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***Agenda***

***Council Meeting***

***23 April 2019***

Dear Council member

The next Ordinary Meeting of the City of Nedlands will be held on Tuesday 23 April 2019in the Council Chambers at 71 Stirling Highway Nedlands commencing at 7 pm.



Mark Goodlet

Chief Executive Officer

16 April 2019

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**City of Nedlands**

**Notice of an Ordinary Meeting of Council to be held in the Council Chambers, Nedlands on Tuesday 23 April 2019 at 7 pm.**

###### Council Agenda

# Declaration of Opening

The Presiding Member will declare the meeting open at 7 pm and will draw attention to the disclaimer below.

(NOTE: Council at its meeting on 24 August 2004 resolved that should the meeting time reach 11.00 p.m. the meeting is to consider an adjournment motion to reconvene the next day).

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

**Leave of Absence** Councillor B G Hodsdon Hollywood Ward

**(Previously Approved)**

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

**Disclaimer**

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

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

# Public Question Time

A member of the public wishing to ask a question should register that interest by notification in writing to the CEO in advance, setting out the text or substance of the question.

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

# Addresses by Members of the Public

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

# Requests for Leave of Absence

Any requests from Councillors for leave of absence to be made at this point.

# Petitions

Petitions to be tabled at this point.

# Disclosures of Financial Interest

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

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

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

# Disclosures of Interests Affecting Impartiality

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

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

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

“With regard to …… the matter in item x….. I disclose that I have an association with the applicant (or person seeking a decision). As a consequence, there may be a perception that my impartiality on the matter may be affected. I declare that I will consider this matter on its merits and vote accordingly.”

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

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

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

# Confirmation of Minutes

## Ordinary Council meeting 27 March 2019

The Minutes of the Ordinary Council Meeting held 27 March 2019 are to be confirmed.

# Announcements of the Presiding Member without discussion

Any written or verbal announcements by the Presiding Member to be tabled at this point.

# Members announcements without discussion

Written announcements by Councillors to be tabled at this point.

Councillors may wish to make verbal announcements at their discretion.

# Matters for Which the Meeting May Be Closed

Council, in accordance with Standing Orders and for the convenience of the public, is to identify any matter which is to be discussed behind closed doors at this meeting, and that matter is to be deferred for consideration as the last item of this meeting.

# Divisional reports and minutes of Council committees and administrative liaison working groups

## Minutes of Council Committees

This is an information item only to receive the minutes of the various meetings held by the Council appointed Committees (N.B. This should not be confused with Council resolving to accept the recommendations of a particular Committee. Committee recommendations that require Council’s approval should be presented to Council for resolution via the relevant departmental reports).

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

**Captain Stirling Local Hub Steering Committee 5 March 2019**

Circulated to Councillors on 11 April 2019

**Council Committee 9 April 2019**

Circulated to Councillors on 12 April 2019

**Note: As far as possible all the following reports under items 12.2, 12.3, 12.4, and 17.1 will be moved en-bloc and only the exceptions (items which Councillors wish to amend) will be discussed.**

## Planning & Development Report No’s PD11.19 to PD15.19 (copy attached)

Note: Regulation 11(da) of the *Local Government (Administration) Regulations 1996* requires written reasons for each decision made at the meeting that is significantly different from the relevant written recommendation of a committee or an employee as defined in section 5.70, but not a decision to only note the matter or to return the recommendation for further consideration.

|  |  |
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| **PD11.19** | **No. 99 Waratah Ave, Dalkeith - Proposed Change of Use (from Shop to Health Studio)** |
|  | |
| **Committee** | 9 April 2019 |
| **Council** | 23 April 2019 |
| **Applicant** | H Clarke |
| **Landowner** | S Franetovich |
| **Employee Disclosure under *section 5.70 Local Government Act 1995*** | Nil. |
| **Director** | Peter Mickleson – Director Planning & Development |
| **Reference** | DA19-34141 |
| **Previous Item** | Nil |
| **Delegation** | In accordance withClause 6.3 (Special Procedures) of Town Planning Scheme No 2 Council is required to determine the application due to objections being received. |
| **Attachments** | 1. Traffic Engineering letter |

**Committee Recommendation / Recommendation to Committee**

**Council approves the development application dated 24 January 2019 to change the use from Shop to Health Studio at Lot 384 (No. 99) Waratah Avenue, Dalkeith, subject to the following conditions and advice:**

1. **The development shall at all times comply with the application and the approved plans, subject to any modifications required as a consequence of any condition(s) of this approval.**
2. **The proposed use complying with the Health Studio definition stipulated under the City’s Town Planning Scheme No. 2 (refer to advice note 1).**
3. **A maximum of two staff are permitted on the premises at any one time.**
4. **The operating hours of the Health Studio is restricted to between the following:**

**Monday and Friday, 6:00am to 8:05pm;**

**Saturday 7:00am to 12:15pm; and**

**Sunday 8:30am to 11:05am.**

1. **All clients visiting the business are to do so via prior appointment only.**
2. **No materials and/or equipment being stored externally on the property, which is visible from off site, and/or obstructs pedestrian access ways, street parking bays and/or any street (un)loading bays.**
3. **Any signage being maintained by the landowner to the City’s satisfaction.**

**Advice Notes specific to this proposal:**

1. **With regard to condition 4, the applicant and landowner are advised that the use Health Studio, is defined as being the following under Town Planning Scheme No. 2:**

***“Health Studio - means any land and building designed and equipped for physical exercises, recreation and sporting activities including outdoor recreation;”***

1. **This decision does not obviate rights and responsibilities of strata owners under the *Strata Titles Act 1985*, which may require additional consultation and/or permissions from the stratum, prior to the commencement of works.**
2. **Noise levels are to comply with the *Environmental Protection (Noise) Regulations* *1997*.**
3. **Adequate staff and public sanitary conveniences shall be provided in accordance with the Building Code of Australia. Where these are situated externally to the public building, the area providing access to the sanitary conveniences shall be illuminated.**
4. **Service and/or delivery vehicles are not to service the premises before 7.00 am or after 7.00 pm Monday to Saturday, and/or before 9.00 am or after 7.00 pm on Sundays and Public Holidays unless otherwise approved by the City beforehand.**
5. **This decision constitutes planning approval only and is valid for a period of two years from the date of approval. If the subject development is not substantially commenced within the two-year period, the approval shall lapse and be of no further effect.**

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| **PD12.19** | **No. 50 Haldane Street. Mt Claremont – Proposed Single Dwelling** |
|  | |
| **Committee** | 9 April 2019 |
| **Council** | 23 April 2019 |
| **Applicant** | O. Pearce |
| **Landowner** | S. Wilson |
| **Employee Disclosure under *section 5.70 Local Government Act 1995*** | Nil. |
| **Director** | Peter Mickleson – Director Planning & Development |
| **Reference** | DA19-33832 |
| **Previous Item** | Nil |
| **Delegation** | In accordance with Clause 6.7.1a) of the City’s Instrument of Delegation, Council is required to determine the application due to objections being received. |
| **Attachments** | 1. Site photographs 2. Applicant’s justification |

**Committee Recommendation / Recommendation to Committee**

**Council approves the development application to construct a single dwelling at (Lot 702) No.50 Haldane Street, Mount Claremont, received on 9 January 2019 with amended plans received on 21 February 2019, subject to the following conditions and advice:**

1. **The development shall at all times comply with the application and the approved plans, subject to any modifications required as a consequence of any condition(s) of this approval.**
2. **All footings and structures associated with the retaining walls and any fencing shall be constructed wholly inside the site boundaries of the property’s Certificate of Title.**
3. **All fencing/visual privacy screens to Major Openings/Unenclosed Active Habitable Spaces as shown on the approved plans, shall prevent overlooking in accordance with the visual privacy requirements of the Residential Design Codes 2018. The fencing/visual privacy screens shall be installed prior to the development’s practicable completion and remain in place permanently, unless otherwise approved by the City.**
4. **All stormwater from the development, which includes permeable and non-permeable areas shall be contained onsite.**

**Advice Notes specific to this approval:**

1. **A separate development application is required to be submitted to and approved by the City prior to erecting any fencing within the street setback area(s) which is not compliant with the deemed-to-comply provisions of the Residential Design Codes, and/or erecting any fencing behind the primary street setback area which is more than 1.8m in height above natural ground level.**
2. **All crossovers to the street(s) shall be constructed to the Council’s Crossover Specifications and the applicant / landowner to obtain levels for crossovers from the Council’s Infrastructure Services under supervision onsite, prior to commencement of works.**
3. **The concrete footpath(s) shall be retained across the proposed crossover(s).**
4. **Any development in the nature-strip (verge), including footpaths, will require a Nature-Strip Work Application (NSWA) to be lodged with, and approved by, the City’s Technical Services department, prior to construction commencing.**
5. **All street tree assets in the nature-strip (verge) shall not be removed. Any approved street tree removals shall be undertaken by the City of Nedlands and paid for by the owner of the property where the development is proposed, unless otherwise approved under the Nature Strip Development approval.**
6. **All downpipes from guttering shall be connected so as to discharge into drains, which shall empty into a soak-well; and each soak-well shall be located at least 1.8m from any building, and at least 1.8m from the boundary of the block. Soak-wells of adequate capacity to contain runoff from a 20-year recurrent storm event. Soak-wells shall be a minimum capacity of 1.0m3 for every 80m2 of calculated surface area of the development.**
7. **All internal water closets and ensuites without fixed or permanent window access to outside air or which open onto a hall, passage, hobby or staircase, shall be serviced by a mechanical ventilation exhaust system which is ducted to outside air, with a minimum rate of air change equal to or greater than 25 litres / second.**
8. **The applicant is advised to consult the City’s Visual and Acoustic Privacy Advisory Information in relation to locating any mechanical equipment (e.g. air-conditioner, swimming pool or spa) such that noise, vibration and visual impacts on neighbours are mitigated. The City does not recommend installing any equipment near a property boundary where it is likely that noise will intrude upon neighbours.**

**Prior to selecting a location for an air-conditioner, the applicant is advised to consult the online fairair noise calculator at www.fairair.com.au and use this as a guide to prevent noise affecting neighbouring properties.**

**Prior to installing mechanical equipment, the applicant is advised to consult neighbours, and if necessary, take measures to suppress noise.**

1. **This decision constitutes planning approval only and is valid for a period of two years from the date of approval. If the subject development is not substantially commenced within the two-year period, the approval shall lapse and be of no further effect.**

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| **PD13.19** | **Christ Church Grammar School – Request for Endorsement of Possible Acquisition of Landfill Site** |
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| **Committee** | 9 April 2019 |
| **Council** | 23 April 2019 |
| **Applicant** | Taylor Burrell Barnett |
| **Landowner** | State of WA |
| **Employee Disclosure under *section 5.70 Local Government Act 1995*** | Mark Goodlet, Chief Executive Officer – Nature of interest – Impartiality. Extent of interest being that his child is a student at John XXIII College. |
| **Director** | Peter Mickleson – Director Planning & Development |
| **Previous Item** | PD74.18- Christ Church Grammar School - Possible Acquisition of Landfill Site |
| **Attachments** | 1. Applicants formal request for endorsement |

**Committee Recommendation**

**Council instructs Administration to write a letter of endorsement from the City to support the lots shown in Table 1 to be developed for sport and recreation. With the conditions that:**

1. **The sites are remediated, and any contamination issues are resolved;**
2. **That the sites are amalgamated;**
3. **The sites are used for sport and recreational purposes;**
4. **The sites are open to the public for use; and**
5. **That the City has the opportunity to participate in the planning and development.**

Recommendation to Committee

Council instructs Administration to write a letter of endorsement from the City to support the lots shown in Table 1 to be developed as playing fields. With the conditions that:

1. The sites are remediated, and any contamination issues are resolved;
2. That the sites are amalgamated;
3. The sites are used for sport and recreational purposes;
4. The sites are open to the public for use; and
5. That the City has the opportunity to participate in the planning and development of the playing fields.

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| **PD14.19** | **Establishment of a Design Review Panel** |
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| **Committee** | 9 April 2019 |
| **Council** | 23 April 2019 |
| **Employee Disclosure under *section 5.70 Local Government Act 1995*** | Nil. |
| **Director** | Peter Mickleson – Director Planning & Development |
| **Reference** | Nil |
| **Previous Item** | Nil |
| **Attachments** | 1. Design Review Guide – Department of Planning, Lands and Heritage (February 2019) |

**Committee Recommendation**

**That Council does not establish a Design Review Panel.**

Recommendation to Committee

That Council:

1. Instructs the City’s Administration to establish a Design Review Panel Terms of Reference for the purposes of providing independent expert design review advice for complex planning proposals;
2. Instructs the City’s administration to prepare a Local Planning Policy outlining the types of development, policies and projects that will be referred to the Panel, a set of Design Principles that the panel will use for a basis for review and relevant operations and procedures for the panel; and
3. Receive a further report following assessment of the expressions of interest to consider further appointment of panel members and the draft local planning policy.

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| **PD15.19** | **Itinerant Food Vendor Application (Ice Cream Van)** |
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| **Committee** | 9 April 2019 |
| **Council** | 23 April 2019 |
| **Applicant** | Silver Asjarv |
| **Employee Disclosure under *section 5.70 Local Government Act 1995*** | Nil |
| **Director** | Peter Mickleson – Director of Planning & Development |
| **Reference** | File No. COMP-1374877427-8910 |
| **Attachments** | 1. Itinerant food business application form 2. Photos of mobile food service facility 3. Trading in Public Places Local Law 2000 – Local Law 8 |

**Committee Recommendation / Recommendation to Committee**

**That Council approves an application by Mr Silver Asjarv to operate an itinerant Food Vendor within the City of Nedlands subject to the following conditions:**

1. **Applicant to hold a valid City of Nedlands Itinerant Food Vendor’s Licence;**
2. **Applicant to operate on a Sunday only from 10.00am to 7.00pm;**
3. **Applicant not trade within 50 metres of a permanent food business of the same food type;**
4. **Only remain at a location for as long as there is a customer making a purchase. If there is no customer making a purchase, the permit holder must move on from that location within a reasonable time of the last purchase having been made;**
5. **Maximum time in one location is not to exceed 10 minutes;**
6. **Service of ice creams, confectionary and drinks only are permitted;**
7. **Music, or any other forms of sound to attract customers, is not permitted to be played whilst the vehicle is parked;**
8. **Trading activities may be prohibited in certain areas should noise complaints be received and substantiated;**
9. **This Licence must be displayed in a conspicuous place on the vehicleand the permit must be produced to any Authorised Person or any police officer when requested;**
10. **The vehicle must be maintained in a clean and safe condition and in good repair;**
11. **The sale of food must comply with the *Food Act 2008,* *Food Regulations 2009* and the *Australia New Zealand Food Standards Code;***
12. **A current Public Liability Insurance must be attained for the vehicle; and**
13. **This licence may be cancelled by the City of Nedlands if the vendor has not complied with the conditions of the licence or the provision of any written law or policy related to the activity.**

## Technical Services Report No’s TS05.19 to TS10.19 (copy attached)

Note: Regulation 11(da) of the *Local Government (Administration) Regulations 1996* requires written reasons for each decision made at the meeting that is significantly different from the relevant written recommendation of a committee or an employee as defined in section 5.70, but not a decision to only note the matter or to return the recommendation for further consideration.

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| **TS05.19 Execution of Grant of Easement** |

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| **Committee** | 9 April 2019 |
| **Council** | 23 April 2019 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under *section 5.70 Local Government Act 1995*** | Nil. |
| **Director** | Martyn Glover – Director Technical Services |
| **Attachments** | 1. Copy of Easement in Gross documents |

**Committee Recommendation / Recommendation to Committee**

**Council**

1. **Approves the application of the Council Common Seal (seal) by the CEO on the Grant of Easement documentation in triplicate for Lot 416 (No. 1) Heritage Lane Mt Claremont; and**
2. **Directs the Mayor and Chief Executive Officer (CEO) to execute the Grant of Easement documentation in triplicate by way of signing.**

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| **TS06.19 Peace Memorial Rose Gardens Restoration** |

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| **Committee** | 9 April 2019 |
| **Council** | 23 April 2019 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under *section 5.70 Local Government Act 1995*** | Nil. |
| **Director** | Martyn Glover – Director Technical Services |
| **Attachments** | 1. Digitisation of Bennett’s Original Plan 1948 2. Amended Plan to fit existing Infrastructure |

**Committee Recommendation / Recommendation to Committee**

**Council:**

1. **Supports the development of the Peace Memorial Rose Garden to reflect the original design by WG (Bill) Bennett subject to the favourable outcome of the following:**
   1. **The Heritage Council supports the project; and**
   2. **A community engagement supports the project.**
2. **Requests the Administration complete the detail design, costing and anticipated program of works for the project including an application for a Department of Veterans Affairs Grant.**

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| **TS06.19 Peace Memorial Rose Gardens Restoration** |

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| **Committee** | 9 April 2019 |
| **Council** | 23 April 2019 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under *section 5.70 Local Government Act 1995*** | Nil. |
| **Director** | Martyn Glover – Director Technical Services |
| **Attachments** | 1. Digitisation of Bennett’s Original Plan 1948 2. Amended Plan to fit existing Infrastructure |

**Committee Recommendation / Recommendation to Committee**

**Council:**

1. **Supports the development of the Peace Memorial Rose Garden to reflect the original design by WG (Bill) Bennett subject to the favourable outcome of the following:**
   1. **The Heritage Council supports the project; and**
   2. **A community engagement supports the project.**
2. **Requests the Administration complete the detail design, costing and anticipated program of works for the project including an application for a Department of Veterans Affairs Grant.**

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| **TS07.19 Quintilian Road Partial Road Closure Community Engagement Results** |

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| **Committee** | 9 April 2019 |
| **Council** | 23 April 2019 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under *section 5.70 Local Government Act 1995*** | Nil. |
| **Director** | Martyn Glover – Director Technical Services |
| **Attachments** | 1. Community Engagement Responses by Street 2. Engagement Report 3. Quintilian School Submission |

**Committee Recommendation**

**Council:**

1. **does not support the proposed left-out only partial road closure of Quintilian Road at Brockway Road;**
2. **supports the installation of the speed pillows included in the original report of October 2017;**
3. **supports the provision of flashing 40km/h speed zone signs in Quintilian Road; and**
4. **Council asks the Administration to work with the Department of Transport to investigate the potential for Quintilian Road to be developed as a Safe Active Street. Administration is asked to report on the results of this investigation to Council.**

Recommendation to Committee

Council:

1. does not support the proposed left-out only partial road closure of Quintilian Road at Brockway Road;
2. supports the installation of the speed pillows included in the original report of October 2017;
3. supports the provision of flashing 40km/h speed zone signs in Quintilian Road; and
4. commits to continue to review the traffic management in Quintilian Road.

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| **TS08.19 Naming of Reserve 51183 – 30 (Lot 415) St Johns Wood Boulevard, Mt Claremont** |

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| **Committee** | 9 April 2019 |
| **Council** | 23 April 2019 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under *section 5.70 Local Government Act 1995*** | Nil. |
| **Director** | Martyn Glover – Director Technical Services |
| **Attachments** | 1. Policies and Standards for Geographical Naming in Western Australia (excerpt) |

**Committee Recommendation / Recommendation to Committee**

**Council instructs Administration to apply to the Geographic Names Committee to have Reserve 51183, street address 30 (Lot 415) St Johns Wood Boulevard, Mt Claremont named ‘Abbey Park'.**

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| **TS09.19 Verdun Street Parking Station – Amendments to Parking Prohibitions** |

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| **Committee** | 9 April 2019 |
| **Council** | 23 April 2019 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under *section 5.70 Local Government Act 1995*** | Nil. |
| **Director** | Martyn Glover – Director Technical Services |
| **Attachments** | 1. Proposed Parking Prohibitions Plan |

**Committee Recommendation / Recommendation to Committee**

**Council approve changing the existing parking prohibition at the Verdun Street parking station from 2P to 4P.**

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| **TS10.19 RFP 2018-19.01 - Design, Supply and Installation of Playground Equipment Panel** |

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| **Committee** | 9 April 2019 |
| **Council** | 23 April 2019 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under *section 5.70 Local Government Act 1995*** | Nil. |
| **Director** | Martyn Glover – Director Technical Services |
| **Attachments** | 1. Brockman Reserve Playground Redevelopment – Community Engagement Results |

**Committee Recommendation / Recommendation to Committee**

**Council**

1. **agrees to appoint the following contractors to the RFP 2018-19.01 - Design, Supply and Installation of Playground Equipment Panel:**

* **Adventure Playgrounds Pty Ltd atf R & G Kelsey Business Trust t/as Adventure +;**
* **Erutan Pty Ltd ta Nature Playgrounds;**
* **MAS (WA) Pty Ltd as Trustee for the Simpson Family Trust T/As Miracle Recreation Equipment;**
* **Nature Play Solutions Pty Ltd;**
* **Playmaster Pty Ltd.**

1. **agrees to award the construction of the Brockman Reserve Playground to Erutan Pty Ltd ta Nature Playgrounds; and**
2. **authorises the Chief Executive Officer to Sign the acceptance of offers.**

## Corporate & Strategy Report No’s CPS07.19 (copy attached)

Note: Regulation 11(da) of the *Local Government (Administration) Regulations 1996* requires written reasons for each decision made at the meeting that is significantly different from the relevant written recommendation of a committee or an employee as defined in section 5.70, but not a decision to only note the matter or to return the recommendation for further consideration.

|  |
| --- |
| **CPS07.19 List of Accounts Paid – February 2019** |

|  |  |
| --- | --- |
| **Committee** | 12 March 2019 |
| **Council** | 26 March 2019 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under *section 5.70 Local Government Act 1995*** | Nil. |
| **Director** | Lorraine Driscoll – Director Corporate & Strategy |
| **Attachments** | 1. Creditor Payment Listing February 2019 2. Purchasing Card Payments February 2019 (29th January 2019 – 28th February 2019) |

**Committee Recommendation / Recommendation to Committee**

**Council receives the List of Accounts Paid for the month of February 2019** **(refer to attachments).**

# Reports by the Chief Executive Officer

## Common Seal Register Report – March 2019

The attached Common Seal Register Report for the month of March 2019 is to be received.

**March 2019**

| **SEAL NUMBER** | **DATE SEALED** | **DEPARTMENT** | **MEETING DATE / ITEM NO.** | **REASON FOR USE** |
| --- | --- | --- | --- | --- |
| 919 | 19 March 2019 | Technical Services | Delegated Authority | Easement Lot 416 (No. 1) Heritage Lane Mt Claremont - between the City of Nedlands & Aegis Aged Care Group Pty Ltd (3 copies) |

## List of Delegated Authorities – March 2019

The attached List of Delegated Authorities for the month of March 2019 is to be received.

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Date of use of delegation of authority** | **Title** | **Position exercising delegated authority** | **Act** | **Section of Act** | **Applicant / CoN / Property Owner / Other** |
| **March 2019** | | | | | |
| **05/03/2019** | (APP) – DA19/33847 – 40A Mengler Ave, Claremont – Additions (Carport to Grouped Dwelling) | Coordinator Statutory Planning  Andrew Bratley | City of Nedlands TPS2 | Section 6.7.1 | Great Aussie Patios |
| **06/03/2019** | (APP) – DA19/33844 – 3/141 Broadway, Nedlands – Change of Use (Office to Health Studio) | Coordinator Statutory Planning  Andrew Bratley | City of Nedlands TPS2 | Section 6.7.1 | Ms D Gaspar |
| **06/03/2019** | (APP) – DA19/3368 – 62A The Avenue, Nedlands – Retrospective Additions (Pergola) to Existing Single Dwelling | Coordinator Statutory Planning  Andrew Bratley | City of Nedlands TPS2 | Section 6.7.1 | Mrs W Prendiville |
| **06/03/2019** | (APP) – DA19/34610 – 6 Colin Street, Dalkeith – Amendment to DA18/33576 – Finished Floor Level | Coordinator Statutory Planning  Andrew Bratley | City of Nedlands TPS2 | Section 6.7.1 | Honest Holdings |
| **07/03/2019** | (APP) – DA19/34407 – 42A Langham St, Nedlands – Additions | Coordinator Statutory Planning  Andrew Bratley | City of Nedlands TPS2 | Section 6.7.1 | Modernark Layout Design |
| **07/03/2019** | (APP) – DA19/33719 – 14 Nardina Cr, Dalkeith – Two Storey Single House | Coordinator Statutory Planning  Andrew Bratley | City of Nedlands TPS2 | Section 6.7.1 | Oswald Homes (1972) Pty Ltd |
| **07/03/2019** | (APP) – DA19/34659 – 678 Minora Road, Dalkeith – Additions (Patio) to Single House | Coordinator Statutory Planning  Andrew Bratley | City of Nedlands TPS2 | Section 6.7.1 | Oasis Patios |
| **08/03/2019** | 3039213- Parking Infringement Withdrawal – compassionate grounds | Acting Manager Health & Compliance  Neil McGuinness | Local Government Act 1995 | Section 9.20/6.12(1) | Marisa Schonwolf |
| **08/03/2019** | 3032715- Parking Infringement Withdrawal – compassionate grounds | Acting Manager Health & Compliance  Neil McGuinness | Local Government Act 1995 | Section 9.20/6.12(1) | Marie Poggi |
| **13/03/2019** | 3039315 - Parking Infringement Withdrawal – compassionate grounds | Acting Manager Health & Compliance  Neil McGuinness | Local Government Act 1995 | Section 9.20/6.12(1) | Laura Palchak |
| **15/03/2019** | 3039316 - Parking Infringement Withdrawal – compassionate grounds | Acting Manager Health & Compliance  Neil McGuinness | Local Government Act 1995 | Section 9.20/6.12(1) | John Wang |
| **15/03/2019** | 3032688 and 3032731 - Parking Infringement Withdrawal – compassionate grounds | Acting Manager Health & Compliance  Neil McGuinness | Local Government Act 1995 | Section 9.20/6.12(1) | Glen Parsons |
| **15/03/2019** | (APP) – DA19/34464 – 3/150 Stirling Hwy, Nedlands – Change of Use (Consulting Rooms) | Coordinator Statutory Planning  Andrew Bratley | City of Nedlands TPS2 | Section 6.7.1 | Skyn Pty Ltd |
| **15/03/2019** | (APP) – DA19/34000 – 22 Dalkeith Road, Nedlands – Single Storey Single House | Coordinator Statutory Planning  Andrew Bratley | City of Nedlands TPS2 | Section 6.7.1 | Webb and Brown Neaves |
| **19/03/2019** | (APP) – DA19/33149 – 7 Waratah Ave, Dalkeith – Two Storey Single House | Coordinator Statutory Planning  Andrew Bratley | City of Nedlands TPS2 | Section 6.7.1 | Craig Steere Architects |
| **21/03/2019** | (APP) – DA19/34761 – 111/118 Monash Ave, Nedlands – Additions (Patio) to Existing Aged Care Facility | Coordinator Statutory Planning  Andrew Bratley | City of Nedlands TPS2 | Section 6.7.1 | Grand Patios |
| **22/03/2019** | 3032724 - Parking Infringement Withdrawal – compassionate grounds | Acting Manager Health & Compliance  Neil McGuinness | Local Government Act 1995 | Section 9.20/6.12(1) | Carolyn Tomich |
| **22/03/2019** | 3032685 - Parking Infringement Withdrawal – compassionate grounds | Acting Manager Health & Compliance  Neil McGuinness | Local Government Act 1995 | Section 9.20/6.12(1) | Nikki McAleer |
| **22/03/2019** | 3032960 - Parking Infringement Withdrawal – compassionate grounds | Acting Manager Health & Compliance  Neil McGuinness | Local Government Act 1995 | Section 9.20/6.12(1) | Rebecca Kaard |
| **22/03/2019** | 3038847 - Parking Infringement Withdrawal – compassionate grounds | Acting Manager Health & Compliance  Neil McGuinness | Local Government Act 1995 | Section 9.20/6.12(1) | Changhao Liu |
| **22/03/2019** | 3034915 - Parking Infringement Withdrawal – error made by issuing officer | Acting Manager Health & Compliance  Neil McGuinness | Local Government Act 1995 | Section 9.20/6.12(1) | Michelle Connor |
| **22/03/2019** | (APP) – DA19/34287 – 38 Tyrell St, Nedlands – Two Storey Single House | Coordinator Statutory Planning  Andrew Bratley | City of Nedlands TPS2 | Section 6.7.1 | Aintree Holdings Pty Ltd |
| **25/03/2019** | (APP) – DA19/34612 – 13A Bedbrook Place, Shenton Park – Incidental Shop for Existing Pharmaceutical Manufacturing Facility | Coordinator Statutory Planning  Andrew Bratley | City of Nedlands TPS2 | Section 6.7.1 | PureIV |
| **26/03/2019** | (APP) – DA19/34543 – 7 Kings Row, Mt Claremont – Patio | Coordinator Statutory Planning  Andrew Bratley | City of Nedlands TPS2 | Section 6.7.1 | Great Aussie Patios |
| **26/03/2019** | (APP) – DA19/34608 – 68 Louise St, Nedlands – Amendment to DA18/5 | Coordinator Statutory Planning  Andrew Bratley | City of Nedlands TPS2 | Section 6.7.1 | Addstyle Constructions |
| **26/3/2019** | 3038501 - Parking Infringement Withdrawal – compassionate grounds | Acting Manager Health & Compliance  Neil McGuinness | Local Government Act 1995 | Section 9.20/6.12(1) | Isobel Beardsmore |
| **26/3/2019** | 3038613 - Parking Infringement Withdrawal – compassionate grounds | Acting Manager Health & Compliance  Neil McGuinness | Local Government Act 1995 | Section 9.20/6.12(1) | Louis McAuliffe |
| **26/3/2019** | 3038604 - Parking Infringement Withdrawal – compassionate grounds | Acting Manager Health & Compliance  Neil McGuinness | Local Government Act 1995 | Section 9.20/6.12(1) | Tessa McAllister |
| **26/3/2019** | 3038610 - Parking Infringement Withdrawal – compassionate grounds | Acting Manager Health & Compliance  Neil McGuinness | Local Government Act 1995 | Section 9.20/6.12(1) | Maryse d’Argent |
| **26/3/2019** | 3038612 - Parking Infringement Withdrawal – compassionate grounds | Acting Manager Health & Compliance  Neil McGuinness | Local Government Act 1995 | Section 9.20/6.12(1) | Hanna Steere |
| **26/3/2019** | 3038606 - Parking Infringement Withdrawal – compassionate grounds | Acting Manager Health & Compliance  Neil McGuinness | Local Government Act 1995 | Section 9.20/6.12(1) | Margarita Robson |
| **26/3/2019** | 3038609 - Parking Infringement Withdrawal – compassionate grounds | Acting Manager Health & Compliance  Neil McGuinness | Local Government Act 1995 | Section 9.20/6.12(1) | Sue Smith |
| **26/3/2019** | 1001800 – Bushfire Infringement Withdrawal – error made by issuing officer | Acting Manager Health & Compliance  Neil McGuinness | Local Government Act 1995 | Section 9.20/6.12(1) | James Young |
| **26/03/2019** | (APP) – DA19/34165 – 62 Jutland Parade, Dalkeith – Driveway | Coordinator Statutory Planning  Andrew Bratley | City of Nedlands TPS2 | Section 6.7.1 | Limestone Pty Ltd |
| **29/03/2019** | (APP) – DA19/34147 – 35 Stirling Hwy, Nedlands – Change of Use (from Office to Health Studio and Consulting Rooms) and Signage | Manager Planning Ross Jutras-Minett | City of Nedlands TPS2 | Section 6.7.1 | R Susanto |
| **29/03/2019** | 3039441 - Parking Infringement Withdrawal – error made by issuing office | Acting Manager Health & Compliance  Neil McGuinness | Local Government Act 1995 | Section 9.20/6.12(1) | Vivien Forrest |
| **29/03/2019** | 3039420 - Parking Infringement Withdrawal – other compassionate grounds | Acting Manager Health & Compliance  Neil McGuinness | Local Government Act 1995 | Section 9.20/6.12(1) | Miranda Franklin |
| **29/03/2019** | 3038564 - Parking Infringement Withdrawal – stolen vehicle | Acting Manager Health & Compliance  Neil McGuinness | Local Government Act 1995 | Section 9.20/6.12(1) | Jerome Georget |
| **29/03/2019** | 3039420 - Parking Infringement Withdrawal – error made by issuing officer | Acting Manager Health & Compliance  Neil McGuinness | Local Government Act 1995 | Section 9.20/6.12(1) | Cameron Wilson |
| **29/03/2019** | 3039219 - Parking Infringement Withdrawal – error made by issuing officer | Acting Manager Health & Compliance  Neil McGuinness | Local Government Act 1995 | Section 9.20/6.12(1) | Hetty Forte |

## Monthly Financial Report – March 2019

|  |  |
| --- | --- |
| **Council** | 23 April 2019 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act** | Nil. |
| **Director** | Lorraine Driscoll – Director Corporate & Strategy |
| **CEO** | Mark Goodlet |
| **Attachments** | 1. Financial Summary (Operating) by Business Units – 31 March 2019 2. Capital Works & Acquisitions – 31 March 2019 3. Statement of Net Current Assets – 31 March 2019 4. Statement of Financial Activity – 31 March 2019 5. Borrowings – 31 March 2019 6. Statement of Financial Position – 31 March 2019 7. Operating Income & Expenditure by Reporting Activity – 31 March 2019 8. Operating Income by Reporting Nature & Type – 31 March 2019 |

**Executive Summary**

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. Significant variances are highlighted to Council in the attached Monthly Financial Report.

**Recommendation to Council**

**Council receives the Monthly Financial Report for 31 March 2019.**

**Discussion/Overview**

The monthly financial management report meets the requirements of *Regulation 34(1) and 34(5)* 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. Significant variances are highlighted to Council in the Monthly Financial Report.

This report gives an overview of the revenue and expenses of the City for the year to date 31 March 2019 together with a Statement of Net Current Assets as at 31 March 2019.

The operating revenue at the end of March 2019 was $34 M which represents $613k favourable variance compared to the year-to-date budget.

The operating expense at the end of March 2019 was $23 M, which represents $4.03 M favourable variance compared to the year-to-date budget.

The attached Operating Statement compares “Actual” with “Budget” by Business Units. Variations from the budget of revenue and expenses by Directorates are highlighted in the following paragraphs.

**Governance**

Expenditure: Favourable variance of $ 359,088

Revenue: Unfavourable variance of $(152,847)

The favourable expenditure variance is mainly due to lower expenditure for the WESROC project by $156k, and professional fees, special projects, office communications and ICT Expenses of $202k not expensed yet.

The unfavourable revenue variance is mainly due to lower revenue from WESROC corresponding with the lower expenditure.

**Corporate and Strategy**

Expenditure: Favourable variance of $ 653,097

Revenue: Favourable variance of $ 504,691

The favourable expenditure variance is mainly due to timing differences in the use of ICT professional services and expenses of $246k. Also timing difference on special projects finance and interest expenses of $117k. Small savings on ICT Depreciation of $122k and some savings on customer service, Finance and IT salary of $164k due to delay in filling vacancies

Favourable revenue variance is due to timing difference of interest income $65k and higher rates revenue of $412k. The higher rates income is mainly from higher interim rates and profiling issue. The rates income for March YTD Actual is $23.77 M compared to the March YTD Budget of $23.36 M and the Annual Budget of $23.44 M.

**Community Development and Services**

Expenditure: Favourable variance of $497,616

Revenue: Favourable variance of $ 78,182

The favourable expenditure variance is mainly due to expenses not expended yet for community donations of $51k, special projects of $12k and operational activities of $34k. Salaries and NCC expenses is lower by $357k mainly due to delay in filling vacant positions, and timing differences.

The Favourable revenue variance is due to increase fees & charges income from NCC, Tresillian courses of $67k.

**Planning and Development**

Expenditure: Favourable variance of $ 436,515

Revenue: Favourable variance of $ 120,815

The favourable expenditure variance is mainly due to expenses not expended yet for operational activities of $235k, Strategic Planning expenses and other ranger services of $65k. Salaries is lower by $120k mainly due to delay in filling vacant positions, and timing differences.

Small favourable revenue variance is due to higher income for planning fees & charges of $93k.

**Technical Services**

Expenditure: Favourable variance of $ 2,084,565

Revenue: Unfavourable variance of $ 62,181

Favourable expenditure variance is mainly due to expenses not expended yet for Parks maintenance of $442k. Depreciation on Infrastructure is lower by $1.6 M due to lower revaluation values compared to the previous years.

Small favourable variance is due to increase income from Waste management and infrastructure service charges. Timing difference on Grants payments of $30k also contributed to favourable variance.

**UGP**

As at 31 March 2019, the City’s service charge, spend and borrowings since the commencement of the project is as follows:

|  |  |  |  |
| --- | --- | --- | --- |
| **Project** | **Service Charge** | **Spend** | **Borrowings** |
| Alderbury Street | $184,509 | $368,798 | $66,956 |
| West Hollywood | $2,286,460 | $5,484,011 | $3,574,691 |
| Alfred Road & Mt Claremont | $396,290 | $674,661 | $94,279 |
| **Total** | **$2,867,259** | **$6,527,470** | **$3,735,926** |

**Borrowings**

At 31 March 2019, we have a balance of borrowings of $7.9 M. 2018/19 budget included borrowings of $4.4 M including $2.47 M for the UGP based on the assumption that 75% of the owners will opt for a 10-year loan. However, only 23% of owners have opted for the 10-year loan, thus reducing the loan requirement for the owners’ portion of the UGP to $806k. This will reduce the borrowings for the year by $1.66 M with an estimated total outstanding borrowing of $8.5 M at year end compared to the budget of $10 M.

**Net Current Assets Statement**

At 31 March 2019, net current assets were $10.27 M compared to $11.28 M as at 31 March 2018. This is mainly due to an increase of $1.5m in restricted reserves and increase of $340k in receivables.

Rates debtors outstanding is 7% as at 31 March 2019 compared to 6% as at 31 March 2018.

**Capital Works Programme**

At the end of March, the expenditure on capital works were $6M with further commitments of $932k which is 48% of a total budget of $14.37 M.

**Conclusion**

The statement of financial activity for the period ended 31 March 2019 indicates that operating expenses are under the year-to-date budget by 14.9% or $4.03 M, while revenue is above the Budget by 1.8% or $613k.

**Key Relevant Previous Council Decisions:**

Nil.

**Consultation**

N/A

**Budget/Financial Implications**

As outlined in the Monthly Financial Report.

## Monthly Investment Report – March 2019

|  |  |
| --- | --- |
| **Council** | 23 April 2019 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act** | Nil. |
| **Director** | Lorraine Driscoll – Director Corporate & Strategy |
| **CEO** | Mark Goodlet |
| **Attachments** | Investment Report for the period ended 31 March 2019 |

**Executive Summary**

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

**Recommendation to Council**

**Council receives the Investment Report for the period ended 31 March 2019.**

**Discussion/Overview**

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

The Investment Policy of the City, which is reviewed each year by the Audit and Risk Committee of Council, is structured so as 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 Policy of the City, which is reviewed each year by the Audit and Risk Committee of Council, is structured so as 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 March 2019 the City held the following funds in investments:

Municipal Funds $ 7,644,614.28

Reserve Funds $ 6,513,408.44

Total $ 14,158,022.72

The total interest earned from investments as at 31 March 2019 was $296,163.88.

The Investment Portfolio comprises holdings in the following institutions:

|  |  |  |  |
| --- | --- | --- | --- |
| **Financial Institution** | **Funds Invested** | **Interest Rate** | **Proportion of Portfolio** |
| NAB | $5,723,053.45 | 2.56% - 2.73% | 40.42% |
| Westpac | $4,694,840.39 | 1.75% - 2.69% | 33.16% |
| ANZ | $178,510.97 | 2.20% | 1.26% |
| CBA | $3,561617.91 | 1.30% - 2.49% | 25.16% |
| **Total** | **$14,158,022.72** |  | **100.00%** |

**Conclusion**

The Investment Report is presented to Council.

**Key Relevant Previous Council Decisions:**

Nil.

**Consultation**

Required by legislation: Yes  No

Required by City of Redlands policy: Yes  No

**Budget/Financial Implications**

Investment income is steady as per budget.

## Future Elections and Polls to 2023

|  |  |
| --- | --- |
| **Council** | 23 April 2019 |
| **Applicant** | City of Nedlands |
| Employee Disclosure under section 5.70 *Local Government Act 1995* | Nil. |
| **Director** | Lorraine Driscoll – Director Corporate & Strategy |
| CEO | Mark Goodlet – Chief Executive Officer |
| **Attachments** | Nil |

**Executive Summary**

Council is requested to declare the Western Australian Electoral Commission (WAEC) is responsible for the conduct of future elections to the end of 2023 and to agree to these elections being conducted as postal elections.

**Recommendation to Committee**

**Council:**

1. **declares, in accordance with section 4.20(4) of the Local Government Act 1995, the Western Australian Electoral Commissioner to be responsible for the conduct of all future elections and polls until the end of 2023; and**
2. **decides, in accordance with section 4.61(2) of the Local Government Act 1995 that the method of conducting all future elections or polls will be as a postal election.**

**ABSOLUTE MAJORITY REQUIRED**

**Discussion/Overview**

The conduct of the Local Government ordinary elections is a complex and time-consuming event and has been well managed by experienced returning officers provided by the Western Australian Electoral Commissioner (WAEC) in recent years. The WEAC are also adequately trained which ensures that all legislative requirements are complied with.

As an alternative, the Administration can undertake the conduct of the elections at a reduced cost. However, as the Administrative staff are not trained in conducting the elections, it may increase risk of non-compliance of the Act. Further it would require additional resources, to ensure that the process is carried out in a timely manner.

Because of the convenience it provides to electors, a postal ballot encourages a higher participation rate by electors. The alternate would be to hold the election as an in-person election, but this may discourage a higher participation.

Council is requested to make a declaration that the Western Australian Electoral Commissioner (WAEC) is to be responsible for the conduct of future elections to the end of 2023 and to agree to these elections being conducted as postal elections.

**Key Relevant Previous Council Decisions:**

At the Council meeting held on 26 February 2013 Council agreed to the Western Australian Electoral Commissioner (WAEC) to conduct future elections to the end of 2017 and for these elections to be postal elections.

**Budget/Financial Implications**

It is estimated that the cost of the 2019 election will be $69,000 including GST. An additional charge of $3,100 will be incurred if Council decides to opt for the Australia Post Priority Service for the lodgment of election packages.

## Execution of Caveat Removal and Re-lodgement to allow transfer of property ownership

|  |  |
| --- | --- |
| **Council** | 23 April 2019 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under *section 5.70 Local Government Act 1995*** | Nil. |
| **Director** | Ross Jutras-Minett – Acting Director Planning and Development |
| **CEO** | Mark Goodlet |
| **Attachments** | 1. Confidential – Deed documents |

**Executive Summary**

The purpose of this report is to grant application of the Common Seal to enable the temporary withdrawal of a caveat on a property to facilitate a property transaction for Lot 88 and 89 North Street, Swanbourne.

The confidential documents provided to Council are deed documents to be executed by the City to enable one of the two properties in question (Lot 88 and 89 North Street, Swanbourne) to be sold/transferred to the other party listed in the deed document. The caveat is proposed to be temporarily withdrawn and then re-lodged following the transfer of the property.

The deed document has been vetted by the City’s legal representatively McLeod’s Barristers and Solicitors.

**Recommendation to Council**

**Council:**

1. **approves the affixing of the City of Nedlands Common Seal (seal) by the CEO on the deed documentation to temporarily remove the caveat on Lot 88 and Lot 89 North Street, Swanbourne; and**
2. **directs the Mayor and Chief Executive Officer (CEO) to execute the deed documentation in triplicate by way of signing.**

**Discussion/Overview**

**Background**

The City has agreed to temporarily withdraw the caveat from Lot 88 and 89 subject to the buyers entering into the deed and the City being entitled to re-lodge its absolute caveat over lot 88 and 89 following transfer. The original caveat on the title is a result of:

* 6 March 2006 WAPC subdivision approval (WAPC Ref.# 129995) issued. A condition (Condition 1) of which required “*All buildings having the necessary clearance from the new boundaries as required by the relevant Town Planning Scheme*”
* 15 August 2008 the City and the owners of the properties entered into a Deed with the City to defer the WAPC Condition 1 in the form of the following Subdividers’ Covenants:
* “*The Subdividers covenant and agree with the City that they will make application to the City for any licence or approval required under written law for the demolition of the Dwelling and will complete demolition and removal of the Dwelling to the satisfaction of the City’s Building Surveyor:*

1. *Prior to any sale, transfer or disposal of either one of the lots created by the subdivision as proposed in the Application (“the Subdivided Lots”) and;*
2. *Prior to undertaking any development on the Subdivided Lots,*

*And in any event within 5 years if the date of this Deed, unless otherwise agreed in writing by the parties*”.

* 29 June 2011 and 27 May 2013 saw withdrawal and reinstatement of the Deed for the purpose of sale of one of the lots and for re-mortgaging of one of the lots
* Ms. Sarah Davies (one of the landowners) requested on the 18th of December 2018 for the City to formally agree to an extension of the original 5-year timeframe which expired in October of 2013.
* The City has indicated that it would be favourable for an extension to the timeframe identified in the Deed.
* 21 December 2018 the City granted formal agreement to the timeframe identified in the original deed.

**Action**

McLeod’s Solicitors and Barristers (McLeod’s) hand delivered the deed documents to the City on the 26 March 2019. The landowners of Lot 88 and 89 has executed their portion of the deed documents.

Once approved by Council, the seal will be applied to the deed documents in triplicate in presence of the Mayor and CEO, who are then required to sign the easement documents in triplicate. At this point the documentation is said to be executed.

Once executed, the deed documents will be then be collected by McLeod’s. On receipt, McLeod’s will arrange for the temporary withdrawal of the caveat of the titles by lodging of the documents at Landgate.

**Legislation**

The Local Government Act 1995 states:

9.49A.Execution of documents

* 1. A document is duly executed by a local government if —

(a)the common seal of the local government is affixed to it in accordance with subsections (2) and (3); or

(b)it is signed on behalf of the local government by a person or persons authorised under subsection (4) to do so.

* 1. The common seal of a local government is not to be affixed to any document except as authorised by the local government.

* 1. The common seal of the local government is to be affixed to a document in the presence of —

(a) the mayor or president; and

(b) the chief executive officer or a senior employee authorised by the chief executive officer, each of whom is to sign the document to attest that the common seal was so affixed.

* 1. A local government may, by resolution, authorise the chief executive officer, another employee or an agent of the local government to sign documents on behalf of the local government, either generally or subject to conditions or restrictions specified in the authorisation.

**Key Relevant Previous Council Decisions:**

Nil

**Consultation**

Negotiations were undertaken between Administration and the landowners of Lot 88 and 89 North Street, Swanbourne.

**Budget/Financial Implications**

Legal and lodgment fees for the execution are at the expense of the landowners of Lot 88 and Lot 89 North Street, Swanbourne.

**Conclusion**

The withdrawal of the caveats is required to facilitate a property transaction between the original deed parties. The application of the common seal by the City will enable the temporary removal of the caveat which will be placed back on the title once the transaction has occurred.

## Consent from City to Allow Discharge of Easement for Reciprocal Rights of Access Easement

|  |  |
| --- | --- |
| **Council** | 23 April 2019 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under *section 5.70 Local Government Act 1995*** | Nil. |
| **Director** | Ross Jutras-Minett – Acting Director Planning and Development |
| **CEO** | Mark Goodlet |
| **Attachments** | 1. Confidential – Consent Discharge of Easement documents |

**Executive Summary**

The purpose of this report is to approve the application of the Common Seal on a discharge of easement for No. 2A Korel Gardens, Swanbourne.

The easement benefits No. 2 Korel Gardens, Swanbourne which recently had a development approved and building permit issued for a two storey single house with direct vehicle access to Korel Gardens. Therefore access (vehicle nor pedestrian) is no longer required to the battle-axe leg to No. 2A Korel Gardens (rear lot) for no. 2 Korel Gardens, Swanbourne (front lot).

The City is also party to the easement to ensure that the easement was not removed without direct access being made available to the garage on no. 2 Korel Gardens, Swanbourne.

The landowner of no. 2A Korel Gardens, Swanbourne is therefore seeking the City’s consent to discharge the easement as it is no longer required.

**Recommendation to Council**

**Council:**

1. **approves the affixing of the City of Nedlands Common Seal (seal) by the CEO on the “Consent – Discharge of Easement” documentation to permit the removal of the easement on Lot 601 No. 2A Korel Gardens, Swanbourne; and**
2. **directs the Mayor and Chief Executive Officer (CEO) to execute the “Consent – Discharge of Easement” documentation by way of signing.**

**Discussion/Overview**

**Background**

The parent lot was granted subdivision approval with a condition to have a reciprocal rights of access easement over the battle-axe leg to allow for the proposed front lot to share access with the rear lot. This was at the request of the subdivision applicant to provide flexibility of vehicle access options for the front lot (now No. 2 Korel Gardens, Swanbourne).

Following the issue of a development approval and building permit for No. 2 Korel Gardens, Swanbourne, the easement is no longer required. The City therefore has no reason to prevent the discharge of the easement.



**Action**

McLeod’s Solicitors and Barristers (McLeod’s) emailed the discharge of easement documents to the City on the 15 March 2019. The landowners of No. 2A Korel Gardens and No. 2 Korel Gardens will execute their relevant sections separately to this process.

Once approved by Council, the seal will be applied to the discharge of easement document in presence of the Mayor and CEO, who are then required to sign the easement document. At this point the documentation is said to be executed.

Once executed, the completed discharge of easement document will be then be collected by McLeod’s. On receipt, McLeod’s or the landowner will arrange for the lodgment of the discharge of easement documents at Landgate.

**Legislation**

The Local Government Act 1995 states:

9.49A.Execution of documents

* 1. A document is duly executed by a local government if —

(a) the common seal of the local government is affixed to it in accordance with subsections (2) and (3); or

(b) it is signed on behalf of the local government by a person or persons authorised under subsection (4) to do so.

* 1. The common seal of a local government is not to be affixed to any document except as authorised by the local government.

* 1. The common seal of the local government is to be affixed to a document in the presence of —

(a) the mayor or president; and

(b) the chief executive officer or a senior employee authorised by the chief executive officer, each of whom is to sign the document to attest that the common seal was so affixed.

* 1. A local government may, by resolution, authorise the chief executive officer, another employee or an agent of the local government to sign documents on behalf of the local government, either generally or subject to conditions or restrictions specified in the authorisation.

**Key Relevant Previous Council Decisions:**

Nil

**Consultation**

Negotiations were undertaken between Administration and the landowner of No. 2A Korel Gardens, Swanbourne.

**Budget/Financial Implications**

Legal and lodgment fees for the execution are at the expense of the landowner of No. 2A Korel Gardens, Swanbourne.

**Conclusion**

The existing easement is no longer required over the rear lot (2A Korel Gardens, Swanbourne) battle-axe driveway and therefore the landowner is seeking to discharge the easement. The City being party to the easement no longer requires this easement to remain in place and hence requires the City to consent to discharge the easement to arrange its removal. This requires the application of the common seal which requires resolution from Council.

## Register of Delegated Authority and Authorisations – Amendments – Local Planning Scheme 3

|  |  |
| --- | --- |
| **Council** | 23 April 2019 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under *section 5.70 Local Government Act 1995*** | Nil. |
| **CEO** | Mark Goodlet |
| **Attachments** | 1. Register of Delegations of Authority – with track changes on the following pages: front cover, table of contents, 4, 66, & 92. |

**Executive Summary**

The City of Nedlands Local Planning Scheme No. 3 was gazetted on Tuesday 16 April 2019. It is necessary to reassign the Planning Delegations from Town Planning Scheme No. 2 to Local Planning Scheme No. 3.

**Recommendation to Council**

**That Council:**

1. **notes the review of delegations contained in the attached Register of Delegations in accordance with section 5.46(2) of the Local Government Act 1995; and**
2. **approves the amendments to the Register of Delegations as contained in the attached document.**

**ABSOLUTE MAJORITY REQUIRED**

**Discussion/Overview**

**Background**

The last review was undertaken at the Ordinary Council Meeting on 27 November 2018. Following gazettal of the City’s Local Planning Scheme No. 3 minor revisions have now been made as attached for Council approval.

**Planning and Development (Local Planning Scheme) Regulations 2015**

The delegation provisions of Town Planning Scheme 2 have been replaced by the Planning and Development (Local Planning Schemes) Regulations 2015, Regulations 81 to 84, which now provide for delegations and sub-delegations as follows:

Regulation 82 - Delegations by local government

1. *The local government may, by resolution, delegate to a committee or to the local government CEO the exercise of any of the local government’s powers or the discharge of any of the local government’s duties under this Scheme other than this power of delegation.*
2. *A resolution referred to in subclause (1) must be by absolute majority of the council of the local government.*
3. *The delegation must be in writing and may be general or as otherwise provided in the instrument of delegation.*

Regulation 83 - Local government CEO may delegate powers

1. *The local government CEO may delegate to any employee of the local government the exercise of any of the CEO’s powers or the discharge of any of the CEO’s functions under this Scheme other than this power of delegation.*

1. *A delegation under this clause must be in writing and may be general or as otherwise provided in the instrument of delegation.*
2. *Subject to any conditions imposed by the local government on its delegation to the local government CEO under clause 82, this clause extends to a power or duty the exercise or discharge of which has been delegated by the local government to the CEO under that clause.*

Regulation 84 - Other matters relevant to delegations under this Division

*The Local Government Act 1995 sections 5.45 and 5.46 apply to a delegation made under this Division as if the delegation were a delegation under Part 5 Division 4 of that Act.*

**Key Relevant Previous Council Decisions:**

Nil.

**Consultation**

Nil.

**Budget/Financial Implications**

Nil.

**Conclusion**

Administration has reviewed the Register of Delegations in regard to the changes required with the gazettal of Local Planning Scheme No. 3 and is recommending the amendments as shown with track changes in the attached Register of Delegations of Authority.

# Elected Members Notices of Motions of Which Previous Notice Has Been Given

Disclaimer: Where administration has provided any assistance with the framing and/or wording of any motion/amendment to a Councillor who has advised their intention to move it, the assistance has been provided on an impartial basis. The principle and intention expressed in any motion/amendment is solely that of the intended mover and not that of the officer/officers providing the assistance. Under no circumstances is it to be expressed to any party that administration or any Council officer holds a view on this motion other than that expressed in an official written or verbal report by Administration to the Council meeting considering the motion.

## 14.1 Councillor Hassell – Arts Committee Terms of Reference

On 8 April 2019 Councillor Hassell gave notice of his intention to move the following at this meeting.

**That the clause under the heading Delegated Authority be amended to read (as tracked):**

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

**Justification**

As a member of the Arts Committee I believe that major works should have the approval of Council.

This is especially the case when the view of the Committee is not unanimous in relation to any particular commission.

Whilst it is recognised that tastes vary the proposal is simply to allow Council to reject a proposed commission for a major work – it does not take the power of selection and recommendation away from the Committee.

It is a reasonable approach, it is suggested, to allow smaller works to be adopted for purchase or commissioned within budget but to require major works to be referred to Council for final tick off.

Administration Comment

* The Notice of Motion outlines a different process to that currently delegated to the Arts Committee.
* The scope of the committee is to initiate, consider and decide on proposals for public artworks.
* It is not a requirement of a committee to have unanimous support, but rather majority support. This would not change by taking the matter to Council, as it is also not required for Council to have unanimous support.
* The Committee takes the time to ‘initiate, consider and decide on proposals for public artworks’, they are fulfilling the scope of the Arts committee.  For major commissions, there are many stages involved in reaching a decision, first of which is to have pre-approval of the site and budget amount from Council. This comes under procedure in the Terms of Reference. Once this procedure has been initiated and pre-approval has been provided, the work of the Arts Committee can proceed. This includes many steps:  developing a brief, advertising the EOI, calling for submissions, convening and voting on a shortlist, receiving developed concepts from the artists, voting and selecting the preferred artist.  This is the Scope of the Committee and meets the requirements of item 1 in the Scope.  We believe, to then require Council to approve the selection after this rigorous selection process has been completed, would negate the work of the Arts Committee.
* The budget amount is approved by Council, along with the site, before the artwork concept and design processes are initiated by the Art Committee.

## Councillor de Lacy – Strategic Recreation Plan

**Council:**

1. **Includes in the review of the Strategic Recreation Plan the need to identity a site (excluding Mt Claremont Oval) and funding model for a synthetic hockey pitch (and supporting infrastructure), based on criteria determined and applied by the Department of Local Government, Sport and Cultural Industries, City of Nedlands, HockeyWA and local hockey clubs;**
2. **Requests the Administration draft a Terms of Reference for the establishment of a Strategic Recreation Plan Advisory Group to provide leadership and guidance on the review of the Strategic Recreation Plan in the City and present this to Council in May 2019 for approval; and**
3. **Consider in the forthcoming 2019/20 Budget deliberations that approximately $80,000 be assigned to the review and update of the Draft Highview Park Masterplan 2009**

Justification

1. According to HockeyWA the western suburbs has consistently produced a disproportionately high percentage of the overall playing membership for hockey throughout the state.  Since the Strategic Recreation Plan was developed, growth in the sport has not declined as predicted but according to HockeyWA all 3 clubs that currently share Shenton turf (Westside Wolves, Suburban Lions and YMCC) have shown growth in numbers over the past 10 years. Given this growth, sharing Shenton turf is now an existential problem for all 3 clubs as they strive to train and play all juniors and seniors on turf as it is the default surface for the sport. All professional hockey is only ever played on turf, not grass.

**In fact, currently all three clubs are playing between 44 and 52% of their turf home games elsewhere due to lack of access to Shenton.** While UWA Sports Park with 2 turfs is located nearby, gaining access to UWA for training and game play is very difficult for the clubs as the WA Institute of Sport based at HBF Stadium uses UWA’s 2 pitches for its hockey program in addition to them being used by the UWA hockey club.

The pressure on Shenton is so great now that YMCC are currently working with the Town of Cambridge to find a suitable site for their own hockey pitch as they have been based in Cambridge at Alderbury Reserve for 50 years. While WW are not currently ‘based’ in our City, they have been in the past and are keen to return. They run their extensive minkey and cubs program on grass at College Park. Suburban Lions are based in our City at Highview Park, and run minkey and cubs on grass at Melvista.

We have a responsibility to lead a robust and transparent search in collaboration with key stakeholders (and based on agreed criteria) for a site (and suitable funding model) for a synthetic hockey pitch in our City to try and secure the long-term future of the sport in the western suburbs. If this search fails to identify a suitable site in our City the clubs will need to look further afield.

Apart from $60,000 that the City contributed towards the development of Shenton turf, there has been very little capital spending on hockey (pitches and clubrooms) since. The City’s main hockey clubrooms that houses Suburban Lions (the Max Brown Pavilion at Highview Park) and is supported by two grass hockey fields, is in poor condition. Hence, the City’s five-year capital program does include a nominated figure of $560,000 to reconstruct this pavilion in 2019/20. However, this is not yet locked into the 2019/20 Budget.

1. The recent Westside Wolves proposal to establish a synthetic hockey pitch and associated infrastructure at Mt Claremont Oval raised some issues in the community about leadership and governance associated with Council decision-making, particularly in relation to sport and recreation proposals. Suggestions have been made from the community that the review of the Strategic Recreation Plan could be guided by a sub-Committee of Council.

It is proposed that Council consider establishing an Advisory Group of 4 Councillors (including one nominated as the Chair) to undertake this task. Unfortunately, Council does not have a policy on establishing Advisory Groups, however, this has not precluded their establishment in the past. It is suggested that the Administration prepare a Terms of Reference for a Strategic Recreation Plan Advisory Group and present these to Council at the May 2019 meeting for approval.

1. The Strategic Recreation Plan 2005-15 envisaged for Highview Park, that by 2015 *a vibrant Sporting Association would have ownership and management of centralised social clubrooms with all users working together to ensure the financial viability of their sport and facilities.* This has not happened despite stakeholders working together to draft a Masterplan for Highview Park in 2009 that was never presented or adopted by Nedlands Council. At the time the implementation of the preferred option from the draft Masterplan was expected to cost $6m.

We now have a situation in Highview Park where:

* Hollywood-Subiaco Bowls Club’s (HSBC) declining membership (and heavy reliance on bar trade which has also reduced) is significantly impacting their financial situation to the extent of being unable to pay invoices and hence, seeking assistance from the City
* existing hockey pitches (grass) are in poor condition and proving problematic to fix (there is also a capacity issue at Shenton turf resulting in YMCC and WW looking for alternative sites for another turf)
* the 5yr Capital program includes provisional sum of $560k in 2019/20 to rebuild Max Brown Pavilion (Suburban Lions Hockey Club) (SLHC) in Highview Park given its poor condition
* futsal is now played at Highview Park and gridiron has moved
* major redevelopment is occurring to the east of Highview Park at Hollywood Private Hospital and south of the site at Regis revitalising the area, and in the case of Regis adding to the area’s population
* LPS 3 includes major areas of infill in Hollywood where active and passive open space is limited given proximity to Karrakatta and Commonwealth War Graves cemetery, and the Hospital precinct

The situation is now critical for two major users of Highview, i.e. HSBC and SLHC. With the completion and adoption in 2017 of the revision of the draft Masterplan for Allen Park (2010) at a cost of $9m it is now time to review the Masterplan for Highview Park.

Administration Comment

Ideally a Highview Park masterplan would be undertaken following the completion of the POS Strategy (does the City have enough POS?) and Strategic Recreation Plan (is the City using POS well?).   This could be done in the latter half of 2019/20 once the POS Strategy and Strategic Recreation Plan are complete.

With budget limitation proceeding with the Highview Masterplan may preclude work on other location masterplans.

## Mayor Hipkins – Referral of New Planning Scheme to Council Solicitors

**That Council refer Local Planning Scheme No. 3 to its solicitors for vetting.**

Justification

Statutory planning schemes provide the legal framework for investment decisions. It is highly desirable that any uncertainties or grey areas are eliminated or at least minimised. It is therefore standard practice that all schemes are checked by solicitors prior to their adoption. LPS3 has undergone an unorthodox approval process and vetting by solicitors has not occurred. With gazettal of LPS3 immanent, it should be referred to Council’s solicitors as a matter of urgency.

Administration Comment

Planning staff have already sought legal advice in relation to specific clauses where uncertainties have arisen. It is recommended the City should only seek specific legal advice as required. A broad vetting of the scheme by solicitors is highly unlikely to yield any errors or uncertainties not already known, and being addressed, by planning staff.

The document is based on the Model Scheme Text which sets out standard provisions to be contained within a Local Planning Scheme. There are only 7 out of 38 clauses in LPS 3 which are not model provisions. Each of the 7 clauses have either been modified or newly inserted by the City’s planners in conjunction with the City’s lawyers, therefore further review is not considered necessary.

## Mayor Hipkins – Initiation of Amendment to Local Planning Scheme 3

**That Council initiate an amendment to LPS3 at the earliest opportunity to make the following changes to provisions in the Mixed Use Zone:**

* + - 1. **Deletion of sub-clause (3) to Clause 26 Modification of R-Codes;**
      2. **Addition of new sub-clause (6) to Clause 32.4 Mixed Use, Local Centre and Neighbourhood Centre Zones:**

**(6) Non-residential uses are confined to ground and first floor only.**

* + - 1. **Addition of new sub-clause (7) to Clause 32.4 Mixed Use, Local Centre and Neighbourhood Centre Zones :**

**(7) In the Mixed-Use Zone 20 per cent of the lot area shall be provided as deep soil landscaping.**

* + - 1. **Deletion of Fast Foods as a Use and Development Class in Table 3 - Zoning table of Clause 17 Zoning table.**

Justification

1. No explanation has been provided as to why LPS3 specifies that building height limits do not apply to land coded R-AC1. Deletion of Clause 26 (3) would result in height limits specified in the R-Codes applying;
2. Unless there are restrictions on non-residential uses in Mixed Use Zones, new office and commercial uses could preclude residential uses and prevent the City of Nedlands from attaining its 2050 population target;
3. In order to provide an appropriate living environment in Mixed Use Zones and adjoining areas, this provision would require all new development to allocate 20 per cent of the site area to in-ground landscaping;
4. This change would continue Nedlands’ tradition of not allowing fast foods within the city boundaries, when the closest outlets are only a kilometre or two away in adjoining local governments.

The above proposed amendments do not affect the Minister’s directions on allowable population density but, to the contrary, assist in achieving the city’s 2050 target.

Administration Comment

1. Clause 26(3) of Local Planning Scheme 3 (LPS 3) removes a default (9 storey) building height for land coded R-AC1 and refers the assessment of building height to the objectives of the Residential Design Codes (R-Codes).

The City has received legal advice in relation to this clause and has been advised that Clause 26(3) does not prevent the City developing local planning instruments to contain building height controls for the R-AC1 density.

1. It is not considered appropriate for this provision to be included in the Scheme.

A Local Planning Policy is considered the appropriate mechanism to specify suitable ‘non-residential to residential’ land use mix within developments. The first objective of the Mixed Use zone states ‘to provide a significant residential component as part of any new development’ and a Local Planning Policy would refine this objective to achieve the desired land use mix within each Mixed Use precinct across the City.

1. This clause is not required. The R-Codes apply to all development within the Mixed Use zone (as a result of clause 32.4(5)), which contains Tree Canopy and Deep Soil Area requirements.

If further guidance is needed in relation to Landscaping and deep soil areas, requirements may be included in other local planning instruments, such as a Local Planning Policy or Local Development Plan.

1. No planning rationale has been provided for this point, and the City already has fast food type businesses, such as drive-through coffee. Future fast food uses may be appropriate in the Mixed Use zone (in locations such as the ‘Town Centre’), particularly if integrated within a mixed-use development.

In summary the elements within this notice of motion are appropriately dealt with through Planning Instruments other than LPS3 and therefore a Scheme Amendment is not recommended. Administration are cognisant of these issues and is actively working towards policy solutions.

# Elected members notices of motion given at the meeting for consideration at the following ordinary meeting on 28 May 2019

Disclaimer: Where administration has provided any assistance with the framing and/or wording of any motion/amendment to a Councillor who has advised their intention to move it, the assistance has been provided on an impartial basis. The principle and intention expressed in any motion/amendment is solely that of the intended mover and not that of the officer/officers providing the assistance. Under no circumstances is it to be expressed to any party that administration or any Council officer holds a view on this motion other than that expressed in an official written or verbal report by Administration to the Council meeting considering the motion.

Notices of motion for consideration at the Council Meeting to be held on 28 May 2019 to be tabled at this point in accordance with Clause 3.9(2) of Council’s Local Law Relating to Standing Orders.

# Urgent Business Approved By the Presiding Member or By Decision

Any urgent business to be considered at this point.

# Confidential Items

## Community Development Report – CM02.19 Hollywood-Subiaco Bowling Club Request for Financial Support

**Committee Recommendation/Recommendation to Committee**

**Council:**

1. **Acknowledges the financial difficulties being experienced by the Hollywood-Subiaco Bowling Club;**
2. **Arranges for the Club to retain 100% of the sublease income generated from the Sand Volleyball club sub lease arrangements for a period of 12 month and for this arrangement to be reviewed at the end of this period;**
3. **Requests the CEO to ensure that the City’s Administration continues to work supportively with the Club, to assist it to explore ways of improving its financial viability;**
4. **Requests the CEO to keep Council informed of the Club’s progress; and**
5. **Requests Hollywood Subiaco Bowling Club to advise the City if their financial position declines further.**

# Declaration of Closure

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