the proposal is not consistent with the existing or planned character of the area in accordance with the Objectives of Element 2.2 Building Height and Element 2.5 Plot Ratio of Volume 2 of the Residential Design Codes.**
2. **The proposed development provides insufficient provision of commercial car parking contrary to the Objectives of the City’s Local Planning Policy – Parking.**
3. **The proposal has not sufficiently addressed traffic management issues and further investigation of the Williams Road and Stirling Highway intersection is required.**
4. **appoints Councillor Hodsdon to present to the relevant Joint Development Assessment Panel meeting on the Council’s position relating to the mixed-use development at 37-43 Stirling Highway, Nedlands (DAP/22/02232).**

Rationale

**Building Height and Plot Ratio**

**The application proposes building bulk which is outside of the expectations of the R-AC1 density code and will unduly impact the amenity of adjoining properties. The proposal is inconsistent with the Element Objectives of the R-Codes Volume 2, in relation to Height and Plot Ratio.**

**The 17-storey element of the design is adjacent to an existing single level dwelling. With the 17-storey element overpowering the existing dwelling and being well beyond the reasonable expectation of what a R-AC1 density code would deliver. The development with a plot ratio of 3.82 and the development bulk and scale located to the sites west, placing it adjacent to the single level dwelling on Williams Road is not an appropriate response to the streets existing character being generally single level dwellings. Resulting in Element Objective 0 2.5.1 not being met.**

**The density coding of the adjacent Williams Road property is R160, thus with any future development of this site, the maximum height that would reasonable be expected is 5 storeys. The 17 storeys against the potential future maximum height of 5 storeys is not an appropriate response to the desired future scale and character of William Street, thus not meeting Element Objective O 2.2.1.**

**Commercial Parking**

**The proposal shows 27 commercial car parking bays to be provided, which is a significant shortfall on the requirement of the City’s parking policy. This shortfall will result in additional parking pressure, particularly given the parking congestion on Williams Road and Meriwa Streets, during normal business hours. This additional parking pressure will result in an adverse amenity impact for the residents of these streets which is unacceptable and should be addressed via the development providing an appropriate level of parking to met the City’s Parking Policy requirements.**

**Traffic Impacts**

**Stirling Highway is at or close to capacity during peak times, Williams Road and Meriwa Street are local residential street with currently contain significant on street parking. This development will result in impacts on the Williams Road - Stirling Highway intersection, Williams Road and Meriwa Street and the adjacent laneways. The applicant has not provided solutions to these impacts thus there is uncertainty as to the safe operation of the intersection with the highway and the local streets. This information should be provided, reviewed and conditions imposed requiring the applicant to make the necessary improvements / modifications to ensure the safe and appropriate functioning of these streets and laneways.**

Councillor Senathirajah left the meeting at 9.09pm and returned at 9.11pm.

**CARRIED UNANIMOUSLY 13/-**

Recommendation

That Council adopts as the Responsible Authority the Officer Recommendation contained in the Responsible Authority Report for a Mixed Use development at 37- 43 Stirling Highway, Nedlands as follows:

It is recommended that the Metro Inner-North JDAP resolves to:

1. Approve DAP Application reference DAP/22/02232 and accompanying plans (Attachment 2) in accordance with Clause 68 of Schedule 2 (Deemed Provisions) of the Planning and Development (Local Planning Schemes) Regulations 2015, and the provisions of the City of Nedlands Local Planning Scheme No. 3, subject to the following conditions:

Conditions

General Conditions

1. Pursuant to clause 26 of the Metropolitan Region Scheme, this approval is deemed to be an approval under clause 24(1) of the Metropolitan Region Scheme.
2. This decision constitutes planning approval only and is valid for a period of 4 years from the date of approval. If the subject development is not substantially commenced within the specified period, the approval shall lapse and be of no further effect.
3. All works indicated on the approved plans shall be wholly located within the lot boundaries of the subject site.

Main Roads WA Conditions

1. Prior to occupation of the development, the land required for the widening of Stirling Highway as shown on the plan 1.7137-1 is to be set aside as a separate lot and is to be ceded free of cost to Main Roads.
2. No part of the building/development (including building anchors, structures, deep plantings, earthworks etc) above or below ground level shall be located within the land requirement as detailed in the plan 1.7137-1, or the Stirling Highway Road Reservation.
3. Prior to the issue of a Building Permit a Landscape Plan is to be submitted to the satisfaction of the City of Nedlands and to Main Roads requirements. The plan is to be submitted addressing the following:
4. Any landscaping located within the current and proposed Stirling Highway Primary Regional Road Reservation, as shown in plan 1.7137-1 must ensure temporary landscaping is limited and maintained to a mature height of 1 metre, and sight lines are maintained at all times to ensure driver and pedestrian safety.
5. Redundant vehicle crossovers to be removed and kerbing, verge, and footpath (where relevant) reinstated with grass or landscaping to the satisfaction of the City of Nedlands and to the specifications of the local government.
6. No works are permitted within the Stirling Highway Road Reservation unless Main Roads has issued a working on Roads Permit.
7. The noise sensitive development adjacent to a major transport corridor must implement measures to ameliorate the impact of transport noise at all times. The development is to implement the Acoustic Assessment, Reference: 21086618-01\_Rev 2, dated March 2022 prepared by Lloyd George Acoustics with the following amendments:
8. The specifications to ameliorate noise must be updated in the report to account for the surface of Stirling Highway being open grade asphalt and not dense grade asphalt as incorrectly mentioned in the report.
9. Prior to the occupation of the building, certification from a qualified acoustic consultant is to be submitted confirming condition 9 has been achieved. This certification must be provided to the City of Nedlands.
10. A notification, pursuant to Section 70A of the Transfer of Land Act 1893 is to be placed on the certificates of title of the proposed lots. The notification is to state as follows:

‘The lots are situated in the vicinity of a transport corridor and are currently affected or may in future be affected by transport noise.’

1. Stormwater discharge (if any) shall not be discharged to the Stirling Highway Road Reserve or the widened road reservation.
2. The ground levels located within the future road reservation are to remain generally unchanged.

Building and Engineering

1. Prior to occupation, suitable arrangements are to be made for the widening of Hibbertia Lane adjacent to the northern boundary of the subject property in accordance with the approved plans, at the landowner/applicants cost and to the satisfaction of the City of Nedlands.
2. Prior to occupation, the portion of the Hibbertia Lane required for widening is to be constructed and drained to its full width at the landowner/applicants cost and the remaining portion of the laneway from the eastern boundary of the site to the nearest constructed road (Meriwa Street).
3. Prior to the issue of a demolition permit and a building permit, a Demolition or Construction Management Plan (as appropriate) shall be submitted and approved to the satisfaction of the City. The approved Demolition and Construction Management Plans shall be observed at all times throughout the construction and demolition processes to the satisfaction of the City.
4. Prior to the issue of a demolition permit, 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:
* Lots 589 and 590 (No. 35) Stirling Highway, Nedlands
* Lot 21 (No. 108 and 110) Williams Road, Nedlands
* Lot 3 (No. 17) Hibbertia Lane, Nedlands

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

1. Prior to the issue of a building permit, a Geotechnical Report covering the development area is to be prepared by a suitably qualified practitioner at the applicant’s cost, to the satisfaction of the City of Nedlands. The report will give due consideration to any potential impacts on neighbouring properties including but not limited to: ground water management, excavation or modifications to existing ground levels; vibration or consolidation of material throughout the demolition and construction phase of the project. The Geotechnical Report will identify any remedial treatments required to mitigate any adverse impacts and will be lodged with the building permit application, together with certification that the design is suitable for the site conditions as outlined in the Geotechnical Report.
2. All stormwater generated on site is to be retained on site. An onsite storage/infiltration system is to be provided within the site for a 1 in 100-year storm event. No stormwater will be permitted to enter the City of Nedlands’ stormwater drainage system unless otherwise approved.

Design

1. Prior to the issue of a building permit, the applicant shall submit a final schedule of materials, colours, finishes and textures for the development to the satisfaction of the City of Nedlands. The schedule may be subject to review and comment by the City’s Design Review Panel.
2. 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.
3. Prior to occupation, the finish of the parapet walls is to be finished in accordance with the approved plans.
4. A minimum of 20% (14) units 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.
5. Prior to occupation, each multiple dwelling shall be provided with a mechanical clothes dryer or alternatively shall have an adequate area provided for drying clothes. This drying area shall be screened from view from any adjacent public place, to the satisfaction of the City of Nedlands.
6. Prior to occupation, the applicant shall submit for approval by the City of Nedlands, public art as indicated on the approved plans to the Hibbertia Lane elevation. Once approved by the City, the public art shall be erected in the locations as indicated on the elevations and thereafter maintained, to the satisfaction of the City of Nedlands.

Traffic, Parking and Waste

1. Prior to issue of building permit, an operational analysis of the intersection of Williams Road and Stirling Highway must be completed and discussion provided around the potential impact of the proposed development on the performance and safety of the above intersection, and any recommendations contained within carried out, to the to the satisfaction of the City of Nedlands.
2. Prior to occupation, the parking bays are to be reallocated so as to provide for a minimum of 32 commercial car parking bays on site. The visitor parking is to be clearly marked and maintained, 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.
4. Prior to occupation, all car parking bays are to be clearly line marked, drained and with visitor/staff parking clearly marked or signage provided, and maintained thereafter by the landowner to the satisfaction of the City of Nedlands.
5. 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.
6. The development shall comply with the approved Waste Management Plan prepared by Talis Consultants received 19 October 2022 to the satisfaction of the City of Nedlands. Any modification to the approved Waste Management Plan will require further approval by the City.

Environmental Health

1. Prior to occupation, an external lighting plan must be submitted and approved by the City of Nedlands. The lighting is to be designed and located to prevent any increase in light spill onto the adjoining properties.
2. Prior to occupation, the recommendations contained within the Llyod George Acoustic Report received 19 October 2022, or any approved modifications, are to be carried out and maintained for the lifetime of the development to the satisfaction of the City of Nedlands.
3. Prior to occupation, a Noise Management Plan is to be submitted and approved by the City of Nedlands detailing measures that will be undertaken to ensure noise levels during operation of the development are kept within levels prescribed in the Environmental Protection (Noise) Regulations 1997 to the specifications and satisfaction of the City of Nedlands.  The Noise Management Plan shall be adhered to at all times for the life of the development.

Landscaping

1. Prior to occupation, landscaping shall be completed in accordance with the approved plans prepared by Place Laboratory received 19 October 2022, or any approved modifications to the satisfaction of the City of Nedlands. All landscaped areas are to be maintained on an ongoing basis for the life of the development on the site to the satisfaction of the City of Nedlands.
2. 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.
3. The street tree(s) within the verge 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.

Sustainability

1. Prior to occupation, the recommendations contained within the Full Circle Sustainability Design Report received 19 October 2022, or any approved modifications, are to be carried out and maintained for the lifetime of the development to the satisfaction of the City of Nedlands.
2. Within 12 months of practical completion, a copy of the Green Star As Built Certification is to be provided to the City of Nedlands.

**Purpose**

The purpose of this report is for Council to consider the Development Assessment Panel application for a Mixed Use development at 37-43 Stirling Highway, Nedlands. Council is requested to make its recommendation to the Metro Inner-North Joint Development Assessment Panel as the Responsible Authority. Council’s recommendation will be incorporated into the Responsible Authority Report and lodged with the DAP Secretariat on 23 November 2022.

**Voting Requirement**

Simple Majority.

**Background**

|  |  |
| --- | --- |
| **Metropolitan Region Scheme Zone** | Urban, Primary Regional Road |
| **Local Planning Scheme Zone** | Residential |
| **R-Code** | R-AC1 |
| **Land area** | 2,122m2 |
| **Land Use** | Residential - Multiple DwellingsRestaurant/Café OfficeShop Art Gallery |
| **Use Class** | ‘P’ Permitted Use |
| **Proposed Plot Ratio** | 3.82 / 8,118m2 |
| **Proposed No. Storeys** | 17 |
| **Proposed No. Dwellings** | 68 |

The application is for a proposed Mixed Use development, comprising 68 multiple dwellings, Shops, Offices, Restaurant/Café and Art Gallery commercial tenancies at 37-43 Stirling Highway, Nedlands.

**Discussion**

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.

* Building height.
* Plot ratio.
* Residential amenity – Solar and daylight access and natural ventilation.
* Traffic and parking.
* Energy efficiency.

These matters have been addressed within the Responsible Authority Report (RAR).

**Consultation**

**Public Consultation**

In accordance with the City’s Local Planning Policy – Consultation of Planning Proposals, the development application was advertised for a period of 28 days, from 20 May 2022 to 17 June 2022.

* Letters sent to all City of Nedlands and City of Perth landowners and occupiers within a 200m radius of the site (letters);
* 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 published on 20 May 2022; and
* A community information session was held by City Officers on 8 June 2022.

At the close of the advertising period, the City received 49 submissions; 44 opposing the proposal, three in support and two providing comments only. A further two petitions were received opposing the development, which have been formally received by Council. The key concerns in the objections related to:

* Height.
* Plot ratio.
* Visual privacy.
* Local character and aesthetics.
* Traffic and parking.
* Vehicle access and pedestrian safety.
* Waste management.
* Overshadowing.
* Construction management.
* Impact on Nedlands Post Office (fmr).

These matters have been addressed within the RAR. All submissions on this proposal have been given due regard in this assessment in accordance with Clause 67(y) of the *Planning and Development (Local Planning Schemes Regulations) 2015.*

Amended plans for the proposal were submitted to the City on 19 October 2022 that differ from the advertised plans in the following manner:

* Reduction in plot ratio from 4.17 to 3.82.
* Reduction in height of one storey from 18 to 17 storeys.
* Reduction in apartment numbers from 75 to 68.
* Increased rear setbacks to achieve the Acceptable Outcomes.
* Redesign of ground floor plan to reduce amount of at grade parking, reduce office lobby size and increase landscaping and deep soil area.
* Addition of dedicated EV car parking bays.
* Alterations to east and west façade to introduce more articulation in response to Design Review Panel comments.

The amendments did not trigger the need for formal re-advertising of the proposal as they sought to respond to the concerns raised.

**Design Review Panel**

The application was referred to the City’s Design Review Panel (DRP) on three occasions. A summary of the DRP advice is provided in the table following:

|  |
| --- |
| **DRP Design Quality Evaluation** |
|  | Supported |
|  | Further Information / Condition Required |
|  | Not supported |
| SPP 7.0 Principles | 6 December 2021 | 4 April 2022 | 5 September 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 comments from the DRP. The amended proposal is considered to satisfy the SPP 7.0 design principles for the reasons outlined in the RAR.

**Strategic Implications**

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

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

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

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

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

**Budget/Financial Implications**

Nil.

**Legislative and Policy Implications**

Council is requested to make a recommendation to the JDAP in accordance with Regulation 12(5) of the [*Planning and Development (Development Assessment Panels) Regulations 2011*](https://www.legislation.wa.gov.au/legislation/statutes.nsf/law_s42531.html)*.* Council may recommend to approve, refuse or defer the application.

**Decision Implications**

Council’s recommendation will be incorporated into the RAR and lodged with the DAP Secretariat on or before 23 November 2022. The recommendation noted above is the officer recommendation that is also included in the RAR. In the event that Council does not adopt the officer recommendation, Council’s recommendation will be located at the front of the RAR as the Responsible Authority Recommendation and the officer recommendation will be contained in the rear of the report. In the event that Council does not make a recommendation, the RAR will be forwarded to DAP with the Officer Recommendation only.

**Conclusion**

Council is requested to consider the proposed development as the Responsible Authority. It is requested that Council makes a recommendation to the JDAP to either approve, defer or refuse the application.

The application for a 17 storey mixed use development is consistent with the City’s statutory and strategic planning framework and achieves a high-quality design outcome. The development is consistent with the expected future scale of development within the area given the transition to ‘Mixed Use R-AC1’. The proposal meets all Element Objectives of the R-Codes and responds well to the immediate context, particularly the large side setback to the Nedlands Post Office (fmr).

For the above reasons, it is recommended Council adopt the Officer Recommendation contained in the RAR to approve the development.

**Further Information**

Nil.

# PD78.11.22 Consideration of Responsible Authority Report for Amendments to Approved Mixed Use Development at 95A Waratah Avenue, Dalkeith

|  |  |
| --- | --- |
| **Meeting & Date** | Council – 22 November 2022 |
| **Applicant** | Rowe Group |
| **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/CEO** | Tony Free – Director Planning and Development |
| **Attachments** | * + - 1. Responsible Authority Report and Attachments
 |

Moved – Councillor Mangano

Seconded – Councillor Hodsdon

**That the Recommendation be adopted subject to the following condition being added:**

**24. All balustrades to balconies to be obscure glazed or solid construction prior to occupation.**

**CARRIED 9/4**

**(Against: Crs. Smyth Bennett Mangano & Basson)**

**Council Resolution**

**That Council:**

**Adopts as the Responsible Authority the Officer Recommendation contained in the Responsible Authority Report for the amendments to the approved mixed use development at 95A Waratah Avenue, Dalkeith as follows:**

**It is recommended that the Metro Inner-North JDAP resolves to:**

1. **Accept that the DAP Application reference DAP/19/01695 as detailed on the DAP Form 2 dated 2 September 2022 is appropriate for consideration in accordance with regulation 17 of the Planning and Development (Development Assessment Panels) Regulations 2011;**
2. **Approve DAP Application reference DAP/19/01695 and accompanying plans date stamped 27 September 2022 (Attachment 2), in accordance with Clause 68 of Schedule 2 (Deemed Provisions) of the Planning and Development (Local Planning Schemes) Regulations 2015, and the provisions of Clause 16 of the** **City of Nedlands Local Planning Scheme No. 3, for the proposed minor amendments to the approved Mixed Use development at 95A Waratah Avenue, Dalkeith.**

**New condition**

**23. Within 60 days of the date of this decision, an amended building permit is to be submitted demonstrating the following modifications have been made in accordance with the development plans dated 27 September 2022. The approved works are to be completed prior to occupation and maintained for the life of the development to the satisfaction of the City of Nedlands.**

**24. All balustrades to balconies to be obscure glazed or solid construction prior to occupation.**

**All other conditions and requirements detailed on the previous approvals dated**

**7 May 2020 and 3 June 2022 shall remain unless altered by this application.**

Recommendation

That Council:

Adopts as the Responsible Authority the Officer Recommendation contained in the Responsible Authority Report for the amendments to the approved mixed use development at 95A Waratah Avenue, Dalkeith as follows:

It is recommended that the Metro Inner-North JDAP resolves to:

1. Accept that the DAP Application reference DAP/19/01695 as detailed on the DAP Form 2 dated 2 September 2022 is appropriate for consideration in accordance with regulation 17 of the Planning and Development (Development Assessment Panels) Regulations 2011;
2. Approve DAP Application reference DAP/19/01695 and accompanying plans date stamped 27 September 2022 (Attachment 2), in accordance with Clause 68 of Schedule 2 (Deemed Provisions) of the Planning and Development (Local Planning Schemes) Regulations 2015, and the provisions of Clause 16 of the City of Nedlands Local Planning Scheme No. 3, for the proposed minor amendments to the approved Mixed Use development at 95A Waratah Avenue, Dalkeith.

New condition

23. Within 60 days of the date of this decision, an amended building permit is to be submitted demonstrating the following modifications have been made in accordance with the development plans dated 27 September 2022. The approved works are to be completed prior to occupation and maintained for the life of the development to the satisfaction of the City of Nedlands.

All other conditions and requirements detailed on the previous approvals dated 7 May 2020 and 3 June 2022 shall remain unless altered by this application.

**Purpose**

The purpose of this report is for Council to consider a Joint Development Assessment Panel (JDAP) application at 95A Waratah Avenue, Dalkeith. Amendments are proposed to the previously approved mixed use development of 14 multiple dwellings and 3 commercial tenancies at the subject site. The application relates to minor alterations of the balcony setbacks and the eastern wall feature art. No other changes to the plans as approved are proposed.

Council is requested to make its recommendation to the Metro Inner-North Joint Development Assessment Panel as the Responsible Authority. Council’s recommendation will be incorporated into the Responsible Authority Report (RAR) and lodged with the DAP Secretariat on 23 November 2022.

Administration recommends Council adopt the Officer Recommendation for approval.

**Voting Requirement**

Simple Majority.

**Background**

**Land Details**

|  |  |
| --- | --- |
| **Metropolitan Region Scheme Zone** | Urban |
| **Local Planning Scheme Zone** | Mixed Use - R-AC3 |
| **R-Code** | R-AC3 |
| **Land area** | 1136m2 |
| **Land Use** | Residential (Multiple Dwellings)Commercial (Office & Restaurant/Café)  |
| **Use Class** | ‘P’ – Permitted Use |

**Application Details**

The “Form 2” application under regulation 17 of the Development Assessment Panel Regulations 2011 proposes:

* changes to the setback of all balconies from the southern, western, and northern lot boundaries and
* modifications to the façade of the eastern wall, specifically relating to the wall’s feature art.

An application under regulation 17 is not an application for a review or reconsideration of the original decision. The proposed modifications sought are deemed minor in nature. The proposal appropriately addresses the Element Objectives of the R-Codes and matters to be considered under clause 67 of the *Planning and Development (Local Planning Schemes) Regulations 2015*. Approval of the amendments is recommended.

**Existing Approvals**

An application for a mixed use development of 14 multiple dwellings and 3 commercial tenancies at this site was originally considered by the JDAP. The JDAP resolved to approve the application, subject to conditions, on 7 May 2020.

The building permit was issued for the development on 11 February 2022. The build was substantially commenced when it was brought to the City’s attention that the vehicle access ramp to Waratah Avenue had not been constructed in accordance with Australian Standard AS2890.1.

An application for an amendment of a JDAP determination was subsequently submitted on 16 March 2022 to demonstrate that the ramp as built achieves a level of safety commensurate with the Australian Standards. The JDAP resolved to approve the amended application, subject to conditions, on 3 June 2022.

**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.

Six of the fourteen balconies feature reduced setbacks, primarily to the western side boundary. The minimum approved setback of the six balconies to the western boundary is 1.5m. The proposed minimum setback to the western boundary is 1.1m. The setbacks ensure sufficient separation and opportunity for ventilation is provided between the development and adjacent buildings. This is largely due to the City’s endorsement of the Waratah Avenue Laneway Requirements LPP which makes provision for a 7m wide laneway to be established along the eastern boundary of the adjoining lot and the northern boundary of the subject lot.

The changes to the feature artwork on the eastern wall do not require assessment against the R-Codes. It is noted that the element objective of providing visual interest on the western elevation of the development is maintained.

The alterations to the development meet the applicable Element Objectives and are supported.

**Consultation**

The application was advertised for a period of 28 days from 7 October 2022 until 4 November 2022. The application was advertised in the following manner:

* Letters sent to all landowners and occupiers within a 200m radius of the subject site;
* A notice was published on the City’s website with all documents relevant to the application made available for viewing during the advertising period;
* A notice was placed in The Post newspaper published on 14 October 2022;
* A social media post was made on one of the City’s Social Media platforms; and
* A community information session was held at the City’s Offices on 19 October 2022.

At the close of advertising, no submissions had been received.

**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 recommendation to the JDAP in accordance with Regulation 17 of the [*Planning and Development (Development Assessment Panels) Regulations 2011*](https://www.legislation.wa.gov.au/legislation/prod/filestore.nsf/FileURL/mrdoc_44190.pdf/%24FILE/Planning%20and%20Development%20%28Development%20Assessment%20Panels%29%20Regulations%202011%20-%20%5B00-n0-00%5D.pdf?OpenElement)*.* Council may recommend to approve, refuse or defer the application.

**Decision Implications**

Council’s recommendation will be incorporated into the Responsible Authority Report (RAR) and lodged with the DAP Secretariat by 23 November 2022. The recommendation noted above is the officer recommendation that is also included in the RAR. In the event that Council does not adopt the officer recommendation, Council’s recommendation will be located at the front of the RAR as the Responsible Authority Recommendation and the officer recommendation will be contained in the rear of the report. In the event that Council does not make a recommendation, the RAR will be forwarded to DAP with the Officer Recommendation only.

**Conclusion**

The modifications to the setbacks of balconies and the feature artwork on the eastern wall are minor in nature. The modifications do not have an adverse impact on the adjoining lots or the locality and do not substantially alter the nature of the development.

Council is requested to consider the proposed amendments to the approved development as the Responsible Authority. It is requested that Council makes a recommendation to the JDAP to either approve, refuse or defer the application.

**Further Information**

Nil.

# PD79.11.22 – Consideration of Responsible Authority Report for Amendments to Approved Mixed Use Development at 1A Thomas Street, Nedlands

|  |  |
| --- | --- |
| **Meeting & Date** | Council – 22 November 2022 |
| **Applicant** | RAD Architecture |
| **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/CEO** | Tony Free – Director Planning and Development |
| **Attachments** | * + - 1. Responsible Authority Report and Attachments
 |

**Regulation 11(da) – Not Applicable – Recommendation Adopted**

Moved – Councillor Brackenridge

Seconded – Councillor Youngman

**That the Recommendation be adopted.**

(Printed below for ease of reference)

**CARRIED 9/4**

**(Against: Crs. Coghlan Smyth Bennett & Mangano)**

**Council Resolution / Recommendation**

**That Council adopts as the Responsible Authority the Officer Recommendation contained in the Responsible Authority Report for the amendments to the approved mixed-use development at 1A Thomas Street, Nedlands as follows:**

**It is recommended that the Metro Inner-North JDAP resolves to:**

1. **Accept that the DAP Application reference DAP/22/02163 as detailed on the DAP Form 2 dated 29 September 2022 is appropriate for consideration in accordance with regulation 17 of the *Planning and Development (Development Assessment Panels) Regulations 2011*;**
2. **Approve DAP Application reference DAP/22/02163 and accompanying plans dated stamped 8 November 2022 (Attachment 2) in accordance with Clause 68 of Schedule 2 (Deemed Provisions) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, and the provisions of Clause 16 of the City of Nedlands Local Planning Scheme No. 3, for the proposed amendments to the approved development of 27 multiple dwellings at 1A Thomas Street, Nedlands.**

**Amended Conditions**

1. **Prior to occupation, landscaping shall be completed in accordance with the approved plans prepared by Plan \ E received 12 October 2022 or any approved modifications to the satisfaction of the City of Nedlands. All landscaped areas are to be maintained on an ongoing basis for the life of the development on the site to the satisfaction of the City of Nedlands.**
2. **Prior to occupation, the direct southern elevations of balconies of units 402, 403, 502, 602 and 702; and the direct northern elevations of balconies of units 501, 601 and 701 as shown in red on the approved plans, shall be screened in accordance with the Residential Design Codes by either;**
	1. **fixed and obscured glass to a height of 1.6 metres above finished floor level; or**
	2. **fixed screening devices to a height of 1.6 meters above finished floor level that are at least 75% obscure and made of a durable material; or**
	3. **a minimum sill height of 1.6 metres above the finished floor level; or**
	4. **an alternative method of screening approved by the City of Nedlands.**

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

**Deleted Conditions**

1. **The car stacking equipment depicted on the plans shall comply with Australian Standard AS5124:2017 (as amended) and be maintained for the life of the development.**

**Re-number conditions 27 and 28 accordingly.**

**All other conditions and requirements detailed on the previous approval dated 22 April 2022 shall remain unless altered by this application.**

**Purpose**

The purpose of this report is for Council to consider a Joint Development Assessment Panel (JDAP) application at 1A Thomas Street, Nedlands. Amendments are proposed to the previously approved mixed-use development of 27 multiple dwellings at the subject site.

Council is requested to make its recommendation to the Metro Inner-North Joint Development Assessment Panel as the Responsible Authority. Council’s recommendation will be incorporated into the Responsible Authority Report (RAR) and lodged with the DAP Secretariat on 23 November 2022.

Administration recommends Council adopt the Officer Recommendation for approval.

**Voting Requirement**

Simple Majority.

**Background**

**Land Details**

|  |  |
| --- | --- |
| **Metropolitan Region Scheme Zone** | Urban |
| **Local Planning Scheme Zone** | Mixed Use R-AC1 |
| **R-Code** | R-AC1 |
| **Land area** | 1014m2 |
| **Land Use** | Residential (Multiple Dwellings)  |
| **Use Class** | ‘P’ – Permitted Use |

**Application Details**

The “Form 2” application under regulation 17 of the Development Assessment Panel Regulations 2011 proposes:

* Reduction in number of apartments from 27 apartments to 26 apartments;
* Parking and basement level changes;
* Increase in overall height by 0.4m;
* Changes to internal ceiling heights;
* Increase in number of units which are designed to meet Silver Level requirements under the Liveable Housing Design Guidelines;
* Landscaping changes; and
* Balcony changes.

An application under regulation 17 is not an application for a review or reconsideration of the original decision. The proposed modifications sought are deemed minor in nature. The proposal appropriately addresses the Element Objectives of the R-Codes and matters to be considered under clause 67 of the *Planning and Development (Local Planning Schemes) Regulations 2015*. Approval of the amendments is recommended.

**Existing Approvals**

An application for the development of 27 multiple dwellings at this subject site was previously considered by the Joint Development Assessment Panel (JDAP). The JDAP resolved to approve the application, subject to conditions on 22 April 2022.

**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

**Consultation**

The application was advertised for 28 days from 12 October 2022 until 9 November 2022. The application was advertised in the following manner:

* Letters sent to all landowners and occupiers within a 200m radius of the subject site;
* A sign on site was installed at the site’s street frontage;
* A notice was published on the City’s website with all documents relevant to the application made available for viewing during the advertising period;
* A notice was placed in The Post newspaper published on 22 October 2022;
* A social media post was made on one of the City’s Social Media platforms; and
* A community information session was held at the City’s Offices on 26 October 2022.

Upon conclusion of advertising, a total of three responses were received comprising three objections.

A summary of the key issues and comments are provided below:

|  |  |
| --- | --- |
|  **Issue Raised** | **Officer comments**  |
| Concerns with addition of third basement level and impacts upon vibrations due to the compaction and excavation. | An additional basement level is proposed, the third basement level proposes an extra 31% excavation in addition to the excavation which is required for the approved development with the two basement levels below natural ground level.A condition of the original application (Condition 7) still remains which ensures that a Dilapidation Report is to be prepared for surrounding properties, detailing the condition and status of adjoining buildings. |
| The development is large and negatively affects the public health amenity of the broader community.  | The development has been assessed against all relevant planning requirements and is consistent with orderly and proper planning principles. |
| Comments on Joint Development Assessment Panel operation and impact | Noted. |

**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 recommendation to the JDAP in accordance with Regulation 17 of the [*Planning and Development (Development Assessment Panels) Regulations 2011*](https://www.legislation.wa.gov.au/legislation/prod/filestore.nsf/FileURL/mrdoc_44190.pdf/%24FILE/Planning%20and%20Development%20%28Development%20Assessment%20Panels%29%20Regulations%202011%20-%20%5B00-n0-00%5D.pdf?OpenElement)*.* Council may recommend to approve, refuse or defer the application.

**Decision Implications**

Council’s recommendation will be incorporated into the Responsible Authority Report (RAR) and lodged with the DAP Secretariat by 23 November 2022. The recommendation noted above is the officer recommendation that is also included in the RAR. In the event that Council does not adopt the officer recommendation, Council’s recommendation will be located at the front of the RAR as the Responsible Authority Recommendation and the officer recommendation will be contained in the rear of the report. In the event that Council does not make a recommendation, the RAR will be forwarded to DAP with the Officer Recommendation only.

**Conclusion**

An application under r.17 of the Development Assessment Panel Regulations 2011 is not an application for a review or reconsideration of the original decision. The proposed modifications sought are deemed minor in nature. The proposal is considered to appropriately address the Element Objectives of the R-Codes, objectives of the ‘Residential’ zone and matters to be considered under clause 67 of the *Planning and Development (Local Planning Schemes) Regulations 2015*. Approval of the amendments is recommended.

**Further Information**

Nil.

# TS24.11.22 RFT 2022-23.15 Fleet Assets and Workshop Operational Review

|  |  |
| --- | --- |
| **Meeting & Date** | 22 November 2022 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995**  | Nil. |
| **Report Author** | Steve Crossman - Coordinator Fleet |
| **Director** | Daniel Kennedy-Stiff – Acting Director Technical Services |
| **Attachments** | 1. CONFIDENTIAL Evaluation and Recommendation Report –Award RFQ 2022-23.15 Fleet Assets and Workshop Operational Review
 |

**Regulation 11(da) – Not Applicable – Recommendation Adopted**

Moved – Councillor Youngman

Seconded – Councillor Hodsdon

**That the Recommendation be adopted.**

(Printed below for ease of reference)

**CARRIED 10/3**

**(Against: Mayor Argyle Crs. Bennett & Mangano)**

**Council Resolution / Recommendation**

**That Council:**

1. **approves the award of the contract for the reviews of the City’s fleet assets and workshop operations with the City’s Request for Quote number RFQ 2022-23.15 and comprising of that request, the City’s Conditions of Contract to Uniqco (WA) Pty. Ltd. ; and**
2. **instructs the CEO to arrange for a Letter of Acceptance and a Contract document be sent to Uniqco (WA) Pty. Ltd. for execution.**

**Purpose**

The purpose of the report is for Council to accept the evaluation and recommendation for the award of RFQ 2022-23.15 Fleet Assets and Workshop Operational Review contract to Uniqco (WA) Pty. Ltd.

**Voting Requirement**

Simple Majority

**Background**

In the financial year 2021-22, Council assigned five (5) Key Result Area’s (KRA’s) for the Chief Executive Officer (CEO). One of those KRA’s is to develop a Workforce Plan (WFP) as per the Integrated Planning and Reporting Framework. This WFP was adopted at the ordinary council meeting held on the 26 July 2022.

One of the recommendations of the WFP is to undertake a full review of the City’s current fleet and workshop operations.

The City does not have the internal resources or expertise to undertake this type of review and it was decided to appoint an external consultant to undertake this review.

The City released a Request for Quotation (RFQ) to three (3) qualified organisation via the WALGA preferred supplier panel, Fleet Management Advisory Services, contract number PSP006-022.

**Discussion**

After the closure of the tender period, only one (1) one of the three (3) organisations provided a submission. The lone submission was received from Uniqco (WA) Pty. Ltd. (Uniqco).

An evaluation panel completed the analysis and evaluation of this submission. It was rated against the following criteria:

* Relevant Experience (50%),
* Key Personnel Skills and Experience (10%),
* Tenderers Resources (10%); and
* Demonstrated Understanding (30%)

Uniqco provided sound list of similar works that they have recently undertaken, successfully demonstrating an ability to complete the requirements of this request

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

The Respondent’s resources were detailed and provided good information project timeline and deliverables.

Uniqco comprehensive understanding of the City’s requirements. Listing each of the requirements and providing a methodology on how to achieve the requirement.

Each of these criteria are further investigated in the attached Confidential Evaluation and Recommendation Report (Attachment 1).

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

**Consultation**

Not Required.

**Strategic Implications**

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

**Values**

**High standard of services**

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

**Great Governance and Civic Leadership**

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

**Priority Area**

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

**Budget/Financial Implications**

The total cost for this contract is $64,449 exc GST.

There are sufficient funds within the Asset Management and Technical Services consultants budgets for this project.

As described in Attachment 1, due to using the WALGA preferred suppliers’ program, the submitted price is below current market value. This represents good value for money for the City.

**Legislative and Policy Implications**

The need for this review came about as part of the City’s compliance with its legislated obligations under the Integrated Planning and Reporting Framework (IPRF).

The award of this quote is governed by the [City of Nedlands Procurement Policy](https://nedlands365.sharepoint.com/%3Aw%3A/r/sites/controlled_documents/Council_Policies_Procedures/Published/Procurement%20of%20Good%20and%20Services%20Council%20Policy.docx?d=w41db85e762b5419bbb03a8b786773f2c&csf=1&web=1).

**Decision Implications**

By endorsing the recommendation of the evaluation panel, the City will be able to undertake a comprehensive review of its Fleet, leading to improvements in its operational efficiencies and potential cost savings, as well as further strengthening its IPRF compliance.

If Council decides not to endorse the recommendation, the review of the City’s fleet will be unable to progress.

**Conclusion**

Unico has undertaken fleets services reviews for government clients large and small, State and Local. They utilise industry standard tools and techniques to assist clients better understand their fleet assets and operations.

Their offer provides value for money when compared to the open market. This means value for money for the City for this project.

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 agreed that Uniqco offered the best overall value for money.

**Further Information**

Nil.

# Confidential Items

Confidential items to be discussed at this point.

# CPRC05.11.22 – CEO Performance Appraisal

Confidential report circulated to Council Members.

Closure of Meeting to the Public

Moved – Councillor Hodsdon

Seconded - Councillor McManus

**That the meeting be closed to the public in accordance with Section 5.23 (a) of the Local Government Act 1995 to allow confidential discussion on the following Items.**

Councillor Hodsdon left the meeting at 9.31pm.

**CARRIED 10/2**

**(Against: Crs. Bennett & Mangano)**

The meeting was closed at 9.31pm.

Councillor Hodsdon returned to the meeting at 9.32pm.

Moved – Councillor Coghlan

Seconded – Councillor Youngman

**Council Resolution / CEO Performance Review Committee Recommendation**

**That Council:**

1. **accepts the Confidential CEO Annual Performance Review Report; and**
2. **enact Section 2.2 of the CEO’s Employment Agreement relating to the Probationary Period and the CEO’s employment be confirmed.**

**CARRIED 11/2**

**(Against: Crs. Bennett & Mangano)**

# Declaration of Closure

There being no further business, the Presiding Member declared the meeting closed at 9.45pm.