**MINUTES**

**Council Meeting**

**23 May 2023**

**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](mailto:council@nedlands.wa.gov.au)

**Public Question Time**

Public question time at a Council Meeting is available for members of the public to ask a question about items on the agenda. Questions asked by members of the public are not to be accompanied by any statement reflecting adversely upon any Council Member or Employee.

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

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

**Addresses by Members of the Public**

Members of the public wishing to address Council in relation to an item on the agenda must complete the online registration form available on the City’s website: [Public Address Registration Form | City of Nedlands](https://www.nedlands.wa.gov.au/public-address-registration-form)

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

**Disclaimer**

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

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# Declaration of Opening

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

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

**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

Vacant 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 M K MacPherson Director Technical Services

Mrs N M Ceric (online) Executive Officer

Ms L J Kania Coordinator Governance & Risk

**Public** There were 13 members of the public present and 2 online.

**Press** The Post Newspaper Representative.

**Leave of Absence** Councillor N R Youngman Dalkeith Ward

**(Previously Approved)**

**Apologies** Nil.

# Public Question Time

Questions received from members of the public were 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.

* 1. **Mr Ken Perry**

**Question**

Thank you for the response to my questions on the RAR recommendation for the 17 storeys William Stirling Project. It is obvious that in the six months between the original DA application and the RAR recommendation there were only interactions with the developer and not the community or the Council. As such the City planners were isolated from other advice.

The Item 16.1 Adoption of Advertising – Stirling Highway Activity Corridor Strategy presents a very detailed recommended planning approach to restore height limits along Stirling Highway reversing the very negative impact of Clause 26(3) imposed by the DPLH on Nedlands. To a large extent the philosophy adopted in the SHAC Strategy follows the objectives of the Primary Controls Regulations approved by Council in August 2022.

No doubt the new SHAC strategy was well under preparation in November 2022, and the Primary Controls was in place. Then under what logic could the City recommend the 17 storeys William Stirling development in the November 2022 RAR? Note it was this recommendation that was rejected unanimously by Council.

**Answer**

The logic used in formulating the officers position on the proposal is clearly outlined within the Responsible Authority Report, which included an acknowledgement that the proposal had been assessed against all relevant legislative requirements, State and Local Planning Policies as follows:

**Legislation**

* *Planning and Development Act 2005*
* *Planning and Development (Local Planning Schemes) Regulations 2015*
* *Planning and Development (Development Assessment Panels) Regulations 2011*
* *Metropolitan Region Scheme*
* City of Nedlands Local Planning Scheme No.3

**State Government Policies**

* *State Planning Policy 5.4 – Road and Rail Noise*
* *State Planning Policy 7.0 – Design of the Built Environment (SPP7.0)*
* *State Planning Policy 7.3 – Residential Design Codes Volume 2 – Apartments (R-Codes)*

**Local Policies**

* *Local Planning Policy – Waste Management*
* *Local Planning Policy – Consultation of Planning Proposals*
* *Local Planning Policy – Parking*
* *Local Planning Policy – Primary Controls for Apartment Developments*
* *Draft Nedlands Town Centre Precinct Plan*

**Strategies**

* City of Nedlands Local Planning Strategy

The matters which were identified as the key considerations for the determination of the application were as follows and these were outlined in some detail in the Responsible Authority Report:

1. Local Planning Scheme No.3
2. State Planning Policy 7.3 – Residential Design Codes Volume 2 – Apartments, with the following Elements highlighted:

* Element 2.2 – Building Height
* Element 2.5 – Plot Ratio
* Element 4.1 – Solar and Daylight Access
* Element 4.2 – Natural Ventilation
* Element 4.15 – Energy Efficiency

1. State Planning Policy 5.4 - Road and Rail Noise

1. Traffic Impacts
2. Hibbertia Lane Widening

1. Local Planning Policy – Parking
2. Construction Management

1. Public Art

The consideration of the City’s Local Planning Policy - Primary Controls for Apartment Developments, as outlined in the Responsible Authority Report was as follows:

The City’s Primary Controls for Apartment Developments Local Planning Policy has not been used to assess this development application as 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 cannot be considered to be based upon sound town planning principles. Clause 3(3) of the Deemed Provisions requires a local planning policy be based on sound town planning principles.

The Stirling Activity Corridor Strategy was not considered as it had no status within the Planning Framework. The Strategy had not been adopted by Council, it had not been publicly advertised for comment, it had not even been presented to Council.

# 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.

Dr Alec O’Connell, Headmaster Scotch College, spoke in relation to item 19.2 Notice of Motion - Mayor Argyle – Stirling Highway Pedestrian Connectivity.

Mayor Argyle read a statement on behalf of Dr Carina Marshall, in support of item 19.1 – Notice of Motion – Mayor Argyle – Waste Management.

Mayor Argyle read a statement on behalf of Ms Hazel Hodgkins in support of item 19.1 – Notice of Motion – Mayor Argyle – Waste Management 19 Alderbury Street Mt Claremont.

Mayor Argyle read a statement on behalf of Ms Gemma Henderson in support of item 19.1 – Notice of Motion – Mayor Argyle – Waste Management 92 Dalkeith Road Nedlands

Moved – Mayor Argyle

Seconded - Councillor Coghlan

**That Standing Order No. 3.4(4) be suspended for the purpose of allowing additional speakers on item 19.1.**

**CARRIED 10/1**

**(Against: Cr. Mangano)**

Ms Paula James, spoke in support of item 19.1 – Notice of Motion - Mayor Argyle – Waste Management.

Suspension of Standing Orders

Moved – Mayor Argyle

Seconded - Councillor Coghlan

**That Standing Order No. 3.4(5) be suspended for the purpose of allowing public address session to be extended beyond 15 minutes.**

**CARRIED UNANIMOUSLY 11/-**

Mr Rex Hubbard, spoke in opposition to item 17.4 - CPS22.05.23 Differential Rates 2023/24 – Approval for Advertisement.

Mr Lex Barnett, Taylor Burrell Barnett, spoke in support of the recommendation for item 20.2 - PD22.05.23 Consideration of Responsible Authority Report for Sporting Facility at Lot 150 Brockway, Mt Claremont.

Ms Antonella Segre, spoke in support of item 17.3 - CPS21.05.23 New Lease to ADHD WA.

Dr Michelle Toner, spoke in support of item 17.3 - CPS21.05.23 New Lease to ADHD WA.

# Requests for Leave of Absence

Moved – Councillor Hodsdon

Seconded – Councillor McManus

**Councillor Smyth be granted leave of absence for 3 July to 21 July 2023.**

**CARRIED UNANIMOUSLY 11/-**

Moved – Councillor Hodsdon

Seconded – Councillor Coghlan

**Councillor Youngman be granted leave of absence for June 2023.**

**CARRIED UNANIMOUSLY 11/-**

# Petitions

Petitions were tabled at this point.

Nil.

# Disclosures of Financial / Proximity 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.

3. 1. **Councillor Hodsdon –** **Item 16.1 - PD19.05.23 Adoption for Advertising – Nedlands Stirling Highway Activity Corridor (NSHAC) Strategy and Scheme Amendment**

Councillor Hodsdon disclosed a financial interest in Item 16.1 - PD19.05.23 Adoption for Advertising – Nedlands Stirling Highway Activity Corridor (NSHAC) Strategy and Scheme Amendment, his interest being that owns property on Stirling Highway, Nedlands. Councillor Hodsdon declared that he would leave the room during discussion on this item.

* 1. **Councillor Bennett – Item 20.3 - PD23.05.23 Consideration of Responsible Authority Report for Amendments to Approved Mixed Use Development at 137 and 139 Broadway, Nedlands**

Councillor Bennett disclosed an interest in Item 20.3 – PD23.05.23 Consideration of Responsible Authority Report for Amendments to Approved Mixed Use Development at 137 and 139 Broadway, Nedlands. Councillor Bennett advised that although he does not have a conflict of interest with the actual 137-139 Broadway development site, as the City is aware, a commercial land use involving intensive building activities has been occurring at the residential property at 135 Broadway for more than a year. This dubious extension of the 137-139 construction site to adjoin his property puts him at a conflict-of-interest proximity and conflict-of-interest impartiality, therefore, Councillor Bennett declared 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.

1. 1. **Councillor Hodsdon – 20.2- PD22.05.23 Consideration of Responsible Authority Report for Sporting Facility at Lot 1500 Brockway, Mt Claremont**

Councillor Hodsdon disclosed an impartiality interest in Item 20.2- PD22.05.23 Consideration of Responsible Authority Report for Sporting Facility at Lot 1500 Brockway, Mt Claremont. Councillor Hodsdon disclosed that was a past employee of the school, and as a consequence, there may be a perception that his impartiality on the matter may be affected. Councillor Hodsdon declared that he would consider this matter on its merits and vote accordingly.

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

Nil.

# Confirmation of Minutes

# Ordinary Council Meeting Minutes – 26 April 2023

Moved – Councillor Hodsdon

Seconded – Councillor Amiry

**The minutes of the Ordinary Council Meeting held 26 April 2023 be confirmed.**

**CARRIED UNANIMOUSLY 11/-**

# Announcements of the Presiding Member without discussion

The Presiding Member gave the following speech:

Good evening ladies and gentlemen,

This month, the Australian Bureau of Statistics, released new data about socio economic status in Australia.

The City of Nedlands, were named, the ninth most affluent in the country.

Socio economic data is used to determine business, health and economic opportunities.

While, the survey is about the people who live in our local government area. Our financial wellbeing must be a reflection of our stakeholders.

Our cash reserves are low, siting at net $1.731 million to the yearend 30 June 2023.

We have been left with a 42 million dollar asset management backlog. The City of Nedlands must build financial resilience for splurge and emergency items.

Currently our FTE sits at 161.8 which is almost 7.36 under budget.

Meantime, we continue to make inroads in tree protection.

I personally have paid the monies owing on the 1,000 Trees, gifted to the city as a donation. They are now paid for in full. Our new green friends, will be welcomed to the City of Nedlands and most likely reside at the depot, before they are planted at a nature strip near you.

This month, on the 6th of May, the world witnessed the King’s Coronation.

King Charles the 3rd, is now head of the United Kingdom and fourteen commonwealth nations.

The King’s work on sustainable architecture and preservation of the planet is admirable.

At 73, King Charles is the oldest person to accede the throne, and is passionate about environmental causes.

I quote the King, “ The greatest challenge we face, is to reform our relationship with nature, to put sustainability at the heart of our economy and to recognise that conservation of nature is not a luxury but a necessity.”

With the environment and the community at the forefront, tonight, I will be moving two notice of motions.

One is to create a pedestrian underpass for our city. An underpass for Nedlands. This will unite residential areas north and south of Stirling Highway. I believe this will change the way we traverse.

An underpass will encourage walkability, and allow all of us, children and older people included, to walk to school, the shops and go about our business safely.

This move follows another tragic death on Stirling Hwy in Nedlands on April 14 2023.

Another environmental and community measure, is to become a participating member of WMRC.

The Western Metropolitan Regional Council, is based in our city, and by being an affiliate member will create a greater opportunity for all residents to recycle more.

Waste disposal is something the City of Nedlands can lead on.

The move to join WMRC follows our great success with FOGO.

With 163.18 Tonnes less general waste delivered to landfill in April than in the same month last year, FOGO had another successful month.

The overall landfill diversion (for kerbside services) increased from (preFOGO) 46.82% to 63.37% (Post FOGO).

Finally, many of you may be aware about the hard fight for Tawarri, of which myself, Councillor Blane Brackenridge, Councillor Fergus Bennett lost last Thursday at the State Development Assessment Unit, with an unanimous approval decision.

I would like to graciously thank Cr Brackenridge and Cr Bennett for their support, and factual speeches.

I would also like to acknowledge, Mr. Chris Zelestis KC and Dr. Robin Collin, for their tireless voluntary contribution to the city on this matter.

This is a deprivation of Swan River foreshore for all West Australians.

The Tawarri site could be many beautiful things, a Freshwaters type café, is just one example, a large greenspace, which could be sustainable and create a lasting legacy for all.

Regardless, of the decision, I will continue to advocate for the protection of Class A reserves, which we must remain in perpetuity. If they are to be developed, they must exist as a light building footprint for the community not private developers.

We are all the stewards of our city…and we must uphold responsible planning and thorough management of our finances and resources, to meet the needs of current and future generations.

# Members Announcements without discussion

Written announcements by Council Members were tabled at this point.

Nil.

# 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.

Nil.

# En Bloc Items

Moved – Mayor Argyle

Seconded – Councillor Coghlan

**That the officer recommendations for Items 15.1, 17.5, 17.6, and 18.1, be adopted en bloc and 16.1, 16.2, 16.3, 17.1, 17.2, 17.3, 17.4, 17.7 and all remaining items will be dealt with separately.**

**CARRIED UNANIMOUSLY 11/-**

# 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 Hodsdon

Seconded – Councillor Senathirajah

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

**Audit & Risk Committee Meeting** **20 April 2023**

Unconfirmed, circulated to Councillors on 28 April 2023

**CARRIED 10/1**

**(Against: Cr. Mangano)**

# CPS21.05.23 New Lease to ADHD WA

**PLEASE NOTE: This item was brought forward from page 87**

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting – 23 May 2023 |
| **Applicant** | ADHD WA |
| **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. CONFIDENTIAL – ADHD WA Social Impact Proposal |

Moved – Councillor Coghlan

Seconded – Councillor McManus

**That the Recommendation be adopted.**

(Printed below for ease of reference)

Amendment

Moved - Councillor Senathirajah

Seconded - Councillor Combes

**That the following words be added to the end of clause 1:**

**“subject to an initial lease period of 5 years and 2 options to lease extension of 5 years each to be exercised by mutual agreement between the lessor and lease.”**

**The AMENDMENT was PUT and was**

**CARRIED 9/2**

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

Amendment

Moved - Councillor Smyth

Seconded - Councillor Mangano

That Council amends clause 2 of the Officer Recommendation to the following:

2.     does not approve a discount on the annual rent and instead approves the market valuation rent of $56,000 pa excluding GST and outgoings.

The AMENDMENT was PUT and was

Lost 3/8

(Against: Mayor Argyle Crs. Brackenridge Coghlan

Senathirajah Amiry McManus Bennett & Hodsdon)

**The Substantive Motion was PUT and was**

**CARRIED 10/1**

**(Against: Cr. Mangano)**

**Council Resolution**

**That Council:**

1. **approves the lease for Haldane House at 109 Montgomery Avenue, Mount Claremont (Part Lot 6987 on Deposited Plan 167276) to ADHD WA Inc consistent with the key terms noted within this report subject to an initial lease period of 5 years and 2 options to lease extension of 5 years each to be exercised by mutual agreement between the lessor and lease;**
2. **consider the community benefits delivered by ADHA WA Inc and approve an annual rent of $28,000 p.a. excluding GST and outgoings;**
3. **approves an exemption to section 3.58 of the *Local Government Act 1995* pursuant to Regulation 30 of the *Local Government (Functions and General) Regulations 1996* for the lease of Haldane House at 109 Montgomery Avenue, Mount Claremont (Part Lot 6987 on Deposited Plan 167276); and**
4. **subject to the Minister for Lands’ Consent, authorises the Chief Executive Officer and Mayor to execute all documents necessary to give effect to a lease and apply the City’s Common Seal.**

Recommendation

That Council:

1. approves the lease for Haldane House at 109 Montgomery Avenue, Mount Claremont (Part Lot 6987 on Deposited Plan 167276) to ADHD WA Inc consistent with the key terms noted within this report;
2. consider the community benefits delivered by ADHA WA Inc and approve an annual rent of $28,000 p.a. excluding GST and outgoings;
3. approves an exemption to section 3.58 of the *Local Government Act 1995* pursuant to Regulation 30 of the *Local Government (Functions and General) Regulations 1996* for the lease of Haldane House at 109 Montgomery Avenue, Mount Claremont (Part Lot 6987 on Deposited Plan 167276); and
4. subject to the Minister for Lands’ Consent, authorises the Chief Executive Officer and Mayor to execute all documents necessary to give effect to a lease and apply the City’s Common Seal.

**Purpose**

The purpose of this report is for Council to consider a new lease for ADHD WA for Haldane House at 109 Montgomery Avenue, Mount Claremont.

**Voting Requirement**

Simple Majority.

**Background**

109 Montgomery Avenue Mount Claremont comprises Lot 6987 on Deposited Plan 167276. The land is conditional freehold owned by the City of Nedlands (City), reserved for ‘Civic and Community’ purposes and constrained by Crown Grant in Trust conditions.

It is considered that a use that is within the definition of “Civic use” and/or “Community purpose” under the City’s Local Planning Scheme No. 3 and that is permissible within the Deed of Trust can continue to operate on the site.

The improvements on the land include Tennis Courts, Playground, Mt Claremont Library, Mt Claremont Community Centre, Two Carparks and Haldane House.

Haldane House is a 268 m² (approx.) brick and tile detached building constructed in the 1990’s as a community purpose facility. The layout consists of a front lounge, three smaller office areas with one incorporating an ensuite, an open plan function area which incorporates a kitchen and disabled bathroom and separate toilet, a rear washing room, and a double garage.

This building was historically leased to the Bethanie Group in January 2010 for the purpose of providing a young disabled respite service, or such other appropriate service agreed between the Lessee, Lessor and Minister for Lands. The lease came to an end in December 2019 and the City has subsequently been using the building on occasion to provide services from its Positive Aging Program.

In January 2023, the City received a request from ADHD WA, to view Haldane House to enable to determine whether it would be a suitable premises to occupy exclusively under a lease arrangement for the purpose of offices and consulting rooms.

ADHD WA operates as a not-for-profit organisation within a social enterprise model providing research-based support and information services that assist and empower individuals, families and carers with ADHD. They also provide training and education to partners, co-workers, teachers, or anyone who is connected to someone living with ADHD.

Historically based within the City of Nedlands, ADHD WA have been working alongside the ADHD community since 1993 and are currently operating from the Niche building within the QEII Health Campus. Due to a significant increase in growth driven by demand for their services, the current premises is no longer suitable, prompting a search for alternative office accommodation that meets space requirements.

Following a site visit to Haldane House on the 8th of February 2023 and subsequent discussions, ADHD WA advised they would like progress negotiations for a lease.

The proposal seeks approval from the Council to lease Haldane House and a portion of the adjacent carpark (1,033 m² approx. total lease area) at 109 Montgomery Avenue Mt Claremont (Part Lot 6987 on Deposited Plan 167276) for the purpose of an office and consulting rooms and uses ancillary thereto.

**Discussion**

Haldane House is located on the western side of Montgomery Avenue Mt Claremont, approximately 8kms west of the Perth city centre, and to the immediate north of the Mount Claremont Community Centre and Library. Development surrounding the site comprises established single residential housing situated either side of Montgomery Avenue.

Haldane House is within a local town planning scheme Reserve for Civic and Community purposes. Considering the existing use of the building is defined as a ‘community purpose’ and the proposed use is also a ‘community purpose’ without a requirement for external works there is effectively no change to the underlying use of the building as a result of the proposed lease to ADHD WA, from a town planning perspective.

**Land Tenure**

Before the introduction of the *Land Administration Act 1997*, the Minister for Lands may have issued a freehold title over a reserve, otherwise known as a Crown Grant in Trust for a particular purpose or any ancillary or beneficial purpose.

In these instances, the land was granted in fee simple free of cost but could only be used for a designated purpose. Leases may be registered but the Lessee may only use the land for the same designated purpose as the original Proprietor or Lessor.

Since the implementation of the *Land Administration Act 1997*, Crown Grants in Trust are referred to as conditional tenure land.

Conditional tenure land is fee simple land subject to conditions of use of the land registered against the title. The conditions are such conditions determined by the Minister for Lands for the use of the land, usually requiring that the land be used only for a designated purpose.

Lot 6987 on Deposited Plan 167276 was transferred to the City as a Crown Grant in Trust subject to conditions that require the land to be held and used for the purpose of a Civic Centre. Alternative uses that provide a community benefit may be considered, however, approval of the Minister for Lands is necessary, and a lease may not take effect until such consent has been obtained.

A preliminary assessment by the Department of Planning Lands and Heritage confirms they support the proposal because it falls within the land use category captured by a Civic Centre purpose and believe it will also support members of the community that use the facility.

**Utilisation**

At present, Haldane is used occasionally by the City’s Positive Ageing Team to deliver services associated with their Positive Ageing Program. Considering these services are now predominantly being delivered from the Mt Claremont Community Centre, Officers assessed whether Haldane House could accommodate a tenancy for office use and consulting rooms.

The assessment determined Haldane House is under-utilised and identified the following matters in support of the proposal:

1. Increases the level of passive surveillance of 109 Montgomery Avenue, thereby contributing to improved safety outcomes and reduced propensity for antisocial activity to occur while the space is being utilised by the lessee/visitors.
2. Provides a space for community-based activities.
3. Promotes increased activation or the precinct and adjacent reserve.
4. A lessee is responsible for non-structural maintenance, preventative maintenance and the payment of utility costs and outgoings effectively reducing the financial burden on the City to maintain the building.
5. Provides for maximizing building asset utilisation.
6. A lease will facilitate the appropriate management and responsible use of the City’s facilities for the benefit of the community and ensure managed properties are appropriately maintained. Well maintained and managed property assets present a significant benefit to the Council and the community.

Furthermore, Haldane House will allow ADHD WA to increase their services significantly to meet the increase in demand for people seeking their support and will facilitate the following:

* 100% increase in assessments and 34% increase in therapy sessions;
* increasing the phone support service for community members;
* provision of new health and wellness programs; and
* tailored services to best support children, teenagers and adults.

ADHD WA services contribute to the delivery of community benefits that improve the health and well-being of the community and meets a community need. The recommendation proposes approving a lease for Haldane House with consideration for a rent reduction and an exemption to section 3.58 of the *Local Government Act 1995* for advertising pursuant to regulation 30 of the *Local Government (Functions and General) Regulations 1996.*

The recommendation also makes provision for the key terms of the lease to be reviewed and authorised by the Council, the intent being to accommodate reasonable and sensible negotiation of the proposed lease relationship.

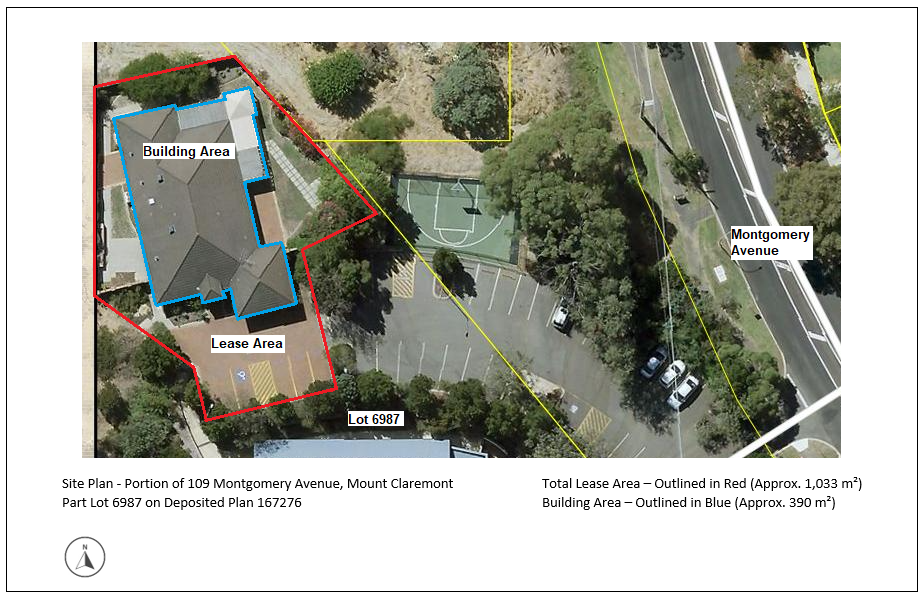
**Key Terms and Special Conditions**

On the 2nd of March 2023, ADHD WA agreed to all the key terms noted within the table following to facilitate a lease.

|  |  |
| --- | --- |
| **Proposed Lease - ADHD WA** | |
|  |
| **Key Terms** | |  |
| **Lease Term** | **Details** |  |
| Land | 109 Montgomery Avenue, Mount Claremont – Part Lot 6987 on Deposited Plan 167276. |  |
| Lease Area | 1,033 m² (approx.). |  |
| Lessor | City of Nedlands |  |
| Lessee | ADHD WA Inc. |  |
| Commencement Date | Upon execution by both parties |  |
| Permitted Purpose | Office Headquarters and uses ancillary thereto. |  |
| Market Rental Valuation Assessment Date | Completed 21 February 2023. |  |
| Market Rental Valuation Assessment Annual Rent | $56,000 net per annum excluding GST and variable outgoings. Inclusive of 6 open car bays and 2 under cover car bays. |  |
| Proposed Annual Rent | $28,000 excluding GST and variable outgoings. Inclusive of 6 open car bays and 2 under cover car bays. |  |
| Proposed Discount | 50% |  |
| Social Return | Community benefits provided via the delivery of services, initiatives and activities that align with the City's strategic objectives. |  |
| Rent Reviews | CPI |  |
| Outgoings | Outgoings payable by Lessee. |  |
| Term | 10 years |  |
| Further Term Option 1 | 10 years |  |
| Further Term Option 2 | 5 years |  |
| Operating/Access | Monday to Friday and Weekends. |  |
| Public Liability Insurance | The Lessee is responsible for Public Liability and will hold $20M minimum cover, however the Lessor will continue to hold its policy. |  |
| Building Insurance | The Lessor will insure its interests in the building, however will recover the payment of the annual insurance premium from the Lessee. |  |
| Contents Insurance | The Lessee will hold adequate contents insurance cover. |  |
| Workers Compensation | The Lessee will hold adequate workers compensation cover. |  |
| Indemnity | ADHD WA will indemnify the City of Nedlands against any liability and all claims in connection with the lease. |  |
| Preventative Maintenance | The Lessee will be responsible for the following preventative maintenance items: |  |
| * Mechanical Services  (servicing of air conditioning units and auto doors) * Fire Services  (operational compliance check for smoke alarms, fire extinguishers and fire reels) * Electrical Services (operational compliance check for RCD, emergency lighting, fire panels, defibrillators and alarm/security system) * Hydraulic Services (servicing of sewer pump, grease trap and septic system- if applicable) * Pest Treatment * Gutter Clean * Carpet Clean * Painting (external and internal every 8-10 years or as required) |  |
| Non-Structural Maintenance | The Lessee will be responsible for all non-structural maintenance. |  |
| Structural Maintenance | The Lessor will be responsible for all structural maintenance. |  |
| Fit Out | The Lessee is responsible for all fit out works |  |
| Alteration/Additions | The Lessee will be responsible to any alterations or additions at their cost subject to all necessary approvals. |  |
| Capital Improvements | The Lessee will be responsible to any capital improvements and connection to services at their cost subject to all necessary approvals- detailed plans and certifications to be provided prior to any construction**.** |  |
| Signage | Prior written consent from the City of Nedlands is required. |  |
| Lease Preparation Costs | The Lessee will be responsible for lease preparation costs. |  |
| Special Conditions | * Lease is subject to the Minister for Lands consent. * Lease is subject to City of Nedlands Council approval. * Lease is subject to the approval of the Board of ADHD WA Inc. * Lease is subject to a redevelopment clause with a 2-year notice period. |  |
| Annexures | Lease area sketch |  |

**Lease Area Sketch**

The proposed lease area sketch displayed following captures a total site area of 1,033m², encompassing Haldane House and immediate surrounds within the perimeter wall, as well as six open car bays and two undercover car bays in front of the building.



**Market Rental Valuation Assessment**

A market rental valuation assessment as defined by the International Valuation Standards Council was undertaken by an independent licensed valuer on the 21st February 2023. The assessment analysed various economic factors as well as comparable market rental evidence including community based rental evidence and suburban commercial office rents.

Additional factors were also considered, including but not limited to:

* The tenancy’s size, location, quality of improvements and level of fit out;
* Variable outgoings for the tenancy fall within the general market parameters; and
* Six open car bays and two undercover car bays in the garage are allocated to the subject tenancy and are included within the rent at no additional charge.

The adopted market rental valuation methodology utilised the Direct Comparison approach as the primary and only method of rental valuation and has determined a rental of $56,000 net per annum, ex GST and variable outgoings.

**Proposed Rent**

In lieu of the full rental value, ADHD WA are seeking a 50% rent reduction in recognition for the social impact of the services they provide, and how the services make a significant impact to individuals, families and carers impacted by ADHD providing direct positive outcomes.

Considering ADHD affects people across the lifespan, ADHD WA services are deemed incredibly valuable because they also address a community need. These services include:

1. Clinical service programs including:
   1. ADHD assessments
   2. ADHD therapy
   3. Group therapy for adults
   4. Group training for children, and
   5. Coaching
2. Non-Clinical service programs including:
   1. Events and networking
      1. Annual conference
      2. Family picnics
      3. Walk and Talk
      4. HBF Run for a reason
   2. Peer support groups
   3. In person parent support group
   4. Education and training for Teachers and School Psychologists
   5. Health and wellness programs, and
   6. Information and telephone helpline

Given the likely investment by ADHD WA in bringing forward the concept and associated benefits their services provide to the community, Officers believe a rent reduction is justified.

Should Council approve a discount it is recommended the rent review mechanism in the lease include a market rent review increase set at 5-year intervals to enable the rent to be reset in accordance with current market rates. This method will not preclude ADHD WA from applying for another discount which may be considered by Council before the start of the following term.

**Consultation**

The City has carried out engagement with internal stakeholders and feedback has been incorporated within the report.

**Strategic Implications**

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

**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 Council agree to the recommendation as proposed, the new lease would be prepared by a solicitor and full costs would be on-charged to the Lessee.

Additionally, the Lessee will be responsible for but not limited to all fit out and capital improvement costs.

The City currently does not receive revenue from Haldane House Mt Claremont. Should Council resolve to endorse the recommendation, the proposed lease will provide for an income to the City in rent revenue over a term of 10 years and any further term. Additionally, all outgoings, preventative maintenance and no-structural maintenance items will become the responsibility of the Lessee.

**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 a property means to ‘sell, lease or otherwise dispose of, whether absolutely or not’.

Considering ADHD WA are a registered charitable not-for-profit association, they are eligible for an exemption to section 3.58 of the *Local Government Act 1995* pursuant to Regulation 30 of the *Local Government (Functions and General) Regulations 1996*, therefore the proposed disposal of land is not required to be advertised.

Pursuant to section 75 of the *Land Administration Act 1997,* consent of the Minister for Lands is required for conditional freehold land tenure or land subject to a Crown Grant in Trust that is being leased.

**Decision Implications**

Should Council resolve to approve a lease for Haldane House at 109 Montgomery Avenue Mt Claremont, Officers will instruct the City’s solicitor to prepare a lease in accordance with the key terms and adopted recommendation contained within this report at the full cost of the Lessee.

If Council do not resolve to approve a lease for Haldane House at 109 Montgomery Avenue Mt Claremont, the proponent will not be able to secure tenure within the City and will have to consider their future elsewhere.

**Conclusion**

ADHD WA are regarded as the peek body for providing specialized services to those directly and indirectly impacted by ADHD in WA. They have been actively servicing the community for 30 years, partnering with tertiary institutions, as well as working with schools and community groups. Since its inception, ADHD WA has also become the one stop shop for information and services for those seeking guidance and support.

The organisation is also recognised for the convenience and efficiency of being able to address the needs of the community within one place. To allow their operations and services to continue from a centralised location under one roof, ADHD WA are seeking a lease from the City to secure long term tenure for a suitable premises that will also support the growth of the organisation.

Officers believe this proposal can be accommodated by way of a lease for Haldane House, 109 Montgomery Avenue Mt Claremont (Part Lot 6987 on Deposited Plan 167276).

**Further Information**

**Question**

Councillor Smyth- If the lessee delivers all proposed services, will a consideration need to be given to additional parking?

**Officer Response**

ADHD believe the current on-site parking is sufficient to meet parking demands from services being provided during the day, within normal office hours, as well as any services being provided on Saturday morning.

**Question**

Could an amendment be prepared that removes the 50% discount and applies full market rent.

**Officer Response**

The administration will prepare an amendment for the Council Meeting.

**Question**

Councillor Senathirajah - Why do we propose to give a discount?

**Officer Response**

Based on ADHD’s social impact proposal, the City believes ADHD will provide a level of social return through the delivery of its services that will contribute to improving the health and well-being of the community.

# Divisional Reports - Planning & Development Report No’s PD19.05.23 to PD21.05.23

# PD19.05.23 Adoption for Advertising – Nedlands Stirling Highway Activity Corridor (NSHAC) Strategy and Scheme Amendment

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting – 23 May 2023 |
| **Applicant** | City of Nedlands |
| **Employee disclosure under section 5.70 Local Government Act 1995** | The author, reviewers and authoriser of this report declare they have no financial or impartiality interest with this matter. |
| **Report Author** | Roy Winslow – Manager Urban Planning |
| **Director** | Tony Free – Director Planning and Development |
| **Attachments** | 1. NSHAC Strategy 2. Scheme Amendment Report 3. Proposed Schedule 4: Building Heights 4. Proposed Schedule 5: Access Network 5. Proposed zoning map 6. Potential Overshadowing of the Rose Gardens 7. Revised Zoning Map |

Councillor Hodsdon & Councillor Brackenridge left the room at 7.18 pm.

**Financial Interest – Councillor Hodsdon**

Councillor Hodsdon disclosed a financial interest in Item 16.1 – PD19.05.23 Adoption for Advertising – Nedlands Stirling Highway Activity Corridor (NSHAC) Strategy and Scheme Amendment, his interest being that he owns property on Stirling Highway, Nedlands. Councillor Hodsdon declared that he would leave the room during discussion on this item.

Moved - Councillor Mangano

Seconded - Councillor Smyth

That the Revised Officer Recommendation be adopted with the Insert Schedule 4: Nedlands Stirling Highway Activity Centre (NSHAC) Area Height as shown in Revised Attachment 3.

Lost 2/7

(Against: Mayor Argyle Crs. Coghlan Senathirajah

Amiry McManus Bennett & Combes)

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

Moved – Councillor Bennett

Seconded – Councillor Combes

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

(Printed below for ease of reference)

Amendment

Moved - Councillor Senathirajah

Seconded - Councillor Smyth

That the Revised Officer’s Recommendation to Council be adopted with the deletion of Clause 7 – Rezoning selected lots from Mixed Use zone to Residential zone, - and the renumbering of subsequent clauses.

The AMENDMENT was PUT and was

Lost 3/6

(Against: Mayor Argyle Crs. Coghlan Amiry Smyth Bennett Combes)

**The Original Motion was PUT and was**

**CARRIED 7/2**

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

**Council Resolution / Revised Officer Recommendation**

**That Council:**

1. **Pursuant to section 75 of the Planning and Development Act 2005 adopts Scheme Amendment No. 13 to amend Local Planning Scheme No. 3 as follows:**

1. **Delete existing clause 26(3).**

1. **Insert new clause 26(3) as follows:**

**“26(3). In relation to land coded R-AC1:**

1. **For the purposes of Acceptable Outcome A2.2.1 of the R-Codes, the building heights shall be the base heights shown on the map in Schedule 4, exclusive of plant and equipment such as lift overruns, air conditioning units and the like; and**
2. **The local government may grant development approval beyond the base height and up to the maximum discretionary building heights shown in Schedule 4 only where it is satisfied that all of the following are achieved:**
3. **The development demonstrates high quality design;**
4. **The development exceeds Acceptable Outcomes with regard to the number of medium and/or large trees provided and which have sufficient dimension to promote healthy growth, and**
5. **The development incorporates at least two significant energy efficiency initiatives that exceed minimum practice.**

1. **The local government shall not grant development approval beyond the discretionary heights shown in Schedule 4 of the scheme.”**
2. **Insert the following into Table 6 of clause 32:**

|  |  |  |
| --- | --- | --- |
| **No.** | **Description of land** | **Requirement** |
| **32.7** | **All land coded R-AC1** | 1. **All development is to ensure a minimum 25 per cent of the northern elevation of the maximum building envelope on the adjacent lot(s) receives more than 2 hours of direct sunlight between 9.00am and 3pm on 21 June.** |
| **32.8** | **All land having a frontage to Stirling Highway** | 1. **All new development shall provide 1 medium or 1 large tree as defined by the R-Codes located adjacent to and outside of the Stirling Highway road reservation per 12 metres of Stirling Highway street frontage, measured at the future street boundary post-road widening.** 2. **Sub-clause (1) does not apply to an application for:** 3. **a change of use that does not involve works;** 4. **minor additions or alterations to an existing building or buildings that do not significantly alter the scale of the building; or** 5. **additions or alterations to single houses or grouped dwellings.** |
| **32.9** | **All land having a frontage to Stirling Highway** | **Development shall not be granted vehicle access to Stirling Highway where the lot has legal access to a public street or right-of-way other than Stirling Highway.** |
| **32.10** | **All land having a frontage to Stirling Highway and adjoining the access network shown in Schedule 5** | **In this clause ‘street block’ means a length of land fronting Stirling Highway, between a public street or public right-of-way and the next public street or public right-of-way.**    **Where there is no approved structure plan, local development plan and/or activity centre plan:**   1. **All development and subdivision is to allow a boundary setback sufficient to facilitate a minimum 6m wide carriageway in the location shown in Schedule 5.** 2. **All development and subdivision is to take vehicle access from the carriageway shown in Schedule 5 where it connects, either directly or via another carriageway, to a public street other than Stirling Highway.** 3. **Where the access network for the street block shown in Schedule 5 does not yet connect to a public street other than Stirling Highway, the development is to be designed to be modified in the future to take vehicle access from a rear carriageway once it connects to a public street other than Stirling Highway.** 4. **The local government shall not approve development or support subdivision that:** 5. **prevents any new or existing lot within the same street block from obtaining access from a public street or carriageway other than Stirling Highway; or** 6. **prevents any new or existing lot within the same street block from obtaining access to the access network shown in Schedule 5; or** 7. **creates a new lot with sole vehicle access to Stirling Highway.** 8. **All development must account for any ground level differences in order to facilitate a carriageway across a street block.** 9. **The total 6m width may include portions of any existing public right-of-way.** 10. **Prior to issue of a building permit or subdivision clearance, suitable arrangements are to be made with the local government ensuring the 6m wide carriageway described in the above subclauses is burdened with public access rights in perpetuity.** 11. **The above clauses do not apply to an application for:** 12. **a change of use that does not involve works;** 13. **minor alterations or minor additions to an existing building or buildings where, in the opinion of the local government, the works do not impede an existing or future carriageway shown in Schedule 5; or** 14. **alterations and additions to single houses or grouped dwellings where, in the opinion of the local government, the works do not impede an existing or future carriageway shown in Schedule 5.** |

1. **Insert Schedule 4: Nedlands Stirling Highway Activity Centre (NSHAC) Area Height as shown in Attachment 3.**

1. **Insert Schedule 5: Nedlands Stirling Highway Activity Centre (NSHAC) Access Network as shown in Attachment 4.**

1. **Rezone the following lots from Mixed Use zone to Neighbourhood Centre zone, and amend the Scheme Map accordingly:**
   1. **Odd street numbers 81 through 105 Stirling Highway, Nedlands (inclusive);**
   2. **Even street numbers 80 through 104 Stirling Highway, Nedlands (inclusive);**
   3. **Even street numbers 2 through 6 Florence Road, Nedlands (inclusive);**
   4. **Street numbers 7 and 9 Stanley Street, Nedlands;**
   5. **Street number 4 Mountjoy Road, Nedlands; and**
   6. **Street numbers 52 and 56 Dalkeith Road, Nedlands.**

1. **Rezone the following lots from Mixed Use zone to Residential zone and amend the Scheme Map accordingly:**
   1. **Street numbers 128A through 134C Stirling Highway, Nedlands (inclusive);**
   2. **Street numbers 1A, 1B and 3 Vincent Street, Nedlands;**
   3. **Street numbers 108, 109, 110, 111, 112, 114, 115, 117, 119, 125 Stirling Highway, Nedlands;**
   4. **Street number 26 Broome Street, Nedlands;**
   5. **Street numbers 34, 35 and 36 Martin Avenue, Nedlands;**
   6. **Street number 33 Baird Avenue, Nedlands;**
   7. **Even street numbers 36 through 56 Stirling Highway, Nedlands (inclusive)**
   8. **Even street numbers 68 through 74 Stirling Highway, Nedlands (inclusive);**
   9. **Odd street numbers 59 through 67 Stirling Highway, Nedlands (inclusive);**
   10. **Odd street numbers 73 through 77A Stirling Highway, Nedlands (inclusive);**
   11. **Even street numbers 50 through 60 Kinninmont Avenue, Nedlands (inclusive);**
   12. **Street number 103 Smyth Road, Nedlands;**
   13. **Street number 2 Stanley Street, Nedlands;**
   14. **Street number 1 Webster Street, Nedlands;**
   15. **Street numbers 1A, 1B, 2D and 2E Thomas Street, Nedlands;**
   16. **Street numbers 2B and 2C Tyrell Street, Nedlands;**
   17. **Odd street numbers 51 through 57 Portland Street, Nedlands (inclusive); and**
   18. **Street number 52 Langham Street, Nedlands.**

1. **In accordance with Regulation 35(2) of the Planning and Development (Local Planning Schemes) Regulations 2015, the local government is of the opinion that the amendment is a Complex Amendment as it is an amendment relating to development that is of a scale, or will have an impact, that is significant relative to development in the locality.**

1. **Pursuant to Section 81 of the Planning and Development Act 2005, refers Scheme Amendment 13 to the Environmental Protection Authority.**

1. **Authorises the Chief Executive Officer to sign relevant documents in accordance with Regulation 37(2) of the Planning and Development (Local Planning Schemes) Regulations 2015 and submit 2 copies of proposed Scheme Amendment 13 and any other relevant documents to the Western Australian Planning Commission.**

1. **Subject to Section 84 of the Planning and Development Act 2005 advertises Scheme Amendment 13 in accordance with Regulation 38 of the Planning and Development (Local Planning Schemes) Regulations 2015.**

1. **Advertises the Nedlands Stirling Highway Activity Corridor (NSHAC) strategy concurrently with Scheme Amendment 13.**

1. **In accordance with Schedule 2, Regulation 4(3) of the Planning and Development (Local Planning Schemes) Regulations 2015, does not proceed with the Nedlands Town Centre Precinct Plan.**

Recommendation

That Council:

1. Pursuant to section 75 of the Planning and Development Act 2005 adopts Scheme Amendment No. 13 to amend Local Planning Scheme No. 3 as follows:
2. Delete existing clause 26(3).
3. Insert new clause 26(3) as follows:

“26(3). In relation to land coded R-AC1:

1. For the purposes of Acceptable Outcome A2.2.1 of the R-Codes, the building heights shall be the base heights shown on the map in Schedule 4, exclusive of plant and equipment such as lift overruns, air conditioning units and the like; and
2. The local government may grant development approval beyond the base height and up to the maximum discretionary building heights shown in Schedule 4 only where it is satisfied that all of the following are achieved:
3. The development demonstrates high quality design;
4. The development exceeds Acceptable Outcomes with regard to the number of medium and/or large trees provided and which have sufficient dimension to promote healthy growth, and
5. The development incorporates at least two significant energy efficiency initiatives that exceed minimum practice.
6. The local government shall not grant development approval beyond the discretionary heights shown in Schedule 4 of the scheme.”
7. Insert the following into Table 6 of clause 32:

|  |  |  |
| --- | --- | --- |
| No. | Description of land | Requirement |
| 32.7 | All land coded R-AC1 | 1. All development is to ensure a minimum 25 per cent of the northern elevation of the maximum building envelope on the adjacent lot(s) receives more than 2 hours of direct sunlight between 9.00am and 3pm on 21 June. |
| 32.8 | All land having a frontage to Stirling Highway | 1. All new development shall provide 1 medium or 1 large tree as defined by the R-Codes located adjacent to and outside of the Stirling Highway road reservation per 12 metres of Stirling Highway street frontage, measured at the future street boundary post-road widening. 2. Sub-clause (1) does not apply to an application for:   (a) a change of use that does not involve works;  (b) minor additions or alterations to an existing building or buildings that do not significantly alter the scale of the building; or  (c) additions or alterations to single houses or grouped dwellings. |
| 32.9 | All land having a frontage to Stirling Highway | Development shall not be granted vehicle access to Stirling Highway where the lot has legal access to a public street or right-of-way other than Stirling Highway. |
| 32.10 | All land having a frontage to Stirling Highway and adjoining the access network shown in Schedule 5 | In this clause ‘street block’ means a length of land fronting Stirling Highway, between a public street or public right-of-way and the next public street or public right-of-way.  Where there is no approved structure plan, local development plan and/or activity centre plan:   1. All development and subdivision is to allow a boundary setback sufficient to facilitate a minimum 6m wide carriageway in the location shown in Schedule 5. 2. All development and subdivision is to take vehicle access from the carriageway shown in Schedule 5 where it connects, either directly or via another carriageway, to a public street other than Stirling Highway. 3. Where the access network for the street block shown in Schedule 5 does not yet connect to a public street other than Stirling Highway, the development is to be designed to be modified in the future to take vehicle access from a rear carriageway once it connects to a public street other than Stirling Highway. 4. The local government shall not approve development or support subdivision that: 5. prevents any new or existing lot within the same street block from obtaining access from a public street or carriageway other than Stirling Highway; or 6. prevents any new or existing lot within the same street block from obtaining access to the access network shown in Schedule 5; or 7. creates a new lot with sole vehicle access to Stirling Highway. 8. All development must account for any ground level differences in order to facilitate a carriageway across a street block. 9. The total 6m width may include portions of any existing public right-of-way. 10. Prior to issue of a building permit or subdivision clearance, suitable arrangements are to be made with the local government ensuring the 6m wide carriageway described in the above subclauses is burdened with public access rights in perpetuity. 11. The above clauses do not apply to an application for:   (a) a change of use that does not involve works;  (b) minor alterations or minor additions to an existing building or buildings where, in the opinion of the local government, the works do not impede an existing or future carriageway shown in Schedule 5; or  (c) alterations and additions to single houses or grouped dwellings where, in the opinion of the local government, the works do not impede an existing or future carriageway shown in Schedule 5. |

1. Insert Schedule 4: Nedlands Stirling Highway Activity Centre (NSHAC) Area Height as shown in Attachment 3.
2. Insert Schedule 5: Nedlands Stirling Highway Activity Centre (NSHAC) Access Network as shown in Attachment 4.
3. Rezone the following lots from Mixed Use zone to Neighbourhood Centre zone, and amend the Scheme Map accordingly:
   1. Odd street numbers 81 through 105 Stirling Highway, Nedlands (inclusive);
   2. Even street numbers 80 through 104 Stirling Highway, Nedlands (inclusive);
   3. Even street numbers 2 through 6 Florence Road, Nedlands (inclusive);
   4. Street numbers 7 and 9 Stanley Street, Nedlands;
   5. Street number 4 Mountjoy Road, Nedlands; and
   6. Street number 56 Dalkeith Road, Nedlands.
4. Rezone the following lots from Mixed Use zone to Residential zone and amend the Scheme Map accordingly:
   1. Street numbers 128A through 134C Stirling Highway, Nedlands (inclusive);
   2. Street numbers 1A, 1B and 3 Vincent Street, Nedlands;
   3. Street numbers 108, 109, 110, 111, 112, 114, 115, 117, 119, 125 Stirling Highway, Nedlands;
   4. Street number 26 Broome Street, Nedlands;
   5. Street numbers 34 and 35 Martin Avenue, Nedlands;
   6. Street number 33 Baird Avenue, Nedlands;
   7. Even street numbers 36 through 56 Stirling Highway, Nedlands (inclusive)
   8. Even street numbers 68 through 74 Stirling Highway, Nedlands (inclusive);
   9. Odd street numbers 57 through 67 Stirling Highway, Nedlands (inclusive);
   10. Odd street numbers 73 through 77A Stirling Highway, Nedlands (inclusive);
   11. Street numbers 50 through 60 Kinninmont Avenue, Nedlands (inclusive);
   12. Street number 103 Smyth Road, Nedlands;
   13. Street number 2 Stanley Street, Nedlands;
   14. Street numbers 2 Webster Street, Nedlands;
   15. Street numbers 1A, 1B, 2D and 2E Thomas Street, Nedlands; and
   16. Street numbers 2B and 2C Tyrell Street, Nedlands.
5. In accordance with Regulation 35(2) of the Planning and Development (Local Planning Schemes) Regulations 2015, the local government is of the opinion that the amendment is a Complex Amendment as it is an amendment relating to development that is of a scale, or will have an impact, that is significant relative to development in the locality.
6. Pursuant to Section 81 of the Planning and Development Act 2005, refers Scheme Amendment 13 to the Environmental Protection Authority.
7. Authorises the Chief Executive Officer to sign relevant documents in accordance with Regulation 37(2) of the Planning and Development (Local Planning Schemes) Regulations 2015 and submit 2 copies of proposed Scheme Amendment 13 and any other relevant documents to the Western Australian Planning Commission.
8. Subject to Section 84 of the Planning and Development Act 2005 advertises Scheme Amendment 13 in accordance with Regulation 38 of the Planning and Development (Local Planning Schemes) Regulations 2015.
9. Advertises the Nedlands Stirling Highway Activity Corridor (NSHAC) strategy concurrently with Scheme Amendment 13.
10. In accordance with Schedule 2, Regulation 4(3) of the Planning and Development (Local Planning Schemes) Regulations 2015, does not proceed with the Nedlands Town Centre Precinct Plan.

**Purpose**

This report is being presented to Council to initiate public consultation on a strategy (**Attachment 1**) and associated Scheme Amendment 13 (**Attachments 2-7**) for new development controls affecting lots within the Mixed Use zone along Stirling Highway. The report also recommends that Council not proceed with the Nedlands Town Centre Precinct Plan.

**Voting Requirement**

Simple Majority.

**Background**

The Nedlands Stirling Highway Activity Corridor (NSHAC) area includes the Mixed Use R-AC1 lots and the Residential R60 and R160 lots surrounding Stirling Highway as shown in Figure 1 below:

****

*Figure 1: NSHAC area*

The City has recently developed a local planning policy creating built form development controls for the Residential zones within the NSHAC area. However, there are currently no precinct-specific development controls for the Mixed Use R-AC1 lots along Stirling Highway (excepting the easternmost portion of the area which was covered under the recently adopted Broadway Precinct Local Planning Policy).

**Height**

Clause 26(3) of the City of Nedlands Local Planning Scheme No. 3 (LPS3) removes the Residential Design Codes (R-Codes) Volume 2 Acceptable Outcomes for building height from applying to land coded R-AC1. This means that there is little guidance for assessing what building height is appropriate on these lots. This has resulted in considerable community concern and an inconsistency in the scale of proposed development, with various developments proposing heights ranging from 9 to 24 storeys within the area.

**Vehicle Access**

City Officers have also identified issues with vehicle access to Stirling Highway, in that many lots within the NSHAC area cannot be accessed except directly from the Highway. This has potential to cause traffic safety and congestion issues and is inconsistent with recommendations from Main Roads that direct access from individual lots to the Highway should be limited.

**Discussion**

The process for amending the Scheme could take at least 12 months or longer and needs consideration by the Western Australian Planning Commission (WAPC) followed by a final decision from the Minister for Planning. Due to the length of time before controls can be embedded into Local Planning Scheme No. 3 (LPS3), officers propose adopting a Strategy document for the NSHAC area. The Strategy creates a desired future character for the area and will assist the City in the short term in assessing development along Stirling Highway, particularly in regard to building height.

**The NSHAC Strategy**

Overall, the proposed NSHAC strategy document (**Attachment 1**) sets broad objectives for the area based on the vision and values created by the reference groups. It also incorporates a range of contextual analysis and background work carried out by the City over a number of years. The strategy intends to set a long-term direction to do the following:

* Address the lack of building height consistency and controls
* Improve the amenity of Stirling Highway through provision of shade and easier pedestrian crossings
* Require the creation of carriageways that reduce or remove direct vehicle access from individual lots to Stirling Highway
* Change the zoning of land to create a critical mass of non-residential uses through the provision of three separate “hubs” along the Highway
* Prevent proliferation of low density land uses along Stirling Highway
* Improve built form outcomes and promote site-responsive design.

There is no official procedure or way to adopt such a localised strategy. To give it the most weight for decision-makers, officers recommend that the Strategy be put out for public consultation concurrently with the Scheme Amendment. It can then be adopted directly after advertising without needing approval from the WAPC. When LPS3 and the City’s regulatory Local Planning Strategy are next reviewed, elements of the NSHAC Strategy can also be incorporated into the Local Planning Strategy (subject to WAPC approval) to give these more weight.

**Scheme Amendment 13**

Scheme Amendment 13 initiates some of the proposals set out in the draft Strategy. The specific items are set out below.

**Building height**

The amendment introduces a base maximum building height and a discretionary maximum building height (**Attachment 3**) for lots as set out in the scheme amendment report (**Attachment 2**). Building heights are structured around three main nodes (east, central and west) the logic of which is based on community consultation outcomes and set out within the Strategy (**Attachment 1**). Building heights are generally lower south of the Highway due to potential impacts on solar access to adjoining sites. Large lots and adjoining lots with the same landowner that could easily be amalgamated have also been granted higher heights in some locations.

Discretionary building height is allowable where a development exhibits high quality design and includes additional trees and energy efficiency criteria beyond the minimum Acceptable Outcomes within the R-Codes. The discretionary height is designed to be achievable while resulting in outcomes that are a step beyond current minimum criteria. High quality design should be defined with reference to the State Design Review Panel (SDRP) or the City’s Design Review Panel (DRP) rating system of the development against the 10 principles of design within State Planning Policy 7.0.

Importantly, it is proposed that the discretionary height be included in Clause 26 of LPS3. This will render the clause unable to be varied under the scheme by any decision-maker, including JDAP or SAT, thereby making the building heights an absolute maximum.

**Solar Access**

The Amendment includes a requirement that buildings demonstrate that adjoining development can achieve adequate solar access during mid-winter for the potential built form envelope. This does not mean that existing single houses will have further protections but will ensure that future large-scale development will be able to take some advantage of the northern aspect for light and ventilation.

**Trees**

The Amendment imposes a requirement for one tree to be provided along the Stirling Highway road frontage and within the development lot per 12 metres of boundary length. This will improve the pedestrian experience along the Highway while also increasing the urban canopy.

**Vehicle Access**

A requirement for 6 metre rear setbacks to lots identified in the Scheme Amendment Report (**Attachment 4**) is proposed in order to create vehicle laneways for lots that only have a frontage to Stirling Highway. This will rationalise vehicle access away from the Highway and provide opportunities for landscaping and improved street frontages to the Highway.

As per discussions with the Department of Planning, Lands and Heritage the clause does not prevent development from occurring on a lot if the access network does not yet extend to that lot (ie: lots in the middle of a street block). In those instances, it requires that the building be set back to create the future access way, and that the building be designed so that when the accessway is created the access arrangements can be modified to take access off of it. The clause also prohibits subdivision of properties that result in new lots with sole vehicle access to Stirling Highway.

The Scheme via Clause 34 includes some flexibility should owners within a street block agree on a different proposal that allows those lots to have access to a street other than Stirling Highway. Should that occur, there is ability for a Local Development Plan to be submitted by affected owners and approved by the City. Alternately, an amalgamation across the block may mitigate the need for formal laneway access.

**Zoning**

A series of zoning changes are proposed as shown in **Attachment 5**. The changes designate the lots between Dalkeith Road and Stanley Street as a Neighbourhood Centre, befitting its strategically important location and its identification within the Local Planning Strategy as the Town Centre. The lots to either side are proposed to be rezoned from Mixed use to Residential so that they will create residents to support the nearby non-residential uses.

**Nedlands Town Centre Precinct Plan**

The Nedlands Town Centre Precinct Plan was advertised in 2019 and subsequently referred to Council in 2020, where it was further amended. During this time, the planning regulations changed and altered the process for how a structure plan such as this should be presented. In any event, this plan has been overtaken by the proposed Strategy and Scheme Amendments and will no longer be proceeding as proposed. The background work and some elements of the proposal may be able to be repurposed into future policies at a later date. It is recommended that Council formally resolve not to proceed with the Precinct Plan

**Consultation**

In response to the lack of controls, the City has carried out numerous consultation exercises and background research for short sections of the NSHAC area. Most recently, in 2021-22 the City completed contextual studies and community consultation for the entire NSHAC area. The first stage of this work was carried out on the City’s behalf by Fairplace and involved three workshops with a Community Reference Group of volunteers selected by the City. The three workshops had the following aims:

* Workshop 1: Inform
  + Upskill participants in how local governments control development through planning legislation and provide an overview of the existing planning framework.
  + Discuss community expectations and local perspectives for the NSHAC area including what is valued and what could be improved.
* Workshop 2: Collaborate
  + The general statements from Workshop 1 were translated into value statements.
  + The group was broken into smaller groups and development scenarios were investigated through the use of physical maps
  + The group reviewed the way developers were translating existing planning controls into buildings and identified what worked and what did not.
* Workshop 3: Convey
  + Results of the previous workshops were compiled into sets of values and principles, with feedback obtained on this summary.

Following these workshops, the values and principles were further tested and refined through wider public consultation that included an online survey and an open house where anyone could participate and add to the findings. The final work was compiled into a set of principles and value statements that led to a vision statement for the NSHAC area.

The consultation work was then translated into built form modelling by Taylor Burrell Barnett (TBB). The Community Reference Group was reconvened for two further workshops where the proposed built form controls (including height) were modelled and refined in an iterative process based on the group’s feedback.

All of the above work forms the basis for the proposed NSHAC Strategy and Scheme Amendment 13, which will be subject to further community consultation.

**Strategic Implications**

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

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

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

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

**Reflects Identities**

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

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

**Budget/Financial Implications**

Nil.

**Legislative and Policy Implications**

The local government may amend a local planning scheme under the [Planning and Development (Local Planning Schemes) Regulations 2015](https://www.legislation.wa.gov.au/legislation/statutes.nsf/law_s46246.html) (the Regulations). Under Regulation 37 in respect to a complex amendment, Council must resolve:

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

There is no provision for adopting a strategy for a sub-area as proposed. However, the strategy can act as a visioning document and assist in the assessment of development applications in the short term while the Scheme Amendment is progressed. Elements of the Strategy may be incorporated into the Local Planning Strategy and endorsed by the WAPC upon the 5 yearly scheme review intended to commence next year.

**Decision Implications**

If Council resolves to proceed either with or without modifications, the documentation will be referred to the WAPC and the Environmental Protection Authority (EPA) for review. The WAPC will make a decision that may or may not require amending the proposal prior to advertising. Should the WAPC and the EPA provide approval to proceed, the scheme amendment will be advertised in accordance with the Regulations. The NSHAC Strategy will be advertised concurrently. After advertising, the Amendment and Strategy will be referred back to Council for a further review.

If Council resolves not to proceed with the Amendments, they will not be progressed and the existing controls and scheme provisions regarding building height will remain in effect.

If Council resolves not to proceed with the Strategy, there will be no short-term guidance for the NSHAC area while the Amendment progresses. Existing uncertainty about the desired future scale and character of the area will remain.

**Conclusion**

It is recommended that Council adopt the Amendment and Strategy as proposed to begin the process of creating locality-specific controls for development along Stirling Highway and within the NSHAC area.

**Further Information**

**Question**

Councillor Smyth - 6c. Even street numbers 2 through 6 Florence Road, Nedlands (inclusive): #6 Florence St is not shown coloured on the proposed Neighbourhood Centre although in the list.

**Officer Response**

This is an error in mapping. No. 6 Florence should form part of the Neighbourhood Centre within the Scheme Report and zoning map (see Attachment 7). This is reflected in the revised officer recommendation.

**Question**

Councillor Smyth - 7g/h. Stirling Hwy 58 to 66 are not listed for change, does this mean these lots remain Mixed Use?

**Officer Response**

Correct. These lots are all technically numbered 60 Stirling Hwy.

**Question**

Councillor Smyth - 7i. Odd Street numbers 57 through 67 Stirling Highway, Nedlands (inclusive) #51 Portland St (back of 57 Stirling Hwy) is this included in the change to Residential or does it remain Mixed Use?

**Officer Response**

The intention is that this is changed to Residential. Odd Street Numbers 51-57 Portland Street are proposed to be rezoned to “Residential” within the Scheme Report, with the revised officer recommendation addressing this.

**Question**

Councillor Smyth #71 Stirling Hwy does this remain Mixed Use?

**Officer Response**

Yes

**Question**

Councillor Smyth #110 Smyth Rd does this remain Mixed Use?

**Officer Response**

Yes

**Question**

Councillor Smyth - 7n. Street numbers 2 Webster Street, Nedlands; #2 Webster St is not shown coloured on the proposed Residential although in the list.

**Officer Response**

2 Webster is to remain Mixed Use. This is an error on the report list. The list on the map is correct in this regard. The revised officer recommendation addresses the error.

**Question**

Councillor Smyth - #1 Webster St is not referenced (aka 66 Stirling Hwy) does this mean these lots remain Mixed Use

**Officer Response**

No. 1 Webster Street is to be rezoned to Residential. This is an error on the report list. The list on the map is correct in this regard. The revised officer recommendation addresses the error.

**Question**

Councillor Coghlan - Impact of heights on rose gardens

**Officer Response**

The sites directly north of the Rose Gardens (No. 117 to 125 Stirling Highway) have significant constraints in terms of development potential, with No. 117 and 119 individually being 1011 sqm in area. Without amalgamation of the two lots, the development potential of these sites is very limited. No 121-123 (known as 26 Broome Street) has multiple ownership, which will present a significant challenge to its redevelopment. No 125 Stirling Highway would not cast a shadow over the Rose Gardens at 12 noon on 21 June.

Any development which was to impact upon the Rose Gardens would be referred to the Heritage Council for comment given that the Rose Gardens are listed on the State Heritage Register. In terms of overshadowing its noted that any overshadowing of the Rose Gardens will move across the course of any given day. The question will be the extent of any overshadowing, given the size of the Rose Gardens the overshadowing of unlikely to result in an unreasonable loss for the community in terms of their enjoyment of the Rose Gardens.

Notwithstanding these limitations, in the event of No. 117 – 119 being amalgamated and No 121- 123 also developing, the impact of a 7 storey development on the Rose Gardens in terms of overshadowing is shown in **Attachment 6.**

**Question**

Councillor Smyth - 83, 85 & 87 Boronia – have they been amalgamated?

**Officer Response**

The lot known as 83-85 Stirling Highway is showing as a single lot (No. 83 Stirling Highway) on the City’s mapping systems, which takes information from Landgate.

**Question**

Councillor Coghlan - With respect to the Rose Garden, is it the roses that are heritage listed?

**Officer Response**

The Peace Memorial Rose Gardens are listed on the State Heritage Register, the place has cultural heritage significance for the following reasons:

* the place is rare as one of the earliest, and the largest and best known commemorative rose garden in Western Australia, dedicated to those who died in World War Two and to peace;
* the rose garden was intended as a State Memorial, and commemorates service-people from throughout the State;
* the place is highly valued by the community for social, cultural, spiritual and aesthetic reasons, as a landmark visible reminder and commemoration of the sacrifice made by those who fought in World War Two, and for its contribution to the community’s sense of place; and,
* it has associations with the National Rose Society, in particular past president, Charles Frost, who initiated the idea; with architect, W.G.Bennett who undertook the original design; and with John Charles Smith, Mayor of Nedlands (1954-64, 1967-79).

**Question**

Councillor Coghlan - Can we obtain current traffic counts on Stirling Highway for 7 days per week?

**Officer Response**

Main Roads Western Australia traffic count data has been obtained and a comparison of recent years undertaken. Due to COVID, and the lack of a post COVID dataset, consideration was given to numbers over the past four years.

On average Pre-COVID – Stirling Highway carries approximately 38,000 vehicles a day in both directions during the week. This figure reduces on the weekend by approximately 12% on Saturday and 33% on Sundays.

More recent counts during the latter phases of COVID indicate approximately 36,000 vehicles per weekday. No data collection was undertaken for weekends – but a similar percentage reduction could be expected.

**Revised Officer recommendation**

At the Agenda forum meeting there was discussion in relation to why change some of the existing Mixed-Use zoning to Residential. The basis of this decision is that the overall intent is to create a series of higher intensity and lower intensity nodes along Stirling Highway. Key advantages with the nodal scenario were seen as being:

* Creation of distinct local centres and a concentration of activity;
* Limit highest density to existing/proposed hubs;
* Diversity and visual interest; and
* Proposed heights work well with topography.

Changing the zoning from Mixed Use to Residential around the Neighbourhood Centre is intended to bring more residents into the area without detracting from the shops and services within the Neighbourhood Centre zone. The rezoning intends to focus non-residential uses within the Neighbourhood Centre zone to encourage a critical mass of local services and shops. Having fewer centralised nodes will focus trips and parking demand, and encourage a conglomeration of uses. It may also serve to enhance the Neighbourhood Centre as an entertainment and dining destination.

As part of this proposed change the maisonette’s next the City’s administration building is proposed to become Residential

Based on the questions raised by Councillor Smyth a revised officer recommendation, together with and Attachments 3, 4 and 7 are provided to correct the errors identified. The revised officer recommendation is as follows:

**That Council:**

1. **Pursuant to section 75 of the Planning and Development Act 2005 adopts Scheme Amendment No. 13 to amend Local Planning Scheme No. 3 as follows:**

1. **Delete existing clause 26(3).**

1. **Insert new clause 26(3) as follows:**

**“26(3). In relation to land coded R-AC1:**

1. **For the purposes of Acceptable Outcome A2.2.1 of the R-Codes, the building heights shall be the base heights shown on the map in Schedule 4, exclusive of plant and equipment such as lift overruns, air conditioning units and the like; and**
2. **The local government may grant development approval beyond the base height and up to the maximum discretionary building heights shown in Schedule 4 only where it is satisfied that all of the following are achieved:**
3. **The development demonstrates high quality design;**
4. **The development exceeds Acceptable Outcomes with regard to the number of medium and/or large trees provided and which have sufficient dimension to promote healthy growth, and**
5. **The development incorporates at least two significant energy efficiency initiatives that exceed minimum practice.**

1. **The local government shall not grant development approval beyond the discretionary heights shown in Schedule 4 of the scheme.”**
2. **Insert the following into Table 6 of clause 32:**

|  |  |  |
| --- | --- | --- |
| **No.** | **Description of land** | **Requirement** |
| **32.7** | **All land coded R-AC1** | 1. **All development is to ensure a minimum 25 per cent of the northern elevation of the maximum building envelope on the adjacent lot(s) receives more than 2 hours of direct sunlight between 9.00am and 3pm on 21 June.** |
| **32.8** | **All land having a frontage to Stirling Highway** | 1. **All new development shall provide 1 medium or 1 large tree as defined by the R-Codes located adjacent to and outside of the Stirling Highway road reservation per 12 metres of Stirling Highway street frontage, measured at the future street boundary post-road widening.** 2. **Sub-clause (1) does not apply to an application for:** 3. **a change of use that does not involve works;** 4. **minor additions or alterations to an existing building or buildings that do not significantly alter the scale of the building; or** 5. **additions or alterations to single houses or grouped dwellings.** |
| **32.9** | **All land having a frontage to Stirling Highway** | **Development shall not be granted vehicle access to Stirling Highway where the lot has legal access to a public street or right-of-way other than Stirling Highway.** |
| **32.10** | **All land having a frontage to Stirling Highway and adjoining the access network shown in Schedule 5** | **In this clause ‘street block’ means a length of land fronting Stirling Highway, between a public street or public right-of-way and the next public street or public right-of-way.**    **Where there is no approved structure plan, local development plan and/or activity centre plan:**   1. **All development and subdivision is to allow a boundary setback sufficient to facilitate a minimum 6m wide carriageway in the location shown in Schedule 5.** 2. **All development and subdivision is to take vehicle access from the carriageway shown in Schedule 5 where it connects, either directly or via another carriageway, to a public street other than Stirling Highway.** 3. **Where the access network for the street block shown in Schedule 5 does not yet connect to a public street other than Stirling Highway, the development is to be designed to be modified in the future to take vehicle access from a rear carriageway once it connects to a public street other than Stirling Highway.** 4. **The local government shall not approve development or support subdivision that:** 5. **prevents any new or existing lot within the same street block from obtaining access from a public street or carriageway other than Stirling Highway; or** 6. **prevents any new or existing lot within the same street block from obtaining access to the access network shown in Schedule 5; or** 7. **creates a new lot with sole vehicle access to Stirling Highway.** 8. **All development must account for any ground level differences in order to facilitate a carriageway across a street block.** 9. **The total 6m width may include portions of any existing public right-of-way.** 10. **Prior to issue of a building permit or subdivision clearance, suitable arrangements are to be made with the local government ensuring the 6m wide carriageway described in the above subclauses is burdened with public access rights in perpetuity.** 11. **The above clauses do not apply to an application for:** 12. **a change of use that does not involve works;** 13. **minor alterations or minor additions to an existing building or buildings where, in the opinion of the local government, the works do not impede an existing or future carriageway shown in Schedule 5; or** 14. **alterations and additions to single houses or grouped dwellings where, in the opinion of the local government, the works do not impede an existing or future carriageway shown in Schedule 5.** |

1. **Insert Schedule 4: Nedlands Stirling Highway Activity Centre (NSHAC) Area Height as shown in Attachment 3.**

1. **Insert Schedule 5: Nedlands Stirling Highway Activity Centre (NSHAC) Access Network as shown in Attachment 4.**

1. **Rezone the following lots from Mixed Use zone to Neighbourhood Centre zone, and amend the Scheme Map accordingly:**
   1. **Odd street numbers 81 through 105 Stirling Highway, Nedlands (inclusive);**
   2. **Even street numbers 80 through 104 Stirling Highway, Nedlands (inclusive);**
   3. **Even street numbers 2 through 6 Florence Road, Nedlands (inclusive);**
   4. **Street numbers 7 and 9 Stanley Street, Nedlands;**
   5. **Street number 4 Mountjoy Road, Nedlands; and**
   6. **Street numbers 52 and 56 Dalkeith Road, Nedlands.**

1. **Rezone the following lots from Mixed Use zone to Residential zone and amend the Scheme Map accordingly:**
   1. **Street numbers 128A through 134C Stirling Highway, Nedlands (inclusive);**
   2. **Street numbers 1A, 1B and 3 Vincent Street, Nedlands;**
   3. **Street numbers 108, 109, 110, 111, 112, 114, 115, 117, 119, 125 Stirling Highway, Nedlands;**
   4. **Street number 26 Broome Street, Nedlands;**
   5. **Street numbers 34, 35 and 36 Martin Avenue, Nedlands;**
   6. **Street number 33 Baird Avenue, Nedlands;**
   7. **Even street numbers 36 through 56 Stirling Highway, Nedlands (inclusive)**
   8. **Even street numbers 68 through 74 Stirling Highway, Nedlands (inclusive);**
   9. **Odd street numbers 59 through 67 Stirling Highway, Nedlands (inclusive);**
   10. **Odd street numbers 73 through 77A Stirling Highway, Nedlands (inclusive);**
   11. **Even street numbers 50 through 60 Kinninmont Avenue, Nedlands (inclusive);**
   12. **Street number 103 Smyth Road, Nedlands;**
   13. **Street number 2 Stanley Street, Nedlands;**
   14. **Street number 1 Webster Street, Nedlands;**
   15. **Street numbers 1A, 1B, 2D and 2E Thomas Street, Nedlands;**
   16. **Street numbers 2B and 2C Tyrell Street, Nedlands;**
   17. **Odd street numbers 51 through 57 Portland Street, Nedlands (inclusive); and**
   18. **Street number 52 Langham Street, Nedlands.**

1. **In accordance with Regulation 35(2) of the Planning and Development (Local Planning Schemes) Regulations 2015, the local government is of the opinion that the amendment is a Complex Amendment as it is an amendment relating to development that is of a scale, or will have an impact, that is significant relative to development in the locality.**

1. **Pursuant to Section 81 of the Planning and Development Act 2005, refers Scheme Amendment 13 to the Environmental Protection Authority.**

1. **Authorises the Chief Executive Officer to sign relevant documents in accordance with Regulation 37(2) of the Planning and Development (Local Planning Schemes) Regulations 2015 and submit 2 copies of proposed Scheme Amendment 13 and any other relevant documents to the Western Australian Planning Commission.**

1. **Subject to Section 84 of the Planning and Development Act 2005 advertises Scheme Amendment 13 in accordance with Regulation 38 of the Planning and Development (Local Planning Schemes) Regulations 2015.**

1. **Advertises the Nedlands Stirling Highway Activity Corridor (NSHAC) strategy concurrently with Scheme Amendment 13.**

1. **In accordance with Schedule 2, Regulation 4(3) of the Planning and Development (Local Planning Schemes) Regulations 2015, does not proceed with the Nedlands Town Centre Precinct Plan.**

Councillor Hodsdon and Councillor Brackenridge returned to the room at 7.46 pm.

# PD20.05.23 Consideration of Development Application – Residential - Five Grouped Dwellings at 63 Dalkeith Road, Nedlands

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting – 23 May 2023 |
| **Applicant** | Pinnacle Planning |
| **Information Provided** | All relevant information required for this assessment has been provided by the applicant. |
| **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 dated 21 March 2023 3. Architectural Perspectives 4. Revised Development Plans – 11 May 2023 5. CONFIDENTIAL ATTACHMENT – Submissions |

Councillor McManus left the room at 7.46 pm.

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

Moved – Councillor Coghlan

Seconded – Councillor Senathirajah

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

(Printed below for ease of reference)

**CARRIED 9/1**

**(Against: Cr. Mangano)**

**Council Resolution / Revised Officer 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 11 May 2023 for five grouped dwellings at 63 Dalkeith Road, Nedlands, subject to the following conditions:**

* + - 1. **This approval relates only to the development as indicated on the approved plans dated 11 May 2023. It does not relate to any other development on this lot and must substantially commence within 2 years from the date of the decision letter.**

**2. All works indicated on the approved plans shall be wholly located within the lot boundaries of the subject site.**

**3. Prior to the issue of a demolition permit and building permit, a Demolition or Construction Management Plan (as appropriate) shall be submitted and approved to the satisfaction of the City. The approved Construction Management Plan shall be observed at all times throughout the construction process to the satisfaction of the City.**

**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:**

**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**

**5. Prior to occupation, landscaping shall be completed in accordance with the Landscaping Plan dated 11 April 2023. All landscaped areas are to be maintained on an ongoing basis for the life of the development on the site to the satisfaction of the City of Nedlands.**

**6. The street tree(s) within the verge in front of the lot are to be protected and maintained through the duration of the demolition and construction process to the satisfaction of the City of Nedlands. Should the tree(s) die or be damaged, they are to be replaced with a specified species at the owner’s expense and to the satisfaction of the City of Nedlands.**

**7. Prior to occupation, the applicant is to plant a minimum of one (1) x 30L tree located on the Dalkeith Road verge, at the expense of the applicant and to the satisfaction of the City of Nedlands.**

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

**9. The recommendations contained within the Sustainable Design Assessment report dated 19 April 2023 are to be carried out and maintained for the lifetime of the development to the satisfaction of the City of Nedlands.**

**10. Prior to the issuing of a Building Permit, an acoustic report and noise management plan shall be prepared by a suitably qualified acoustic engineer certifying that the proposal incorporates sufficient sound attenuation measures in accordance with the quiet house design requirements as identified in State Planning Policy 5.4 – Road and Rail Noise.**

**11. All recommendations contained within the acoustic report shall be implemented and adhered to for the lifetime of the development to the satisfaction of the City of Nedlands. Any changes to the assumptions, recommendations, or acoustic solutions require assessment by an acoustic consultant to confirm compliance with Environmental Protection (Noise) Regulations 1997.**

**12. Prior to occupation of the development, a notification pursuant to Section 70A of the Transfer of Land Act 1893 shall be prepared at the expense of the owner and registered against the Certificate of Title to the land the subject of the proposed development advising the owners and subsequent owners of the land of the following matter(s):**

**“This lot is situated in the vicinity of a transport corridor and is currently affected, or may in the future be affected by transport noise. Additional planning and building requirements may apply to development on this land to achieve an acceptable level of noise reduction.”**

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 21 March 2023 for five grouped dwellings at 63 Dalkeith Road, Nedlands, subject to the following conditions:

1. This approval relates only to the development as indicated on the approved plans dated 21 March 2023. It does not relate to any other development on this lot and must substantially commence within 2 years from the date of the decision letter.
2. All works indicated on the approved plans shall be wholly located within the lot boundaries of the subject site.
3. Prior to the issue of a demolition permit and building permit, a Demolition or Construction Management Plan (as appropriate) shall be submitted and approved to the satisfaction of the City. The approved Construction Management Plan shall be observed at all times throughout the construction process to the satisfaction of the City.
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, landscaping shall be completed in accordance with the Landscaping Plan dated 11 April 2023. 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 process to the satisfaction of the City of Nedlands. Should the tree(s) die or be damaged, they are to be replaced with a specified species at the owner’s expense and to the satisfaction of the City of Nedlands.
3. Prior to occupation, the applicant is to plant a minimum of one (1) x 30L tree located on the Dalkeith Road verge, at the expense of the applicant and to the satisfaction of the City of Nedlands.
4. All stormwater discharge from the development shall be contained and disposed of on-site unless otherwise approved by the City of Nedlands.
5. The recommendations contained within the Sustainable Design Assessment report dated 19 April 2023 are to be carried out and maintained for the lifetime of the development to the satisfaction of the City of Nedlands.
6. Prior to the issuing of a Building Permit, an acoustic report and noise management plan shall be prepared by a suitably qualified acoustic engineer certifying that the proposal incorporates sufficient sound attenuation measures in accordance with the quiet house design requirements as identified in State Planning Policy 5.4 – Road and Rail Noise.
7. All recommendations contained within the acoustic report shall be implemented and adhered to for the lifetime of the development to the satisfaction of the City of Nedlands. Any changes to the assumptions, recommendations, or acoustic solutions require assessment by an acoustic consultant to confirm compliance with Environmental Protection (Noise) Regulations 1997.
8. Prior to occupation of the development, a notification pursuant to Section 70A of the Transfer of Land Act 1893 shall be prepared at the expense of the owner and registered against the Certificate of Title to the land the subject of the proposed development advising the owners and subsequent owners of the land of the following matter(s):

“This lot is situated in the vicinity of a transport corridor and is currently affected, or may in the future be affected by transport noise. Additional planning and building requirements may apply to development on this land to achieve an acceptable level of noise reduction.”

**Purpose**

The purpose of this report is for Council to consider a development application for five grouped dwellings at 63 Dalkeith Road, 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.

Council is requested to exercise its judgement in considering the merits of the application against the design principles of Volume 1 of the Residential Planning Codes for the following aspects of the proposal:

* Street setback (Dalkeith Road and common property)
* Lot boundary setback (from the northern boundary)
* Outdoor living area (Unit 1)
* Visitor parking

Following the Agenda Forum meeting revised plans have been submitted, see Further Information section of this report and **Attachment 4**.

**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 having regard to the facts of the matter under consideration, and in accordance with the relevant laws and policies as they apply to that matter.

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

**Background**

**Land Details**

|  |  |
| --- | --- |
| **Metropolitan Region Scheme Zone** | Urban |
| **Local Planning Scheme Zone** | Residential |
| **R-Code** | R60 |
| **Land area** | Parent Lot: 1,012m2  Strata Lot 1: 163m2  Strata Lot 2: 150m2  Strata Lot 3: 150m2  Strata Lot 4: 150m2  Strata Lot 5: 199m2 |
| **Land Use** | Residential  (Grouped Dwellings) |
| **Use Class** | ‘P’ – Permitted Use |

The site is located at 63 Dalkeith Road, Nedlands and is 120m south of Stirling Highway (**Attachment 1**). The site is currently occupied by a single storey, single house with a pool. The site is the subject of a subdivision application for five strata lots and a common property driveway. The site slopes upward from front to back with a fall of 1.7m from west (rear) to east (front).

The locality is predominantly characterised by single residential houses between one to two storeys. The properties in this area are coded R60 or R160 and are expected to undergo a gradual transition to a higher density and scale of development.

The property to the south (65 Dalkeith Road) has approval for five grouped dwellings, which are nearing completion. The property diagonally opposite at 66 Dalkeith Road has been previously subdivided into three lots with houses now completed on each.

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

The Nedlands Stirling Highway Activity Corridor – Residential Precinct Local Planning Policy was adopted by Council on 26 April 2023. The development application for 63 Dalkeith Road, Nedlands was subject to pre-lodgement discussion with the City in March 2022, was lodged in August 2022 and had been designed, assessed and amended several times prior to the adoption of the Policy. As such, the provisions of the newly adopted Policy have not been given full weight in this assessment.

**Application Details**

The application seeks development approval for the construction of five grouped dwellings, two storeys in height, containing three bedrooms and two bathrooms each.

Unit 1 is proposed to have independent pedestrian access directly from Dalkeith Road and vehicle access from the common property driveway. The remaining four units obtain vehicle and pedestrian access from the common property driveway.

The development includes a single visitor parking bay located behind Lot 1. The visitor bay has been located behind the front unit to reduce the visual impact of parking on the streetscape.

The proposal has been subject to refinement over time as a result of design review and consultation. The current version of plans dated 17 March 2023 are included at **Attachment 2** and form the basis of Council’s consideration of this application. Architectural perspectives of the development are included at **Attachment 3**.

**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.

**Design Review Panel**

The application was reviewed by the City’s Design Review Panel (DRP) on 13 February 2023. A final review of revised plans was conducted by the DRP Chair on 17 April 2023.

A summary of the DRP advice is provided in the table below.

|  |  |  |
| --- | --- | --- |
| **DRP Design Quality Evaluation** | | |
|  | Supported  Further Information Required  Not supported | |
|  |
|  |
| SPP 7.0 Principles | 13 February 2023  DR1 | 17 April 2023 (Chair Review) |
| 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 |  |  |

There was notable improvement in the overall design of the development between the two reviews, including the following:

* Reduction in overall site cover.
* Reduction in the length of the internal boundary wall abutting the outdoor living area of Lot 4.
* An increase in outdoor living area size for Lots 2-5.
* An amended landscaping plan to increase landscaping over the entire site.
* Reduced projections from buildings to improve vehicle manoeuvrability.

In relation to sustainability, a report prepared by Sustainability WA assessed the design and has identified aspects which contribute to, and made recommendations that will further ensure, the sustainability of the proposal. Details of the report include:

* Solar passive design is achieved through north facing living areas and appropriate eastern and western window shading.
* Provision has been made for future solar collectors.
* All appliances will achieve a 5 or 6 star WELS rating.
* Landscaping irrigation will be ‘drip fed’ with moisture sensors.

A condition is recommended that requires the sustainability initiatives in the sustainable design assessment report dated 19 April 2023 to be implemented.

The DRP Chairs final assessment included:

**Landscape Quality**

A comprehensive landscape plan has been prepared by a landscape consultant. Landscape quality is greatly improved and increased outdoor living areas provided. Each unit is now articulated by landscape.

**Amenity**

Many small amendments have improved the amenity of the units, in particular the kitchen and scullery areas.

**Safety**

Sweep paths have been included to establish safe vehicle movements while pedestrian entries are now better articulated.

**Aesthetics**

Greatly improved by following the advice of the DRP. Noteworthy are the improved north and west elevations.

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

The objective of State Planning Policy 5.4 is to protect the community from unreasonable levels of transport noise and ensure transport infrastructure and land use can mutually exist within urban corridors. The subject site is within the policy “trigger distance” of Stirling Highway, which is an “other significant freight/traffic route”. Where a site is located within or partly within a trigger distance, an assessment against the state planning policy is required to determine the likely level of transport noise and management/mitigation required.

The state planning policy provides a noise target for noise-sensitive land use, such as dwellings. These targets recommend a maximum daytime and night-time decibel of 55dB and 50dB respectively for outdoors. For indoors the daytime recommendation is 40dB for living and work areas. At night in bedrooms the recommendation is 35dB. It is recommended that a condition be placed on any approval granted by Council that the dwellings be constructed to meet the noise targets of the state planning policy.

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

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

The proposed development is seeking a design principle assessment pathway for parts of this proposal relating to street setback, lot boundary setback, outdoor living area and parking.

A new version of the Codes for low and medium density development will come into effect on 1 September 2023 (R-Codes 2023). Consistent with Western Australian Planning Commission advice to local government, the City has assessed the development against the deemed-to-comply provisions of the R-Codes 2021. Where a design principle assessment has been required, due regard has been made to the relevant design principle of the R-Codes 2023.

**Clause 5.1.2 - Street Setback**

Unit 1 proposes an upper floor setback of 1.0m from Dalkeith Road. Units 2 to 5 propose a nil or 1.3m setback to the common property. The design principles for street setbacks consider the immediate and future streetscape, privacy, site planning requirements and building mass. The development meets the design principles as:

* The minimum upper floor setback of 1.0m from Dalkeith Road responds to the future intended high density character of the area, which is informed by immediately adjacent lots coded R160 and the nearby RAC-1 areas of Stirling Highway.
* The impact of bulk from the upper floor wall on lot 1 is ameliorated by articulation and design features. The front façade provides a varied setback to Dalkeith Road ranging from 1.0m to 1.6m and incorporates several design elements to create visual interest including timber screen battens and an inset window to the upper floor living area.
* The internal street setbacks have no adverse impact on any external lots or the streetscape.
* The street setbacks do not compromise open space across the lots as the open space achieves the deemed-to-comply provisions of the R-Codes.
* The proposal responds to site planning requirements, including vehicle access, parking, and utility services. These site planning requirements are appropriately screened from the street interface where possible.

**Clause 5.1.3 - Lot Boundary Setback**

Unit 1 proposes a 3.0m setback from the northern side lot boundary on the first floor. The design principles for lot boundary setbacks consider the impact of building bulk on adjoining properties, providing adequate sun and ventilation and minimising overlooking. The proposed northern lot boundary setback is considered to meet the design principles for the following reasons:

* The proposed lot boundary setbacks do not impede on the northern adjoining lot’s solar access or ventilation. Solar access achieves the deemed-to-comply provisions of the R-Codes.
* Setback at 3.0m, the wall is a sufficient distance from the boundary to minimise the adverse impact of building bulk on the adjoining lot.
* The proposed setback does not impact adjoining properties in terms of overlooking as the major opening from the master bedroom achieves the visual privacy deemed-to-comply provisions of the R-Codes.
* The proposed lot boundary setback is consistent with the site’s density code and is typical for a grouped dwelling proposal.

**Clause 5.3.1 - Outdoor Living Areas**

The outdoor living area of Unit 1 is partially located within the front setback area. The design principles for outdoor living area consider the space to be functional and usable, allow for winter sun and natural ventilation, the provision of landscaping and to facilitate street surveillance when in the front setback area. The development meets the design principles for the following reasons:

* The outdoor living area for Unit 1 is directly accessible from the primary living area of the dwelling via triple framed sliding doors from the dining room.
* There is sufficient space in Unit 1 to provide for landscaping, entertaining and connection to the outdoors. This space is both functional and usable and consists of a covered alfresco area, along with space for two small trees and shrubbery.
* The outdoor living area is bounded by a front fence that is visually permeable above 0.7m. This allows for views of the lot’s landscaping from the street and provides passive surveillance.

**Clause 5.3.3 - Parking**

The development proposes one visitor parking bay. The design principles for parking consider the availability of on-street parking and the proximity of the site to public transport. The proposed parking is considered to meet the design principles as outlined below.

**Availability of On-Street Parking**

Street parking to a limit of 3 hours is available on both sides of Dalkeith Road.

**Proximity to High Frequency Public Transport**

The subject site is located 130m from Stirling Highway, on which there are two ‘900 series’ high frequency bus routes – the 995 (Perth-Claremont) and 998/999 (Circle Route). The 900 series routes provide a daytime off-peak service frequency of 15 minutes in each direction, seven days a week. This exceeds the R-Codes definition of a ‘high frequency route’, which requires a 15-minute frequency only during the weekday morning and afternoon peaks of 7am-9am and 5pm-7pm respectively.

The nearest bus stops are located approximately 190m (towards Claremont/Fremantle) and 240m (towards Perth/Stirling) from the site. The service frequency on Stirling Highway is high given the combination of routes.

It is considered that the combination of the provision of the two car parking bays per dwelling and one visitor parking bay is sufficient given the availability of on-street parking and the site’s proximity to high frequency public transport.

**Upcoming Visitor Parking Changes**

The deemed-to-comply provision for visitor parking in grouped dwellings required 5 lot proposals to provide one visitor parking space before 2 July 2021. From this date, the deemed-to-comply provision was modified to require two spaces.

The WAPC has recently released a revised version of the R-Codes Volume 1, which will become effective on 1 September 2023. From this date, visitor parking will revert to one space for 5-8 units sharing a common driveway. It is noted that the visitor parking for this development will be deemed-to-comply on 1 September 2023.

**Consultation**

The development application was advertised in accordance with the City’s Local Planning Policy - Consultation of Planning Proposals to five adjoining properties and for a period of 14 days from 21 February 2023 to 8 March 2023. At the close of the advertising period, one objection was received.

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

1. The development will result in a loss of significant trees and vegetation and does not provide sufficient landscaping.

The development provides 4 new medium trees, 4 new small trees and small shrubs to landscaped areas. The landscaping meets the deemed-to-comply provisions of the R-Codes Volume 1.

1. The development will result in an increase in traffic.

A Traffic Impact Statement has been provided which outlines that the dwelling will generate 0.8 vehicle trips per dwelling in peak hour. This equates to 4 total vehicle trips per hour in the peak, which is considered low impact and does not result in an adverse increase in traffic or failure of the road network.

**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, the 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 and a received objection. The proposal is considered to meet the key amenity related elements of R-Codes Volume 1 and, as such, is unlikely to have a significant adverse impact on the local amenity of the area. The proposal has been assessed and satisfies the design principles of the R-Codes in relation to being consistent with the immediate locality and streetscape character.

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

**Further Information**

**Question**

Councillor Smyth - Can we investigate possibilities to improve the location of air-conditioning units?

**Officer Response**

Following the Agenda Forum meeting the applicant has submitted amended plans which show the air conditioner condenser being relocated to the far corner of the utilities courtyard for Unit A to mitigate any affects of noise on the outdoor living area of Unit B **(see Attachment 5)**. Any noise will be attenuated by the fence which divides the two lots as well as the landscaping on Unit B.

As a result of the amended plans a revised officer recommendation is provided to reflect the revised plans.

**Revised Officer 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 11 May 2023 for five grouped dwellings at 63 Dalkeith Road, Nedlands, subject to the following conditions:**

* + - 1. **This approval relates only to the development as indicated on the approved plans dated 11 May 2023. It does not relate to any other development on this lot and must substantially commence within 2 years from the date of the decision letter.**

**2. All works indicated on the approved plans shall be wholly located within the lot boundaries of the subject site.**

**3. Prior to the issue of a demolition permit and building permit, a Demolition or Construction Management Plan (as appropriate) shall be submitted and approved to the satisfaction of the City. The approved Construction Management Plan shall be observed at all times throughout the construction process to the satisfaction of the City.**

**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:**

**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**

**5. Prior to occupation, landscaping shall be completed in accordance with the Landscaping Plan dated 11 April 2023. All landscaped areas are to be maintained on an ongoing basis for the life of the development on the site to the satisfaction of the City of Nedlands.**

**6. The street tree(s) within the verge in front of the lot are to be protected and maintained through the duration of the demolition and construction process to the satisfaction of the City of Nedlands. Should the tree(s) die or be damaged, they are to be replaced with a specified species at the owner’s expense and to the satisfaction of the City of Nedlands.**

**7. Prior to occupation, the applicant is to plant a minimum of one (1) x 30L tree located on the Dalkeith Road verge, at the expense of the applicant and to the satisfaction of the City of Nedlands.**

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

**9. The recommendations contained within the Sustainable Design Assessment report dated 19 April 2023 are to be carried out and maintained for the lifetime of the development to the satisfaction of the City of Nedlands.**

**10. Prior to the issuing of a Building Permit, an acoustic report and noise management plan shall be prepared by a suitably qualified acoustic engineer certifying that the proposal incorporates sufficient sound attenuation measures in accordance with the quiet house design requirements as identified in State Planning Policy 5.4 – Road and Rail Noise.**

**11. All recommendations contained within the acoustic report shall be implemented and adhered to for the lifetime of the development to the satisfaction of the City of Nedlands. Any changes to the assumptions, recommendations, or acoustic solutions require assessment by an acoustic consultant to confirm compliance with Environmental Protection (Noise) Regulations 1997.**

**12. Prior to occupation of the development, a notification pursuant to Section 70A of the Transfer of Land Act 1893 shall be prepared at the expense of the owner and registered against the Certificate of Title to the land the subject of the proposed development advising the owners and subsequent owners of the land of the following matter(s):**

**“This lot is situated in the vicinity of a transport corridor and is currently affected, or may in the future be affected by transport noise. Additional planning and building requirements may apply to development on this land to achieve an acceptable level of noise reduction.”**

**Question**

Councillor Coghlan- How many people received letters of the respective plans?

**Officer Response**

In accordance with the Local Planning Policy – Consultation of Planning Proposals, the proposal was advertised to the 17 adjoining properties resulting in consultation with 45 different owners / occupiers (as a result of strata developments with multiple units on one lot and owners with different postal addresses). The application was advertised by way of a letter to each owner or occupier inviting them to view the development plans and supporting documentation online on the City’s YourVoice page.

# PD21.05.23 Consideration of Development Application – Single House at 66 Clifton Street, Nedlands

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting – 23 May 2023 |
| **Applicant** | Coast Homes |
| **Information Provided** | All relevant information required has been provided. |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | The author, reviewers and authoriser of this report declare they have no financial or impartiality interest with this matter.  There is no financial or personal relationship between City staff involved in the preparation of this report and the proponents or their consultants. |
| **Report Author** | Roy Winslow – Manager Urban Planning |
| **Director** | Tony Free – Director Planning and Development |
| **Attachments** | 1. Aerial Image and Zoning Map 2. Development Plans 3. CONFIDENTIAL ATTACHMENT - Submissions 4. CONFIDENTIAL ATTACHMENT – Shadow Diagram |

Councillor McManus returned to the room at 7.48 pm.

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

Moved – Councillor Combes

Seconded – Councillor Hodsdon

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

(Printed below for ease of reference)

**CARRIED 10/1**

**(Against: Cr. Mangano)**

**Council Resolution / Revised Officer Recommendation**

**That Council, in accordance with Clause 68(2)(b) of the Deemed Provisions of the Planning and Development (Local Planning Schemes) Regulations 2015, approves the development application in accordance with the plans date stamped 18 May 2023 for a single house at 66 Clifton Street, Nedlands, subject to the following conditions:**

1. **This approval relates only to the development as indicated on the approved plans dated 18 May 2023. It does not relate to any other development on this lot and must substantially commence within 2 years from the date of the decision letter.**
2. **All works indicated on the approved plans shall be wholly located within the lot boundaries of the subject site.**
3. **Prior to 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, one tree shall be planted within the lot and shall have a minimum planting area of 2m x 2m, to the satisfaction of the City of Nedlands. The tree is to be maintained for the life of the development.**
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 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. **All stormwater discharge from the development shall be contained and disposed of on-site unless otherwise approved by the City of Nedlands.**

Recommendation

That Council, in accordance with Clause 68(2)(b) of the Deemed Provisions of the Planning and Development (Local Planning Schemes) Regulations 2015, approves the development application in accordance with the plans date stamped 20 March 2023 for a single house at 66 Clifton Street, Nedlands, subject to the following conditions:

1. This approval relates only to the development as indicated on the approved plans dated 20 March 2023. It does not relate to any other development on this lot and must substantially commence within 2 years from the date of the decision letter.
2. All works indicated on the approved plans shall be wholly located within the lot boundaries of the subject site.
3. Prior to occupation, walls on or adjacent to lot boundaries are to be finished externally to the same standard as the rest of the development in:
4. Face brick;
5. Painted render;
6. Painted brickwork; or
7. Other clean finish as specified on the approved plans.

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

1. Prior to occupation, one tree shall be planted within the lot and shall have a minimum planting area of 2m x 2m, to the satisfaction of the City of Nedlands. The tree is to be maintained for the life of the development.
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 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. All stormwater discharge from the development shall be contained and disposed of on-site unless otherwise approved by the City of Nedlands.

**Voting Requirement**

Simple Majority.

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

The decision must be made in a manner that is impartial, free from bias, and in accordance with the principles of natural justice. The decision must be made 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** | 319m2 |
| **Land Use** | Residential – Single House |
| **Use Class** | ‘P’ – Permitted Use |

The site is located at 66 Clifton Street, Nedlands. The site is on the eastern side of Clifton Street. The site recently underwent a 2-lot subdivision with the adjoining southern property 66A Clifton Street, Nedlands. The lot is rectangular in shape with an 8.1m frontage and an area of 319m2. The lot is sloping, with a 1m fall from west to east. The lot is currently vacant, as is the neighbouring lot to the south (66A Clifton Street)

The immediate streetscape is surrounded by existing single houses, ranging between one and two storeys in height.

**Application Details**

The application seeks development approval for the construction of a two-storey single house at 66 Clifton Street, Nedlands. The southern adjoining property at 66A Clifton Street has recent planning approval for a single storey single house. The below assessment has considered these plans where appropriate.

**Hampden-Hollywood Precinct Local Planning Policy**

The Hampden-Hollywood local planning policy was adopted by Council on 28 March 2023. The subject development application was submitted in November 2022 and had been designed and largely assessed prior to the adoption of the Policy.

**Discussion**

**Assessment of Statutory Provisions**

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

**Local Planning Scheme No. 3**

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

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

The objective of State Planning Policy 5.4 is to protect the community from unreasonable levels of transport noise and ensure transport infrastructure and land use can mutually exist within urban corridors. The subject site is located approximately 275m north of Stirling Highway, which is an “other significant freight/traffic route”. As the subject site is not located within the 250m buffer zone, an assessment against the policy is not required.

**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, open space, garage width, site works and solar access to adjoining sites.

A new version of the Codes for low and medium density development will come into effect on 1 September 2023 (R-Codes 2023). Consistent with Western Australian Planning Commission advice to local government, the City has assessed the development against the deemed-to-comply provisions of the R-Codes 2021. Where a design principle assessment has been required, due regard has been made to the relevant design principle of the R-Codes 2023.

**Clause 5.1.3 - Lot Boundary Setback**

The development proposes a minimum 1.2m upper floor setback facing the northern lot boundary. The design principles for lot boundary setbacks consider the impact of building bulk on adjoining properties, providing adequate sun and ventilation and minimising overlooking. The proposed northern lot boundary setback is considered to meet the design principles for the following reasons:

* The upper floor elevation incorporates three wall articulations along the entire length. The provided setbacks, varying from 1.2m to 1.7m, will allow the perception of building bulk to be broken up.
* Any bulk from the upper floor wall is unlikely to be perceived by the adjoining property as the main portion of the adjoining house is setback to the north. Additionally, the upper floor wall is bounded to the north by a carport on the adjoining property, therefore reducing the impacts of building bulk as experienced from the neighbouring property.
* Ventilation is maintained through the varied setback on the upper floor.
* The wall is to the northern boundary so does not result in overshadowing.
* There is no overlooking proposed as there are no major openings on the upper floor along the northern elevation.

**Clause 5.1.4 - Open Space**

The development proposes 42% open space. The design principles for open space consider the impact of building bulk, provision of adequate sun and ventilation and ability to use external spaces for outdoor pursuits and recreation. The proposed open space is considered to meet the design principles for the following reasons:

* The development’s scale is considered to reflect the existing and desired future character of Clifton Street, being two storey in design and matching the established street setbacks with a range of single and two storey houses along the block.
* It is expected to see more subdivision along Clifton Street and the surrounding area with all lots being coded R40 or R60. In this context, the proposed development will be consistent with the future streetscape that is likely to develop over time.
* The proposed dwelling is considered to maximise access to natural light through the northern aspect of the site through the outdoor living area at the rear, north facing courtyard, and major opening to the north.
* Building bulk has been reduced through the design of the upper floor limited to the front half of the lot. This has mitigated the overall bulk of the dwelling when viewed from neighbouring properties.
* The primary street frontage is appropriately landscaped through the use of soft landscaping and the addition of a tree.
* The proposed outdoor living area provides opportunities for residents to use external space for outdoor pursuits, including covered and uncovered entertaining areas in the courtyard and alfresco.

**Clause 5.2.2 - Garage width**

The subject site has an 8.1m wide frontage. The development proposes a garage width of 79% of the lot frontage (6.4m). The garage width has been assessed against the design principles which considers sightlines and visual connectivity to maintained on the streetscape. The proposed garage width is considered to meet the design principles for the following reasons:

* The site is constrained in regards to lot width and frontage being limited to 8.1m. There is no alternative vehicular access such as a rear right-of-way present on site. Additionally, it is likely that when narrow frontage single house lots are created, with no alternate vehicular access, there is likely to be a prevalence of double garages and significant garage width at ground level.
* Visual connectivity is maintained between the dwelling and the street by the major opening from the study on the upper floor. The entry path to the house is located along the southern side of the site and is clearly defined through the use of a portico and paved access.
* The impact of the garage door is reduced through the use of the 5.0m setback from the boundary.
* The impact of the garage door is reduced as the upper floor is projected 1.0m forwards of the garage door. This provides articulation and reduces the visual dominance of the garage door on the streetscape.
* A reduced driveway width of 3.3m at the lot boundary and tapers out to provide access for vehicle manoeuvrability. Additional landscaping has been provided on either side of the driveway, with the addition of a tree in the south-western corner to achieve the deemed-to-comply provisions for landscaping.

**Clause 5.3.7 - Site Works**

The development proposes retaining walls to a maximum height of 0.7m (cut) within the front setback area. The house features one continuous finished floor level through the dwelling. The lot slopes 1m from west to east, with the finished floor level of the dwelling consistent with the average level across the site. The cut at the front of the lot is necessary for providing vehicular access to the garage. The retaining meets the design principles as it responds to the natural slope of the site, only exceeding a height of 0.5m for a small portion and does not create undue building bulk or over-height walls.

**Clause 5.4.2 - Solar access for adjoining sites**

The development proposes 64% overshadowing to 66A Clifton Street at the winter solstice. The design principles consider effective solar access for the subject development, and the protection of solar access for neighbouring properties.

Given the site’s narrow lot width and east-west orientation, it is acknowledged that achieving deemed-to-comply overshadowing is unlikely to occur. For example, an otherwise deemed-to-comply single storey house would still result in approximately 43% overshadowing. In this regard, particular consideration needs to be given to the protection of solar access to the adjoining property’s outdoor living areas, major openings to habitable rooms and solar collectors.

The application meets the design principles as:

* In relation to outdoor living areas, 66A Clifton has two courtyards positioned to the north of the lot. The primary outdoor living area is in the middle of the lot adjacent to the northern boundary. The proposed development has positioned the upper floor to the front of the site to avoid impacting this outdoor living area as much as possible. It is acknowledged that given the central positioning of 66A Clifton’s outdoor living area, it is impractical to design a two-storey dwelling that avoids overshadowing this area entirely.
* In relation to major openings, 66A Clifton has two north facing major openings to the master bedroom at the rear of the lot. These are unaffected by the two-storey portion of the proposal. The shadow cast onto these major openings is from the dining room and alfresco, which are single storey and meet deemed-to-comply lot boundary setbacks. All other openings facing north are minor openings, largely into hallways.
* In relation to solar collectors, there are no roof mounted solar collectors proposed on the adjoining southern lot.

**Consultation**

The application is seeking assessment under the design principles of the R-Codes for lot boundary setbacks, open space, garage width, site works and solar access.

The development application was advertised in accordance with the City’s Local Planning Policy - Consultation of Planning Proposals to 25 adjoining properties. The application was advertised for a period of 14 days from 3 February 2023 to 17 February 2023. At the close of the advertising period, one objection was received.

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

1. Restricted natural solar access to the outdoor living areas of the southern lot from increased overshadow.

Given the lot constraints this site faces, including the narrow width and orientation, administration supports the proposed overshadowing, and the solar access is considered to achieve the design principles. See Clause 5.4.2 assessment above.

1. The southern boundary walls of the development reduce northern light to the southern lot.

The proposed southern boundary wall satisfies the deemed-to-comply provision in relation to lot boundary setback. The solar access is considered to achieve the design principles. See discussion on overshadowing assessment above.

**Strategic Implications**

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

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

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

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

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

**Budget/Financial Implications**

Nil.

**Legislative and Policy Implications**

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

**Decision Implications**

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

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

**Conclusion**

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

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

**Further Information**

Nil.

# Divisional Reports - Corporate Services Report No’s CPS19.05.23 to CPS25.05.23

# CPS19.05.23 Lease at the Tresillian Arts Centre – Delegation of Authority to the Chief Executive Officer

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting – 23 May 2023 |
| **Applicant** | City of Nedlands |
| **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** | Nil. |

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

Moved – Councillor Senathirajah

Seconded – Councillor McManus

**That the Recommendation be adopted.**

(Printed below for ease of reference)

**CARRIED 10/1**

**(Against: Cr. Mangano)**

**Council Resolution / Recommendation**

**That Council:**

1. **approves the following delegation of authority relating to Tresillian Arts Centre leases:**

**The CEO is authorised to accept and vary leases negotiated at Tresillian Arts Centre in accordance with Section 3.58 of the *Local Government Act 1995*, up to an annual rental income of $10,000; and**

1. **delegates authority to the Chief Executive Officer to sign the associated Deeds of Lease as a deed following a negotiation process in accordance with that noted in (1) above.**

**Purpose**

This report seeks delegation of authority from Council to authorise the Chief Executive Officer (CEO) to accept and vary leases negotiated at Tresillian in accordance with the *Local Government Act 1995*. This delegation was not included in the last review of the Delegated Authority Manual endorsed by Council in September 2022 (CEO101.09.22 refers).

**Voting Requirement**

Absolute Majority.

**Background**

The City is required to review its Register of Delegations annually in accordance with section 5.46(2) of the Local Government Act 1995. The last review was endorsed by Council at its meeting of 27 September 2022. Due to an administrative oversight, this review did not include a previously endorsed delegation to the CEO to accept or vary leases negotiated at Tresillian Arts Centre.

**Discussion**

By resolution of Council on 23 March 1999 Council delegated authority to the CEO to accept leases negotiated at the Tresillian Arts Centre on the basis of direct negotiation in accordance with Sections 3.58(3) and (4) of the Local Government Act and up to an annual rental income of $5,000.

A draft template for a standard lease agreement for the City to use for each artist studio lease was developed and has been used since that time. The amount for each lease is determined by individual market valuations with CPI based increases applicable in intervening years. In 2015 Council increased the amount to $10,000 to reflect changes to market conditions.

While this delegation is required to be reviewed annually, due to an administrative oversight, was not reviewed by Council in September 2022.

To facilitate the ongoing management of leases at Tresillian, Administration requests this previous delegation to be re-affirmed.

Additionally, to give effect to a variation of lease or early surrender of lease during the term should either the City’s or the Tenant’s circumstances change, this delegation seeks to provide the CEO with authority to vary the lease terms within the constraints of the Use of Council Facilities for Community Purposes Policy.

**Consultation**

In reviewing the Register of Delegations in 2022, the CEO consulted with the Executive Officer, Governance Officer, Directors and relevant staff members to ensure the register complied with the requirements under the Local Government Act 1995, and the City’s daily operational requirements. In reviewing this delegation the CEO has consulted with the Coordinator Land and Property and the Tresillian Arts Centre Coordinator.

**Strategic Implications**

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

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

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

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

**Great Governance and Civic Leadership**

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

**Great Communities**

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

**Budget/Financial Implications**

There are no financial or budget implications with this report. Income for each lease at Tresillian is initially determined by market valuation with CPI based increases applying thereafter until the next market valuation is required.

**Legislative and Policy Implications**

Leases at Tresillian are a disposition of local government property under section 3.58 of the [*Local Government Act 1995*](https://www.legislation.wa.gov.au/legislation/prod/filestore.nsf/FileURL/mrdoc_43454.pdf/$FILE/Local%20Government%20Act%201995%20-%20%5B07-t0-00%5D.pdf?OpenElement).

The Tresillian Café lease is deemed a commercial tenancy agreement under the [*Commercial Tenancy (Retail Shops) Agreements Act 1985*](https://www.legislation.wa.gov.au/legislation/prod/filestore.nsf/FileURL/mrdoc_43944.pdf/$FILE/Commercial%20Tenancy%20(Retail%20Shops)%20Agreements%20Act%201985%20-%20%5B04-g0-00%5D.pdf?OpenElement) and must be prepared in accordance with the provisions of this Act.

The [Use of Council Facilities for Community Purposes Policy](https://www.nedlands.wa.gov.au/documents/245/use-of-council-facilities-for-community-purposes) addresses requirements for all leases of Council facilities, including Tresillian Arts Centre.

**Decision Implications**

Endorsement of this recommendation will maintain consistency in process. More for the purpose of administrative efficiency, this prior delegated authority with minor amendments to reflect current market conditions is now presented to Council with a recommendation to retain and re-affirm.

By delegating this authority Council is requiring the City to continue to adhere to the legislated process of leasing of local government property but at the same time recognising the efficiency of Administration to fulfil this obligation. It also affords Council more time to consider more substantive matters. The process by which Tresillian leases have been negotiated for at least the last decade and a half has been improved. Each submission for lease is assessed by a panel against compliance and qualitative criteria to provide for a consistent and equitable evaluation and align outcomes with the City’s strategic vision. The legislation has remained the same regarding requirements for the process of leasing local government property such as at the Tresillian Arts Centre so it follows that internal processes would do the same.

Should Council not endorse the recommendation or pursues an alternative option, each lease at Tresillian may be required to be presented to Council.

**Conclusion**

This proposed retention of previous delegation of authority is to maintain processes considered to be assisting administrative efficiency. Through the recommendation for delegation of authority legislated processes are consistent and integrity of City of Nedlands procedures preserved.

**Further Information**

Nil.

# CPS20.05.23 New Lease to St John Ambulance WA Ltd

|  |  |
| --- | --- |
| **Meeting & Date** | Council – 23 May 2023 |
| **Applicant** | St John Ambulance WA 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. CONFIDENTIAL – St John Lease Request |

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

Moved – Councillor Combes

Seconded – Councillor Amiry

**That the Recommendation be adopted.**

(Printed below for ease of reference)

**CARRIED 10/1**

**(Against: Cr. Mangano)**

**Council Resolution / Recommendation**

**That Council:**

1. **approves the lease for a 465 m² (approx.) portion of the Nedlands Community Care Office and adjacent carpark at 97-99 Waratah Avenue Dalkeith (Part Lots 386 and 387 on Deposited Plan 3395) to St John Ambulance WA Ltd consistent with the key terms noted within this report;**
2. **approves an exemption to section 3.58 of the *Local Government Act 1995* pursuant to Regulation 30 of the *Local Government (Functions and General) Regulations 1996* for the lease of a 465 m² (approx.) portion of the Nedlands Community Care Office and adjacent carpark at 97-99 Waratah Avenue Dalkeith (Part Lots 386 and 387 on Deposited Plan 3395); and**
3. **authorises the Chief Executive Officer and Mayor to execute all documents necessary to give effect to a lease and apply the City’s Common Seal.**

**Purpose**

The purpose of this report is for Council to consider a new lease for St John Ambulance WA Ltd for a portion of the Nedlands Community Care Office and adjacent carpark at 97-99 Waratah Avenue Dalkeith.

**Voting Requirement**

Simple Majority.

**Background**

97-99 Waratah Avenue Dalkeith comprises Lots 385, 386 and 387 on Deposited Plan 3395 and is unencumbered freehold land owned by the City of Nedlands (City).

The improvements on the land include Dalkeith Hall, the Nedlands Community Care Office (NCC) and a carpark.

Dalkeith Hall was originally constructed in 1956 and spans Lots 385 and 386. This building is used by various community groups pursuant to hire terms, as well as the City’s Positive Ageing program team.

The adjoining NCC office was constructed early to mid-1990’s and spans Lots 386 and 387. It is currently used by the City’s NCC team to provide both in-home support activities and group social support services for senior residents in the community.

On the 29th of August 2022, St John Ambulance WA Ltd (St John) contacted the City seeking assistance with finding a suitable premises to use as a training facility and office for their Event Health Service (EHS) team that meets the following requirements:

* Exclusive use.
* 24hr access.
* Space to accommodate up to 50 people.
* Bathroom and kitchen facilities.
* Capacity to garage an EHS ambulance vehicle.
* Move in date 1st July 2023.

Following subsequent discussions with the City, St John requested to view the rear section of the NCC office to determine whether it would provide for a suitable premises. After their site visit on the 6th of December 2022, St John advised they would like progress negotiations for a lease for a portion of the NCC office.

St John is a charitable, not-for-profit organisation that established itself in Western Australia during 1891 for the provision of first aid, ambulance services and primary and ancillary care to the community.

In May 1965, St John secured a site in Claremont to establish a division in the western suburbs. This site was located at 282 Stirling Highway Claremont and comprised a building that was constructed for St John by the Apex Club of Claremont with the assistance of the district residents, the State Government and Local Government bodies.

St John leased the premises at 282 Stirling Highway from the Town of Claremont pursuant to a peppercorn lease until the end of their lease term. The local government resolved not to renew the lease following a local planning scheme amendment that resulted in the zoning of the land accommodating the premises at 282 Stirling Highway changing to allow for future redevelopment.

The proposal seeks approval from the Council to lease a 465 m² (approx.) portion of the NCC office and adjacent carpark at 97-99 Waratah Avenue Dalkeith to St John for the purpose of a training facility and an office for their Event Health Service team.

**Discussion**

97-99 Waratah Avenue Dalkeith is zoned ‘Mixed Use’ by the City of Nedlands Local Planning Scheme No. 3.

Notwithstanding the current zoning, the existing use of the building is defined as a ‘Community Purpose’, being premises designed or adapted primarily for the provision of educational, social or recreational facilities or services by organisations involved in activities for community benefit.

Considering the proposed use of the building aligns with the definition of community purpose, there is no fundamental change to the underlying use of the building as a result of the proposed lease to St John. Therefore, a use that continues to satisfy the objectives of a community purpose can be considered.

At present, the entire NCC office is used by the City’s NCC team to facilitate the delivery of Commonwealth Home Support Program (CHSP) services.

At the Ordinary Council Meeting of the 28th of February 2023, the Administration recommended the City transition out of providing government funded CHSP services to eligible residents, (currently delivered from NCC) by the 30th of June 2023 to coincide with the cessation of government funding. The Council, at a subsequent Ordinary Council Meeting, resolved to discontinue NCC services on the 30th of December 2023.

The NCC office layout is divided into two main sections. The front section consists of offices for the City’s NCC team and Positive Ageing program team whilst the rear section is where on-site services are provided, as well as staff work areas.

Notwithstanding NCC services will discontinue on the 30th of December 2023, services delivered through the City’s Positive Aging Program will continue. Therefore, Officers investigated whether the NCC office could accommodate a separate tenancy based on a collocation scenario with view to maximizing the utilisation of the City’s building asset.

Evidently, the NCC office floor plan allows for a division of space (front and rear) and possible collocation opportunity. The division of space involves isolating the front section from the rear section by installing a door or similar type barrier in the corridor connecting the two sections of the building.

To allow for a feasible collocation scenario between the City and St John, the front section of the NCC office needs to be retained to accommodate the City’s Positive Ageing program team with consideration to the following:

* NCC office exclusive car bays and adjoining public car bays cannot be monopolised by people attending the lease area during normal business hours.
* General public access including access of clients attending Positive Ageing program activities cannot be restricted.
* Access to Dalkeith Hall or any portion of the NCC office outside the lease area is not permitted.
* Any signage promoting the purpose of the lease area would not over-ride/affect the required signage for the City’s Positive Ageing program.

The proposed lease area captures the remaining rear section of the NCC office and includes a separate entry foyer, a single office, two kitchens, male toilets, female toilets, disabled toilet, a function room, a conference room, two storerooms, and a covered enclosed courtyard. Additionally, the proposed lease area seeks to incorporate a 40 m² portion of the car park behind the courtyard for the purpose of constructing a shed required to garage an EHS ambulance vehicle, as well as 5 exclusive car bays for the St John EHS team.

As of July 2022, EHS had approximately 1,024 volunteers, this included volunteers waiting to be trained. During the 2021/2022 financial year these volunteers attended 3,475 events, from these events 13,984 patients required EHS attention. From EHS’s overall volunteers, 81 of these were from the Western Suburbs Division, they provided 2,380 hours of volunteering in 2021/2022.

EHS community services involve volunteers safeguarding the public at all types of events including:

* Major venues such as RAC Arena
* Numerous sporting events including obstacle courses and fun runs
* Concerts, dance and music festivals
* Community fairs, festivals and parades
* School fetes, fairs and sporting carnivals
* Exhibitions, conferences
* Agricultural shows including the Perth Royal Show
* Government initiatives and Commemorative services
* Motorsports and racing
* Horse jumping/racing
* Charity and not-for-profit events, gala dinners and balls such as Telethon
* Filming movies and TV shows
* State emergency call outs

EHS volunteers are also active when needed to support St John operational on-road paramedics for fire call outs and other mass emergency situations (Volunteers assisted with on road paramedics during peak COVID periods).

The recommendation makes provision for the key terms of the lease to be reviewed and authorised by the Council, the intent being to accommodate reasonable and sensible negotiation of the proposed lease relationship.

Notwithstanding St John’s move in date requirement of the 1st of July 2023, a commencement date of the 1st of September 2023 has been negotiated. Officers believe the Operations of NCC can be confined to the remaining part of the NCC office by the lease commencement date to avoid impacting on timeframes.

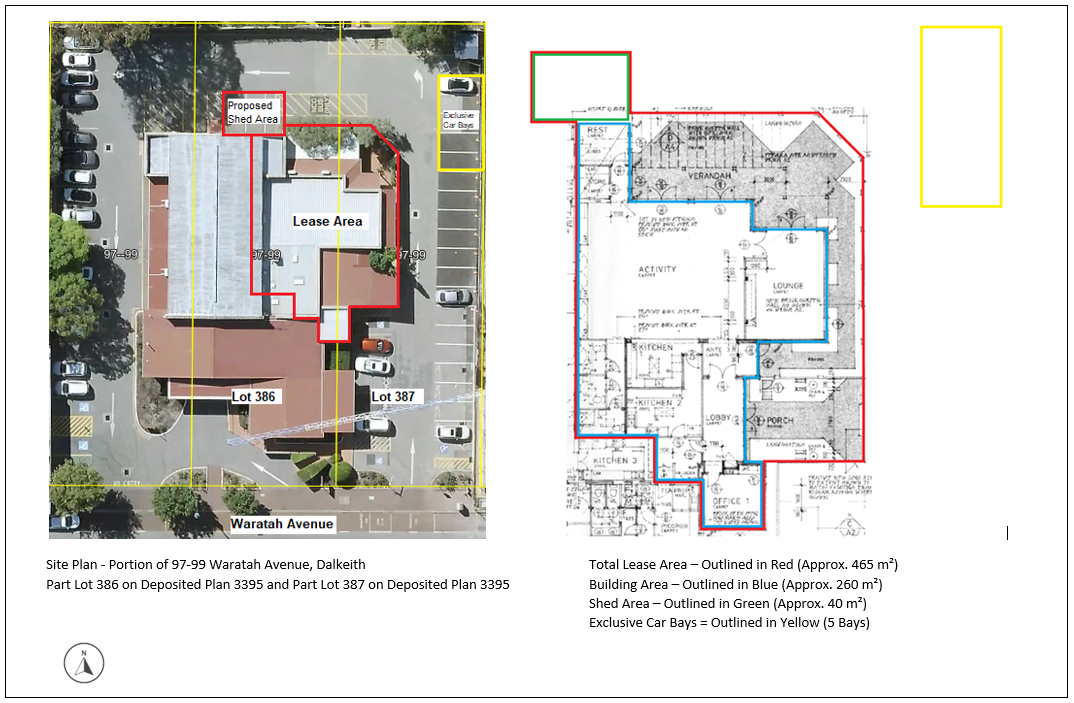
**Key Terms and Special Conditions**

On the 9th of February 2023, St John agreed to all the key terms noted within the report below to facilitate a lease.

|  |  |
| --- | --- |
| **Proposed Lease - St John Ambulance WA Ltd** | |
|  |
| **Key Terms** | |  |
| **Lease Term** | **Details** |  |
| Land | Portion of 97-99 Waratah Avenue, Dalkeith – Part Lot 387 on Deposited Plan 3395 and Part Lot 386 on Deposited Plan 3395. |  |
| Lease Area | 465 m² (approx.). |  |
| Lessor | City of Nedlands |  |
| Lessee | St John Ambulance WA Ltd |  |
| Commencement Date | Upon execution by both parties (1 September 2023) |  |
| Permitted Purpose | Training Facility, Event Health Services Headquarters (Western Suburbs Division) and uses ancillary thereto. |  |
| Market Rental Valuation Assessment | Completed 12 January 2023. |  |
| Annual Rent | $64,000 net per annum excluding GST and variable outgoings. Inclusive of 5 exclusive car bays. |  |
| Rent Reviews | 3% Fixed Annual Increase |  |
| Outgoings | Proportionate outgoings payable by Lessee. |  |
| Term | 5 years. |  |
| Further Term Option 1 | 3 years. |  |
| Further Term Option 2 | 3 years. |  |
| Operating/Access | Monday to Friday and Weekends. |  |
| Public Liability Insurance | The Lessee is responsible for Public Liability and will hold $20M minimum cover, however the Lessor will continue to hold its policy. |  |
| Building Insurance | The Lessor will in sure its interests in the building and the shed, however, will recover the payment of the annual insurance premium (proportionate to the lease area) from the Lessee. |  |
| Contents Insurance | The Lessee will hold adequate contents insurance cover. |  |
| Workers Compensation | The Lessee will hold adequate workers compensation cover. |  |
| Indemnity | The Lessee will indemnify the Lessor against any liability and all claims in connection with the lease. |  |
| Preventative Maintenance | The Lessee will be responsible for the following preventative maintenance items: |  |
| * Mechanical Services  (servicing of air conditioning units and auto doors) * Fire Services  (operational compliance check for smoke alarms, fire extinguishers and fire reels) * Electrical Services (operational compliance check for RCD, emergency lighting, fire panels, defibrillators and alarm/security system) * Hydraulic Services (servicing of sewer pump, grease trap and septic system- if applicable) * Pest Treatment * Gutter Clean * Carpet Clean * Painting (external and internal every 8-10 years or as required) |  |
| Non-Structural Maintenance | The Lessee will be responsible for all non-structural maintenance. |  |
| Structural Maintenance | The Lessor will be responsible for all structural maintenance. |  |
| Fit Out | The Lessee is responsible for all fit out works |  |
| Alteration/Additions | The Lessee will be responsible to any alterations or additions at their cost subject to all necessary approvals. |  |
| Capital Improvements | The Lessee will be responsible to any capital improvements and connection to services at their cost subject to all necessary approvals- detailed plans and certifications to be provided prior to any construction**.** |  |
| Signage | Prior written consent from the Lessor is required. |  |
| Lease Preparation Costs | The Lessee will be responsible for lease preparation costs |  |
| Special Conditions | * Lease is subject to City of Nedlands Council approval. * Lease is subject to the approval of the Board of St John Ambulance WA Ltd. * Lease is subject to a redevelopment clause with a 2 year notice period. * Entrance to shed must always remain unobstructed. |  |
| Annexures | Lease area sketch |  |

**Lease Area Sketch**

The proposed lease area sketch is displayed following.



**Market Rental Valuation Assessment**

A market rental valuation assessment as defined by the International Valuation Standards Council was undertaken by an independent licensed valuer on the 12th of January 2023. The assessment considered various economic factors as well as market rental evidence including community based rental evidence with consideration to the following two scenarios:

* Scenario 1, assumes the following:
  + Variable outgoings for the tenancy fall within general market parameters.
  + If a single garage space is allocated to the subject tenancy.
  + If 5 open car bays are allocated to the subject tenancy.
* Scenario 2, assumes the following:
  + Variable outgoings for the tenancy fall within general market parameters.
  + If a single garage space is allocated to the subject tenancy.

The adopted market rental valuation methodology utilised the Direct Comparison approach as the primary and only method of rental valuation, and has determined the following rental:

* Scenario 1 - $64,000 net per annum, ex GST and variable outgoings.
* Scenario 2 - $61,000 net per annum, ex GST and variable outgoings.

Scenario 1 is preferred by St John.

**Consultation**

The City has carried out engagement with internal stakeholders and their feedback has been incorporated within the report.

**Strategic Implications**

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

**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 Council agree to the recommendation as proposed, the new lease would be prepared by a solicitor and full costs would be on-charged to the proponent.

Additionally, the proponent will be responsible for but not limited to all fit out and capital improvement costs.

The City currently does not receive revenue from the subject portion of 97-99 Waratah Avenue Dalkeith. Should Council resolve to endorse the recommendation, the proposed lease (based on Scenario 1) will provide for an income to the City of $64,000 per annum (ex GST and variable outgoings) in revenue over a term of 5 years and any further term.

**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 a property means to ‘sell, lease or otherwise dispose of, whether absolutely or not’.

Considering St John Ambulance WA Ltd are a registered charitable not-for-profit association, they are eligible for an exemption to section 3.58 of the *Local Government Act 1995* pursuant to Regulation 30 of the *Local Government (Functions and General) Regulations 1996*, therefore the proposed disposal of land is not required to be advertised.

**Decision Implications**

Should Council resolve to approve a lease for a 465 m² (approx.) portion of the NCC office and adjacent carpark at 97-99 Waratah Avenue Dalkeith, Officers will instruct the City’s solicitor to prepare a lease in accordance with the key terms contained within this report at the full cost of the Lessee.

If Council do not resolve to approve a lease for a 465 m² (approx.) portion of the NCC office and adjacent carpark at 97-99 Waratah Avenue Dalkeith, the proponent will not be able to secure tenure within the City and will have to consider their future elsewhere.

**Conclusion**

St John have established a presence within the western suburbs since 1965. Their integrated model of service involves a high level of volunteerism and participation to enable the provision of the following services:

* Ambulance service.
* Community First Responder program.
* First Aid training for school students.
* First Aid training for community groups and at community events.
* Volunteer support.
* Community transport.
* State-wide defibrillator network.
* Ambulance education.
* Charitable programs that provide areas of vulnerability with equipment, education and training to overcome medical challenges.

Volunteer members are required to maintain a high standard of training to continue to keep a strong skill set for the delivery of services.

To support this skill set St John are seeking assistance from the City to secure long term tenure for a suitable premises within the western suburbs locality to allow their operations and services to continue.

Officers believe this request can be accommodated by way of a lease for a 465 m² (approx.) portion of the NCC office and adjacent carpark at 97-99 Waratah Avenue Dalkeith. Additionally, the proposal presents an opportunity for additional revenue for the City and the retention of EHS community services for the western suburbs community.

**Further Information**

**Question**

Councillor Mangano - Are St John responsible for external painting of Dalkeith Hall?

**Officer Response**

Painting is deemed preventative maintenance and is the responsibility of the Lessee. Therefore, St John will be responsible for internal and external painting of the lease area, at their expense. This work must be undertaken by a licensed painter who will need to apply a colour approved by the City. Repainting will be required every 5 years.

**Question**

Councillor Mangano - Are there any plans to re-roof Dalkeith Hall?

**Officer Response**

Consideration for re-roofing in future years of the capital works program following external condition assessment of the building.

# CPS21.05.23 New Lease to ADHD WA

**PLEASE NOTE: This item was brought forward from page 14**

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting – 23 May 2023 |
| **Applicant** | ADHD WA |
| **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. CONFIDENTIAL – ADHD WA Social Impact Proposal |

# CPS22.05.23 Differential Rates 2023/24 – Approval for Advertisement

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting – 23 May 2023 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil. |
| **Report Author** | Stuart Billingham – Manager Financial Services |
| **Director** | Michael Cole – Director Corporate Services |
| **Attachments** | 1. Statement of Objects and Reasons for imposing the Differential Rates for 2023/24 |

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

Moved – Councillor Senathirajah

Seconded – Councillor Hodsdon

**That the Recommendation be adopted.**

(Printed below for ease of reference)

Amendment

Moved - Councillor Mangano

Seconded - Councillor Bennett

That attachment 1 be amended by replacing the included table with the following:

|  |  |  |
| --- | --- | --- |
| Differential Rate | Minimum Rate  Proposed | Rate in the Dollar ($) Proposed |
| Residential | $1,484 | 0.057020 |
| Non-Residential | $1,957 | 0.070356 |
| Residential Vacant | $2,050 | 0.083001 |

The AMENDMENT was PUT and was

Lost 3/8

(Against: Mayor Argyle Crs. Brackenridge Senathirajah

Amiry McManus Bennett Combes Hodsdon)

Councillor Mangano left the room at 8.13pm and returned at 8.14pm.

**The Original Motion was PUT and was**

**CARRIED 8/3**

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

**Council Resolution / Recommendation**

**That Council:**

1. **approves the advertising of the proposed differential rates for 2023/24 for:**
   1. **for a period of 21 days by local public notice, in accordance with *Section 6.36(1)* of the *Local Government Act 1995*; and**
   2. **post on the City’s website, in accordance with *Section 6.36(3)(c)(ii)* of the *Local Government Act 1995*; and**
2. **endorses the Statement of Objects and Reasons for each differential rate and minimum rate as detailed in Attachment 1.**

**Purpose**

The purpose of this report is to seek Council approval for the advertising of the proposed differential rates and minimum rates for the 2023/24 financial year in accordance with *Section 6.36 of the Local Government Act 1995*.

**Voting Requirement**

Simple Majority.

**Background**

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

This year is also the year for the triennial Gross Rental Valuation (GRV) review by the Office of the Valuer General with the new GRVs effective from 1 July 2023. A comparison of City GRV over the previous two years is as follows:

Change in City of Nedlands Landgate Valuations

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **GRV Category** | **2021/22** | **2022/23** | **2023/24** | **% change** |
| Residential | $299,553,429 | $301,771,849 | $352,673,430 | 16.87 |
| Residential Vacant | $9,964,800 | $10,859,650 | $15,740,900 | 44.95 |
| Non-Residential | $53,129,577 | $55,994,977 | $59,629,673 | 6.49 |
| **Total** | **$362,647,806** | **$368,626,476** | **$428,044,003** | **16.12** |

Number of assessments

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **GRV Category** | **2021/22** | **2022/23** | **2023/24** | **% change** |
| Residential | 8,304 | 8,301 | 8,332 | 0.37 |
| Residential Vacant | 275 | 331 | 364 | 9.97 |
| Non-Residential | 554 | 558 | 558 | 0.00 |

**Discussion**

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

1. Residential

2. Residential Vacant

3. Non-Residential

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

Proposed increase represents a 2.5% increase in rates from the 2022/23 Budget. In addition, the City expects a 2% growth in the rates base as a result of the completion of new dwellings and other additions.

The revaluation of GRVs saw an overall 16% increase in GRV for the City of Nedlands.

In a GRV revaluation year, the City’s Rates in the Dollar are adjusted to achieve the same pre GRV revaluation rate income. Rates modelling was undertaken to reduce the rates in the dollar. These revised rates in the dollars for all categories were then increased by 2.5%. Minimum rates for Residential and Non-residential categories have been increased by 2.5%. Minimum for Residential Vacant adjusted down to ensure compliance with less than 50% of the Residential Vacant Land category are on a minimum rate.

The City proposes the following differential rates to be advertised for public comment:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Differential Rate** | **Adopted Minimum Rate 2022/23** | **Minimum Rate Proposed 2023/24** | **Adopted Rate in the**  **Dollar ($) 2022/23** | **Rate in the Dollar ($) Proposed 2023/24** |
| Residential | $1,484 | $1,521 | 0.06558 | 0.05844 |
| Non-Residential | $1,957 | $2,006 | 0.07314 | 0.07211 |
| Residential Vacant | $1,950 | $1,894 | 0.09268 | 0.07732 |

The proposed rates have been achieved through a critical review of operational costs to continue delivering services and achieving a capital program that matches delivery capacity and City of Nedlands adopted Long-Term Financial Plan forecast expectations 2.5% inflation plus 2% growth.

In accordance with *Section 6.36 of the Local Government Act 1995*, the City is required to give local public notice of its intention to impose differential rates prior to adopting its budget for the 2023/24 financial year.

**Consultation**

The Council was presented with the draft budget and rates information at a series of Councillor Briefings held during March, April and May 2023.

**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.

**Budget/Financial Implications**

The proposed differential rates for 2023/24 budget total rates ($26,711,364) will provide additional revenue of $891,971 compared to the 2022- 23 budget total rates ($25,819,393) to the City. The amounts to a 2.5% increase in rates plus 2% growth in the rates base due to the completion of new dwellings and additions. These projections are in line with the recently adopted Long-Term Financial Plan

**Legislative and Policy Implications**

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

**Decision Implications**

Should Council endorse the recommendation then the City will fulfill its Statutory obligations under *s6.36 of the Local Government Act 1995* to advertise proposed differential rates for 2023/24 by giving Local Public Notice for 21 days and consider any submissions received.

Should council not endorse the recommendation, this would result in delays to the adoption of the final budget for 2023/24.

**Conclusion**

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

**Further Information**

**Question**

Councillor Mangano - Can we provide an occupancy number of vacant City buildings?

**Officer Response**

All City buildings are occupied with the exception of Hackett Hall which is currently closed for safety reasons.

**Question**

Councillor Mangano - How many leases are not rented at market value? If market value is known, can we provide a dollar amount.

**Officer Response**

Market valuations are applicable for all commercial and residential properties. For community groups, leases are peppercorn.

**Question**

Councillor Amiry - Could we have the differential rate calculation explanation included in meeting notes.

**Officer Response**

Prior to applying the new Valuer General valuations, rate modelling was undertaken by City finance staff to provide rates raised including any interim and back rate changes for 2022/23. The proposed 2023/24 rate increase of 2.5% then applied these base ‘normalised’ figures in each rate category.

# CPS23.05.23 Monthly Financial Report – April 2023

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting – 23 May 2023 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil. |
| **Report Author** | Stuart Billingham – Manager Financial Services |
| **Director** | Michael Cole – Director Corporate Services |
| **Attachments** | 1. Statement of Financial Activity – 30 April 2023  2. Statement of Net Current Assets – 30 April 2023  3. Statement of Comprehensive Income – 30 April 2023  4. Statement of Financial Position – 30 April 2023  5. Reserve Movements – 30 April 2023  6. Borrowings – 30 April 2023  7. Capital Works Program – 30 April 2023 |

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

Moved – Mayor Argyle

Seconded – Councillor Coghlan

**That the Recommendation be adopted.**

(Printed below for ease of reference)

**CARRIED UNANIMOUSLY EN BLOC 11/-**

**Council Resolution / Recommendation**

**That Council receive the Monthly Financial Report for 30 April 2023.**

**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 April 2023. Please note that the opening position is a preliminary result for the year ended 30 June 2022 as the Financial Statements for 2021/22 are still being finalised and as a result will be subject to change. The municipal closing surplus as at 30 April 2023 is $7,885,110 which is a $8,238,890 favourable variance, compared to a budgeted deficit for the same period of $353,781.

The operating revenue at the end of April 2023 was $34,677,236 which represents a $774,474 unfavourable variance compared to the year-to-date budget, primarily in operating grants, subsidies, and contributions.

The operating expense at the end of April 2023 was $29,918,696, which represents a $1,843,794 favourable variance compared to the year-to-date budget, primarily in employee costs, and materials and contracts.

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

**Operating Activities**

**Operating grants, subsidies, and contributions**

Unfavourable variance of $1,287,672 primarily due to timing of revenue recognition of Nedlands Community Care grants of $783,213.

**Fees and charges**

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

**Service charges**

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

**Interest earnings**

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

**Other revenue**

Favourable variance of $541,684 primarily due to unbudgeted sundry income in civil maintenance.

**Employee costs**

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

**Materials and contracts**

Favourable variance of $1,715,788 primarily due to contract services for parks maintenance $358,724, buildings maintenance of $318,932, arboriculture of $180,409, civil maintenance of $173,512.

**Utility charges**

Unfavourable variance of $110,218 primarily due to timing of water and electricity bills.

**Depreciation and amortisation**

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

**Insurance expenses**

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

**Interest expenses**

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

**Other expenditure**

Unfavourable variance of $130,507 primarily due to timing of sundry purchasing in the Parks Maintenance business unit.

**Loss on disposal of assets**

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

**Investing Activities**

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

Favourable variance of $1,045,125 primarily due to grant revenue recognised ahead of schedule.

**Proceeds from disposal of assets**

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

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

Favourable variance of $742,779 primarily due to timing of purchases.

**Purchase and construction of infrastructure**

Favourable variance of 2,594,999 primarily due to timing of accounts being settled for completed projects.

**Payments for intangible assets**

Favourable variance of $626,819 primarily due to vacant positions within the OneCouncil team and rescheduling of consultant bookings.

**Financing Activities**

**Repayment of borrowings**

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

**Recoup from self-supporting loans**

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

**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 $1,300,438 due to timing of transfers being processed.

**Transfer from reserves**

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

**Rates**

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

Outstanding rates debtors are $1,280,066 as at 30 April 2023 compared to $900,000 as at 30 April 2022. Breakdown as follows:

|  |  |  |  |
| --- | --- | --- | --- |
| **Receivable** | **30-Apr-23 ($)** | **30-Apr-22 ($)** | **Variance ($)** |
| Rates & UGP | 832,201 | 631,000 | 201,201 |
| Rubbish & Pool | 73,850 | 74,000 | (150) |
| Pensioner Rebates | 308,588 | 126,000 | 182,588 |
| ESL | 65,427 | 69,000 | (3,573) |
| **Total** | **1,280,066** | **900,000** | **380,066** |

**Employee Data**

|  |  |
| --- | --- |
| **Description** | **Number** |
| Full time / Part time / Casual - Total Headcount | 182.00 |
| Establishment (Budgeted FTE) | 169.04 |
| Occupied positions (FTE) | 144.18 |
| Casual positions (FTE) | 8.69 |
| Contract employees - temporary/agency (FTE) | 8.00 |
| Resignations (employee number) | 4.00 |

The figures reported are as at the end of the calendar month of April 2023.

**Consultation**

N/A

**Strategic Implications**

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

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

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

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

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

**Budget/Financial Implications**

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

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

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

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

**Legislative and Policy Implications**

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

**Decision Implications**

Nil.

**Conclusion**

The municipal surplus as at 30 April 2023 is $7,885,110 which is favourable, compared to a budgeted deficit for the same period of $353,781 being a 2328.81% variance.

The operating revenue at the end of April 2023 was $34,677,236 which represents a $774,474 or 2.18% unfavourable variance compared to the year-to-date budget of $35,451,710, primarily in operating grants, subsidies, and contributions.

The operating expense at the end of April 2023 was $29,918,696, which represents a $1,843,794 or 5.8% favourable variance compared to the year-to-date budget of $31,762,489, primarily in materials and contracts and employee costs.

**Further Information**

Nil.

# CPS24.05.23 Monthly Investment Report – April 2023

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting – 23 May 2023 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | NIL. |
| **Report Author** | Stuart Billingham – Manager Financial Services |
| **Director** | Michael Cole – Director Corporate Services |
| **Attachments** | 1. Investment Report for the period ended 30 April 2023 |

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

Moved – Mayor Argyle

Seconded – Councillor Coghlan

**That the Recommendation be adopted.**

(Printed below for ease of reference)

**CARRIED UNANIMOUSLY EN BLOC 11/-**

**Council Resolution / Recommendation**

**That Council receive the Investment Report for the period ended 30 April 2023.**

**Voting Requirement**

Simple Majority.

**Purpose**

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

**Background**

Nil.

**Discussion**

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

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

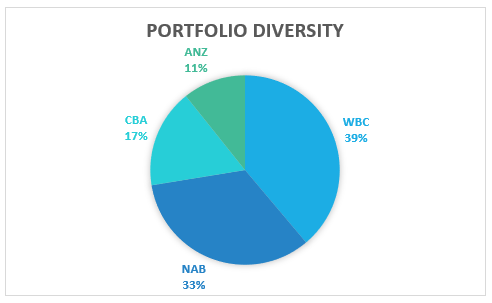
The Investment Summary shows that as at 30 April 2023 and 30 April 2022 the City held the following funds in investments:

|  |  |  |
| --- | --- | --- |
| **Funds** | **30 April 2023** | **30 April 2022** |
| Municipal | $2,132,551 | $14,490,481 |
| Reserve | $8,373,644 | $5,518,211 |
| **Total Investments** | **$10,506,195** | **$20,008,692** |

The total interest earned from investments as at 30 April 2023 was $265,200, comprising of $176,422 received at maturity and $88,778 accrued.

The Investment Portfolio comprises holdings in the following institutions:

|  |  |  |
| --- | --- | --- |
| **Financial Institution** | **Funds Invested** | **Proportion of Portfolio** |
| NAB | $ 3,526,218 | 33% |
| WBC | $ 4,081,602 | 39% |
| ANZ | $ 1,127,107 | 11% |
| CBA | $ 1,771,268 | 17% |
| **Total** | **$ 10,506,195** | **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 April 2023 YTD Actual interest income from investments is $265,200 compared to the April 2023 YTD Budget of $307,633

**Legislative and Policy Implications**

City of Nedlands - Investment of Operating Cash Policy

**Decision Implications**

N/A.

**Conclusion**

The Investment Report is presented to Council.

**Further Information**

Nil.

# CPS25.05.23 List of Accounts Paid – April 2023

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting – 23 May 2023 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil. |
| **Report Author** | Stuart Billingham |
| **Director** | Michael Cole - Director Corporate Services |
| **Attachments** | 1. Creditor Payment Listing – April 2023; and 2. Credit Card and Purchasing Card Payments – April 2023 |

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

Moved – Councillor Senathirajah

Seconded – Councillor McManus

**That the Recommendation be adopted.**

(Printed below for ease of reference)

**CARRIED 10/1**

**(Against: Cr. Mangano)**

**Council Resolution / Recommendation**

**Council receives the List of Accounts Paid for the month of April 2023.**

**Purpose**

The purpose of this report is to present list of accounts paid for the month of April 2023.

**Voting Requirement**

Simple Majority.

**Background**

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

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

**Discussion**

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

**Consultation**

Nil.

**Strategic Implications**

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

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

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

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

**Priority Area**

Nil.

**Budget/Financial Implications**

The payments are made in accordance with the approved budget.

**Legislative and Policy Implications**

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

**Decision Implications**

Nil.

**Conclusion**

The List of Accounts Paid for the months of April 2023 complies with the relevant legislation and can be received by Council (see attachments).

**Further Information**

Nil.

# Reports by the Chief Executive Officer CEO11.05.23

# CEO11.05.23 Election to fill the Elected Member Vacancy – Hollywood Ward

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting – 23 May 2023 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil. |
| **Report Author** | Libby Kania – Coordinator Governance and Risk |
| **CEO** | Bill Parker |
| **Attachments** | 1. Letter from the Electoral Commissioner dated 28 April 2023. |

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

Moved – Mayor Argyle

Seconded – Councillor Coghlan

**That the Recommendation be adopted.**

(Printed below for ease of reference)

**CARRIED UNANIMOUSLY EN BLOC 11/-**

**Council Resolution / Recommendation**

**That Council requests the Chief Executive Officer to write to the Electoral Commissioner of the Western Australian Electoral Commission requesting the Council Member vacancy for the Hollywood Ward remain unfilled until the October 2023 Ordinary Election.**

**Purpose**

This report is provided for Council to consider making a request to the Western Australian Electoral Commission to leave the Hollywood Ward Council Member Vacancy unfilled until the October 2023 Ordinary Election.

**Voting Requirement**

Absolute Majority.

**Background**

On 26 April 2023, Mr Basson tendered his resignation from Council to the Chief Executive Officer (CEO) effective on that date. This has left a vacancy in the Hollywood Ward. Mr Basson’s term of office was due to expire at the October 2023 Local Government Elections.

Any Extraordinary Election held now to fill this vacancy would only be for the balance of this term.

**Discussion**

Section 4.16(4) of the *Local Government Act 1995* provides that a Council may apply to the Electoral Commissioner to have an election for an Extraordinary Vacancy that occurs between the first Saturday in January and the first Saturday in July prior to an Ordinary Election, deferred until that Ordinary Election. Therefore, Council can seek approval from the Western Australian Electoral Commission requesting that this vacancy remain unfilled until the October 2023 Ordinary Election which would be the most cost effective and appropriate course of action.

Advice from the Western Australian Electoral Commission is that the Electoral Commissioner would agree to the vacancy remaining unfilled until the October 2023 Ordinary Election if requested by the City of Nedlands.

Should Council determine that it wants to fill the position, it will need to call an extraordinary election with the Electoral Commissioner conducting the election in accordance with the current Council resolution.

Extract Council Minutes – 23 April 2019 – Item 13.5 Future Elections and Polls to 2023

“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.”

Please note that the earliest date that an extraordinary election may be held is 28 July 2023. On that basis, the term would be for approximately 3 months.

The costs associated with conducting the Extraordinary Election would be approximately $20,000.

In determining whether to proceed to an extraordinary election or to request the Electoral Commissioner to allow the vacancy to remain unfilled until the October 2023 Ordinary Election, Council needs to be aware that a resolution to its Wards and Representation Review submission has not yet been received from the Local Government Advisory Board.

At the Special Council Meeting dated 13 February 2023, Council resolved the following –

That the City of Nedlands Council recommends to the Local Government Advisory Board, in accordance with Schedule 2.2(9) that:

1. The current four ward structure at the City of Nedlands be retained;

2. An order be made that the name of the Coastal Districts Ward be amended to the Coastal Ward, all other ward names be retained;

3. An order be made under s. 2.2(1) for a boundary adjustment between the Coastal and Hollywood Wards as follows:

a. The area bounded by Camelia Avenue to the North, Lantana Avenue to the West, Brockway Road to the East and Alfred Road to the South is moved from the current Coastal Ward to the Hollywood Ward.

4. An order be made under s. 2.18(3) to reduce the number of offices of Elected Member from 13 to 9 – comprised of a Mayor and 8 Councillors, and designates the following number of offices of councillor for each ward: Melvista (2), Hollywood (2), Dalkeith (2) and Coastal (2);

5. Authorises the Chief Executive Officer to prepare a report to be presented to the Local Government Advisory Board proposing that the orders resolved above be made under section 2.2(1) and s. 2.18(3) of the Local Government Act 1995; and

6. In the event that the Minister’s proposed reforms to the Local Government Act 1995 to reduce the number of Council positions for local governments with populations between 5,000 to 75,000, to a maximum number of 9 elected members is not passed by State Parliament in time for the October 2023 Ordinary Local Government Elections, the City of Nedlands withdraws its application to the Local Government Advisory Board in respect to recommendation 4 of the Council resolution dated 13 February 2023, and retains the current representation of 13 elected members with 3 Councillors per each of the 4 wards for the 2023 election.

CARRIED BY ABSOLUTE MAJORITY 8/4

(Against: Mayor Argyle Crs. Bennett Mangano Youngman)

As the City did not provide a method on how the number of Council offices was to be reduced, it is open for the Minister to consider a complete spill at the 2023 Ordinary Election or that the number of council positions be reduced over one or two election cycles. As the term for this vacancy ends in October 2023 and it is the only expected vacancy in the Hollywood Ward at the October Ordinary election, it may be open to the Minister to recommend the office be permanently vacated, thereby achieving a reduction in the number of council positions for that Ward from three to two. This aligns with the Council resolution above. This is based on an assumption that the Minister does not recommend a complete spill of council offices.

Officers have contacted the Local Government Advisory Board as to the likely date for a determination on the City’s submission. It is expected that this will occur once the legislation has passed through Parliament.

It is deemed appropriate for Council to determine not to fill the vacancy based on the considerations provided above. Council should note that there is less than 6 months until the Ordinary Elections, and an extraordinary election held in July would be for the remainder of the term, which would be three (3) months. The conduct of an extraordinary election for this period might be considered by the community as an unnecessary expenditure. Further, the City has a precedence for allowing vacancies to remain unfilled for a period of time, and indeed, this has occurred in the Hollywood Ward in the past.

**Consultation**

As this is a requirement under the *Local Government Act 1995* the decision only requires consultation with the Western Australian Electoral Commission (WAEC) and Council.

Administration have consulted with the Western Australian Electoral Commission who have advised that the Commissioner will grant approval for the Hollywood Ward Council Member vacancy to remain unfilled until the October 2023 Ordinary Election.

The necessary consultation and advertising required to run the election is set out in Part 4 of the Act and will be the responsibility of the returning officer appointed by the Western Australian Electoral Commission.

**Strategic Implications**

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

**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**

Holding an extraordinary election in the next financial year 2023/24 would mean that approximately $20,000 would need to be included in the Annual Budget for 2023/24 in addition to the costs for the Ordinary Election which is to be held in October 2023. Should Council resolve to request the vacancy remain unfilled until the Ordinary Election in October 2023 then this would already be included in the 2023/24 annual budget as the vacancy formed part of the WAEC’s costings for the Ordinary Election.

**Legislative and Policy Implications**

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

4.9. Election day for extraordinary election

1. Any poll needed for an extraordinary election is to be held on a day decided on and fixed —

(a) by the mayor or president, in writing, if a day has not already been fixed under paragraph (b); or

(b) by the council at a meeting held within one month after the vacancy occurs, if a day has not already been fixed under paragraph (a).

1. The election day fixed for an extraordinary election is to be a day that allows enough time for the electoral requirements to be complied with but, unless the Electoral Commissioner approves or section 4.10(b) applies, it cannot be later than 4 months after the vacancy occurs.
2. If at the end of one month after the vacancy occurs an election day has not been fixed, the CEO is to notify the Electoral Commissioner and the Electoral Commissioner is to —

(a) fix a day for the holding of the poll that allows enough time for the electoral requirements to be complied with; and

(b) advise the CEO of the day fixed.

6.8. Expenditure from municipal fund not included in annual budget

1. A local government is not to incur expenditure from its municipal fund for an additional purpose except where the expenditure —
2. is incurred in a financial year before the adoption of the annual budget by the local government; or
3. is authorised in advance by resolution\*; or
4. is authorised in advance by the mayor or president in an emergency.

**Decision Implications**

The holding of elections is highly regulated by the *Local Government Act 1995*, consequently, there is a risk of the City being non-compliant if it does not act expediently to arrange the extraordinary election or request for the vacancy to remain unfilled until the October 2023 Ordinary Election.

**Conclusion**

In conclusion, there is under six (6) months until the October 2023 Ordinary Election therefore, due to the extremely tight timeframes and advice from the Western Australian Electoral Commission, Administration is recommending that Council make a request to the Electoral Commission to leave the Council Member Vacancy in the Hollywood Ward unfilled until the October 2023 Ordinary Election.

**Further Information**

Nil.

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

# Mayor Argyle – Waste Management

In accordance with Clause 3.9 of the *City of Nedlands Standing Orders Local Law* on the 8 May 2023, Mayor Argyle gave notice of her intention to move the following motion.

Moved – Mayor Argyle

Seconded – Councillor Coghlan

**Council Resolution**

**That Council:**

* + - 1. **agree to join the Western Metropolitan Regional Council (WMRC) community recycling waste treatment service as an affiliate member for the 2023/2024 period;**
      2. **agree to add the $8 annual charge to the waste management component of the 2023/2024 rates, fees and charges and**
      3. **agree to review the City’s waste management strategy with the commitment and plan to reduce and divert 91% of waste out of landfill by 30 November 2023.**

**CARRIED 7/4**

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

Justification

The City of Nedlands is not an affiliate of the Western Metropolitan Regional Council (WMRC). Therefore, residents are currently paying a gate fee of $25 per visit to the WMRC rather than a one-off annual payment of $8. The $25 fee may act as a deterrent to residents recycling their household waste.

The charge penalises environmentally responsible residents. It can lead to residents inappropriately disposing of waste via the red ‘general waste’ bin and FOGO bins. In turn, this increases the waste disposal costs, increasing waste that goes to landfill and detracts from our UN Sustainable Development Goals. The services offered by the WMRC cover a host of materials for which the City currently has no service and for which it would make no economic sense for the City to duplicate.

Administration Comment

**Financial Notes:**

* WMRC has not provided the City with details on the number of Nedlands’ residents who are currently using the West Metro Recycling Centre, nor whether they are repeat customers.
* From information provided by WMRC in communications with the City, it is estimated that approximately 1,230 visits are made by Nedlands’ residents per annum who pay an entry fee of $25 per visit. This equates to an average of three City of Nedlands’ residents per day.
* The total fee paid by Nedlands’ residents is estimated to be $30,750 in this manner.
* Under the Participating Council Model, the City will be paying $75,594 in year 1, with the total cost to grow in line with Perth CPI and the number of dwellings within the City.
* The fee proposed is $8.69, as per correspondence from WMRC dated 26/04/2023
* To deem the service as cost neutral, 3,024 visits will be required by Nedlands’ residents to order to reduce the equivalent cost per visit to below the current price of $25.
* The offer of the service moves away from a user pays approach, where those who do not use the service will be subsidising those who do.
* Fees will still apply for disposal of green waste, general waste, construction and demolition was as well as other material at the same rate as non-participating council, with only the entry fee being waived.
* WMRC indicate that there is cost and labour associated with checking residence and taking entry fees, however, aspects of this would still be required for all users.

**Service Provision Notes:**

* The City currently provides disposal of the majority of materials taken by the WMRC facility excluding Household Hazardous Waste (HHW). While the WMRC does take HHW, this service is funded by the state government across Western Australia to allow for safe hazardous waste disposal.
* General Waste, Green Waste, Mattresses and E-Waste are currently collected via the City’s twice annual bulk collection service.
* Following the introduction of FOGO, the City of Nedlands has achieved one of the highest diversion rates for kerbside waste in the state at approximately 68%. The diversion rate on our bulk waste collection is approximately 78%.
* The City is shortly releasing the tender for bulk waste collection to market requesting price options for on demand collection which will be presented to council for a decision.
* Achieving a diversion rate over 90% will require the redirection of the City’s kerbside general waste stream to a waste to energy facility. Administration have prepared for this as a future possibility, with the city’s current kerbside collection and disposal contract allowing for the switch when the facility comes online.
* This facility is still under construction and not under the direct control of the City or the City’s contractors. The latest estimate administration has received is that the facility will be operational and, in a position to accept the City’s kerbside general waste in early 2024, making a target date of 91% diversion in November 2023 unfeasible and outside of the City’s direct control.

**General Notes:**

* If council wishes to move away from the existing user pays approach whilst still offering this service, it is recommended by administration that an alternative entry fee rebate model is investigated prior to making a commitment to join WMRC as a Participating Council. The City could simply re-imburse the WMRC for actual City of Nedlands visitation at the cost of $25 per entry. This would effectively provide free entry to the site as offered under the participating council proposal, while providing data on the usage by our residents. This will allow an informed decision to be made over the longer term.
* If this provision is added to any adopted waste charge, and there was a 50% increase in estimated patronage, a cost increase of $5.30 will be passed on to residents – below the value requested from the WMRC.
* The offer proposed in the original notice of motion indicates ‘joining’ the WMRC, however this would be in the capacity of a participating Council, taking up an offer, and not full membership, and all the aspects and implications that brings. Such a decision would require far further deliberation.

Alternative Motion Wording:

That Council:

1. decline to join the Western Metropolitan Regional Council (WMRC) community recycling waste treatment service as a Participating Council for the 2023/2024 period;
2. provision an item in the 2023-24 waste budget to meet the cost of entry on behalf of City of Nedlands’ residents to access the Western Metropolitan Recycling Centre;
3. consider an addition of $5.30 into the annual charge to the waste management component of the 2023-2024 rates, fees and charges to meet the cost of the access; and
4. seek to transition to waste to energy as soon as practicable in an effort to improve recovery and diversion rates for the City’s waste.

# Mayor Argyle – Stirling Highway Pedestrian Connectivity

In accordance with Clause 3.9 of the *City of Nedlands Standing Orders Local Law* on the 9 May 2023, Mayor Argyle gave notice of her intention to move the following motion.

Moved – Mayor Argyle

Seconded – Councillor Coghlan

**Council Resolution**

**That Council:**

* + - 1. **agree to support an advocacy position to improve safe connectivity for non-motorised traffic across Stirling Highway, linking the northern and southern wards of the City as in underpasses; and**
      2. **agree to direct the Mayor and CEO to liaise with the relevant stakeholders to explore potential connectivity points linking the northern and southern wards of the City by way of an underpass, traffic trench or similar.**

**CARRIED UNANIMOUSLY 11/-**

Justification

With a four-lane single carriageway, Stirling Highway is considered a major arterial road that divides the northern and southern wards of the City of Nedlands.

There are currently two intersections with traffic lights (Dalkeith Road and Hampden Road/ Broadway) that allow supposedly safe crossing for pedestrians. However, it can be argued that these crossings are not safe, with large volumes of traffic travelling at speeds of 60km/h. These crossings are particularly dangerous to navigate for children, the elderly and people living with a physical disability.

Exploring potential connectivity points linking the northern and southern wards of the City by way of an underpass, traffic trench or similar will provide residents of the City, safe and sustainable ways of moving around the City for work, school, shopping and recreation.

Administration Comment

* The City is currently in the process of compiling an Integrated Transport Strategy which will identify a list of potential initiatives, projects and approaches to improve transport and connectivity throughout the City.
* Although still in development the ITS has already identified built and natural barriers for connectivity, such as the Swan River, the Fremantle railway line and Stirling Highway. These barriers feature prominently and positions and recommendations pertaining to improvements are expected.
* The City adopting a position as proposed would reiterate the importance of north/south connectivity along Stirling Highway, in effect pre-empting and enforcing its consideration in the ITS document. It would also permit the City to begin earlier engagement which may also help inform the ITS.
* The addition of possible solutions, including an underpass, and a traffic trench (as indicated below in figure 1.) or ‘similar’ gives Officers greater flexibility when engaging with stakeholders as to what may be possible or not in certain locations. It also provides the ability to consider potential solutions which the City is unaware of or not yet considered that might still contribute to the position of the Council.



Figure 2: Proposed Traffic Trench Concept - West Coast Highway

As such, the Officers support the Notice of Motion as written.

# Councillor Mangano – Weekly Report on planting of 1000 trees

In accordance with Clause 3.9 of the *City of Nedlands Standing Orders Local Law* on the 11 May 2023, Councillor Mangano gave notice of his intention to move the following motion.

Moved – Councillor Mangano

Seconded – Councillor Smyth

That Council instructs the CEO to report weekly on the planting of 1000 trees this winter in the CEO Weekly Update with weekly and cumulative totals.

Amendment

Moved - Councillor McManus

Seconded - Councillor Combes

That the word “instructs” be replaced with “requests” and “weekly” be replaced with “fortnightly”.

The AMENDMENT was PUT and was

Lost 5/6

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

The Oringal Motion be PUT and was

Lost 4/7

(Against: Crs. Brackenridge Coghlan Senathirajah Amiry McManus Smyth & Combes)

**The Presiding Member adjourned the meeting for 5 minutes for the purposes of a refreshment break.**

The meeting adjourned at 9.20 pm and reconvened at 9.25 pm with the following people in attendance:

**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 (from 9.27 pm) Dalkeith Ward

Vacant 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 M K MacPherson Director Technical Services

Mrs N M Ceric Executive Officer

Ms L J Kania Coordinator Governance & Risk

**Public** There were 1 member of the public present and 1 online.

**Press** The Post and Perth Now Newspaper Representatives.

**Leave of Absence** Councillor N R Youngman Dalkeith Ward

**(Previously Approved)**

**Apologies** Nil.

Moved – Councillor Bennett

Seconded – Councillor Amiry

**Council Resolution**

**That Council request the CEO to schedule a concept forum in early August 2023 to discuss a revision of the City’s Urban Forest Strategy while considering associated City policies, strategies and documentation that directly relate to tree canopy.**

**CARRIED UNANIMOUSLY 10/-**

Councillor Mangano returned to the meeting at 9.27pm.

Justication

1. Elected memebrs and the community have concerns that the 1000 trees will not be planted this winter.
2. Rains have alreaded started falling.
3. There are many verges in Nedlands with no street trees.

Administration Comment

The officers have considered the notice of motion and provide the following comments.

* The February Notice of Motion adopted the planting of 1000 trees annually to commence in the 2023/24 planting season. Future planting will require budget being approved in the annual budget process.
* The first year was to be met with 1000 endemic species seedlings in the 2023 planting season with seedling species donated by the Mayor and targeting streetscapes only, with locations to be found that suit the already selected species provided.

* During the week of the February meeting, the officer responsible for the tree planting program resigned and left the organisation days later, with the role being recruited for until early May – a critical period for tree planting and future planning.

* With regard to the 1000 seedling planting programme the City has undertaken an initial procurement process to seek resources to complete these works. This initial approach to disability service providers for the required, trained labour for works in the road reserve was unsuccessful due to availability and the works are now being re-tendered via the WALGA Preferred Supplier Panels.

* Tree planting is currently reported in the CEO Weekly Update in the first week of each month in the Public Realm Trees section. Details of the 1000 seedlings initiative are reported in the third week of each month via the CEO Weekly Update (Parks section).

* If greater reporting frequency is required, it is recommended that both initiatives are reported in both the 1st (Arboricultural) and 3rd (Parks) week of each month. This would be preferred from a resourcing perspective, as it is considered that the limited officer time is better spend on progressing the both the tree planting program and additional 1000 seedlings given the additional targets set late in the financial year.

* The City’s annual tree planting program has also begun, with adjacent owners engaged and planting underway.

As long-term assets, tree planting actions are best considered strategically. The City’s Urban Forest Strategy 2018-2023 is due to expire at the end of 2023 and is overdue for review. This would consider long term implications, resourcing and targeting can be considered as part of the overarching strategy as opposed to being supplemented ad-hoc. These can then be aligned in service plans and budgets for proper planning. It will also help provide an opportunity review the actions, what has worked and what could be done better. The current forecast planting figures for street trees remains in accordance with the Urban Forest Strategy.

# Councillor Mangano – Report and Protection of Tram Stop Rotunda

In accordance with Clause 3.9 of the *City of Nedlands Standing Orders Local Law* on the 11 May 2023, Councillor Mangano gave notice of his intention to move the following motion.

Moved – Councillor Mangano

Seconded – Councillor Bennett

**Council Resolution**

**That the CEO is directed to provide a report with 3 quotes to Council by June OCM to repair the rotunda in Shirley Fyfe Park, and to protect it from further damage immediately, and to consider it for listing on the CoN Heritage inventory.**

**CARRIED 6/5**

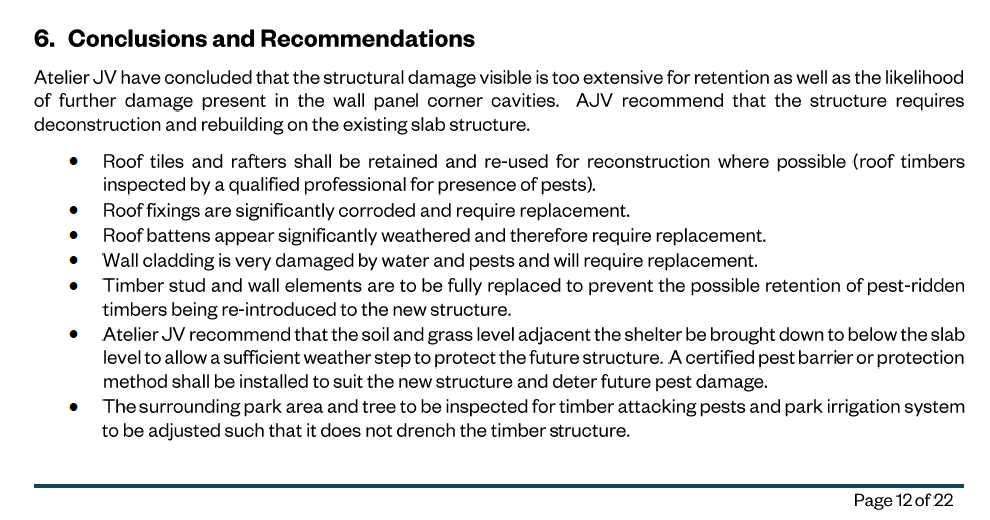
**(Against: Crs. Senathirajah Amiry McManus Combes & Hodsdon)**

Justification

1. The Rotunda is nearly 100 years and was a tram stop in the early days of Nedlands/Dalkeith.
2. The City of Nedlands has not revised its Heritage inventory since 2012 (adopted 2018).
3. The damage is not beyond repair.

Administration Comment

The City commissioned a report on the structure and its possible retention, with the findings being as indicated below:



* Given the size and dimensions, as well as replacement elements being structural in nature, it is almost certain that a building permit will be required.
* A building permit will also require submission of drawings which the City does not have.
* Such new drawings would also allow more modern updates which might extend longevity of a like for like structure – e.g., better pest resistance.
* A scope of work for a suitably qualified structural engineer has been priced at $8,740, including design and documentation.
* Procurement of a contractor to undertake the works would then follow should a budget provision be allocated.
* Currently the City has a transition of procurement staff, and thus all procurement undertakings are experiencing a backlog. Addition to this will see other projects being delayed.
* It is the officer’s opinion that bespoke heritage structures are increasingly more costly and difficult to maintain, and that as opposed to a bespoke, heritage style structure with modern improvements, an off the shelf gazebo with heritage elements inclusive of heritage signage, paying homage to the current structure would be more financially prudent whilst acknowledging history.
* It is the officer’s opinion that the structure be removed, assessment made to which elements could be re-used, and a largely ‘off the shelf’ product be budgeted for installation in 2023-24 including as many of the original elements and materials as possible.
* If the Council desire to retain a heritage structure for reasons outside the information provided, an alternative wording to the motion directing the aforementioned scope of work to be pursued in the first instance (along with a budget allocation) would be advisable as opposed to undertaking procurement for a non-listed project.
* The Structural Report from February 2023 has been attached for additional information. (Confidential attachment 1).

# Councillor Mangano – Deep Soil Planting Areas on R10-R35

In accordance with Clause 3.9 of the *City of Nedlands Standing Orders Local Law* on the 12 May 2023, Councillor Mangano gave notice of his intention to move the following motion.

Moved – Councillor Mangano

Seconded – Lapsed for want of a seconder

That the CEO is directed to produce a report for the June OCM detailing a minimum of 30% deep soil planting area on R10-R35 sites, with a minimum width of 3m.

Justification

1. To maximise the opportunity for trees to be planted
2. To encourage the retention of trees on sites being rebuilt
3. To provide buffer zones between neighbouring properties, and the street
4. To reduce the amount of hard surfaces to allow better drainage on properties
5. To reduce the amount of heat reflected from hard surfaces.

Administration Comment

The State Government has recently released an updated version of Volume 1 of the Residential Design Codes (R-Codes) which incorporates a Part C Medium Density provisions. This section addresses single and group dwellings for densities of R30 and above and for multiple dwellings within the R30 to R60 range. These new provisions take effect as of 1 September 2023. This new section of the R-Codes Volume 1 contains section relating to “The Garden” which includes sub section relating to Private Open Space (section 1.1), Trees and Landscaping (section 1.2) and Communal Open Space (section 1.3), with these sections referring to primary garden areas, private open space, landscaping, soft landscaping and deep soil areas.

It’s important to note that the Volume 1 R-Codes as of 1 September 2023 will contain definitions relating to:

* Deep Soil Area
* Landscape/Landscaping/Landscaped
* Open Space
* Primary Garden Area
* Private Open Space and
* Soft landscaping

The new Part C section of the R-Codes as a Deemed to Comply provision require a minimum 15 per cent soft landscaping (clause C1.2.1) and for 30 per cent soft landscaping in the primary street setback area (clause C1.2.2). In terms of landscaping this is a significant improvement on the current requirements, and it would be reason to expect improved landscaping outcomes as a result.

Any changes to the provisions proposed to be introduced from 1 September for the R30 and above lots will require WAPC approval and are unlikely to be successful. It is recommended that Council not focus on the lots covered by the new Part C section of Volume 1 of the R-Codes at this point in time.

Part B of Volume 1 of the R-Codes as of 1 September 2023 will address development at R25 and below. These provisions are unchanged from the current Volume 1 of the R-Codes and thus are limited with respect to their provisions relating to landscaping.

Improvements to the landscaping requirements for lots R25 and below may well be worth pursing and will also require the approval of the WAPC.

The most appropriate approach to address the Notice of Motion would be the preparation of a Discussion Paper to be presented at a Concept Forum.

The priorities for the Urban planning team currently are:

* Proposed Scheme Amendment 13 (height along Stirling Highway)
* The Public Open Space Strategy and Policy
* Updating the existing Residential Policies following the release of the new Volume 1 R-Codes to take effect from 1 September 2023
* A review of all existing Local Planning Policies

A Discussion Paper would not be able to be presented at a Concept Forum to August, noting that Council caretaker provisions will take effect prior to the October Local Government elections.

Officers suggest that Council consider the following as an alternative:

That the Chief Executive Officer be requested to present at a Concept Forum a Discussion Paper exploring the options open to Council to require additional soft landscaping / deep soil areas for developments on R25 and below lots.

# Urgent Business Approved By the Presiding Member or By Decision

The following urgent items were approved by the Presiding Member.

# CEO12.05.23 Outstanding Council Resolutions Update – April 2023

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting – 23 May 2023 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | No officer involved in the preparation of this report has a declarable interest. |
| **Report Author** | Libby Kania – Coordinator Governance and Risk |
| **Director/CEO** | Bill Parker - CEO |
| **Attachments** | 1. Register of Outstanding Council Resolutions |

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

Moved – Councillor Senathirajah

Seconded – Councillor McManus

**That the Recommendation be adopted.**

(Printed below for ease of reference)

**CARRIED 10/1**

**(Against: Cr. Mangano)**

**Council Resolution / Recommendation**

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

**Purpose**

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

**Voting Requirement**

Simple Majority.

**Background**

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

**Discussion**

Attached to the Council report is the register of OCRs for Council’s noting and consideration.

The report has been updated by officers when required.

Information will be periodically provided to Councillors on previous resolutions of Council that:

(i) have been completed since the last update and

(ii) have not yet been fully implemented. Reasons for any delays or unforeseen challenges are included.

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

**Consultation**

Nil.

**Strategic Implications**

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

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

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

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

**Budget/Financial Implications**

Nil.

**Legislative and Policy Implications**

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

**Decision Implications**

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

**Conclusion**

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

**Further Information**

Nil.

# PD22.05.23 Consideration of Responsible Authority Report for Sporting Facility at Lot 1500 Brockway, Mt Claremont

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting – 23 May 2023 |
| **Applicant** | Taylor Burrell Barnett |
| **Information Provided** | All relevant information required for this assessment has been provided by the applicant |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | The author, reviewers and authoriser of this report declare they have no financial or impartiality interest with this matter.  There is no financial or personal relationship between City staff involved in the preparation of this report and the proponents or their consultants. |
| **Report Author** | Nathan Blumenthal – A/Manager Urban Planning |
| **Director** | Tony Free – Director Planning and Development |
| **Attachments** | 1. Responsible Authority Report and Attachments |

Moved – Councillor McManus

Seconded – Councillor Senathirajah

**That the Recommendation be adopted.**

(Printed below for ease of reference)

Amendment

Moved - Councillor Bennett

Seconded – Mayor Argyle

**That the additional reason be added as follows:**

**c) To provide an amended landscaping design consisting of:**

* **more densely planted tree corridors surrounding the entire playing perimeter consisting of the large endemic tree species marri, jarrah and tuart;**
* **increased planting around hard surfaces to reduce urban heat island effect, particularly in the car and bus parking areas.**

**The AMENDMENT was PUT and was**

**CARRIED UNANIMOUSLY 11/-**

Amendment

Moved - Councillor Smyth

Seconded - Councillor Amiry

**That includes a condition to be added as follows:**

**That Christ Church Grammar School are responsible for the cost of the future dual use path to the satisfaction of the City of Nedlands.**

**The AMENDMENT was PUT and was**

**CARRIED UNANIMOUSLY 11/-**

**The Substantive was PUT and was**

**CARRIED UNANIMOUSLY 11/-**

**Council Resolution**

**That Council adopts as the Responsible Authority the Officer Recommendation contained in the Responsible Authority Report for the development of a Sporting Facility at Lot 1500 Brockway Road, Mt Claremont as follows:**

1. **Defer DAP Application reference DAP/22/02361 and accompanying plans date stamped 31 January 2023 (Attachment 2) for 120 days in accordance with section 5.10.1a of the DAP Standing Orders 2020, for the following reasons:**
2. **To enable the applicant to provide a written agreement between the beneficiary of Easement I956057 (Roman Catholic Archbishop of Perth) and the landowner of Lot 1500 Brockway Road demonstrating support for the location of the development and any relevant conditions; and/or**
3. **To provide amended plans which ensure all proposed development does not impact upon Easement I956057;**
4. **To provide an amended landscaping design consisting of:**

* **more densely planted tree corridors surrounding the entire playing perimeter consisting of the large endemic tree species marri, jarrah and tuart;**
* **increased planting around hard surfaces to reduce urban heat island effect, particularly in the car and bus parking areas.**

1. **That Christ Church Grammar School are responsible for the cost of the future dual use path to the satisfaction of the City of Nedlands.**

Recommendation

That Council adopts as the Responsible Authority the Officer Recommendation contained in the Responsible Authority Report for the development of a Sporting Facility at Lot 1500 Brockway Road, Mt Claremont as follows:

1. Defer DAP Application reference DAP/22/02361 and accompanying plans date stamped 31 January 2023 (Attachment 2) for 120 days in accordance with section 5.10.1a of the DAP Standing Orders 2020, for the following reasons:
2. To enable the applicant to provide a written agreement between the beneficiary of Easement I956057 (Roman Catholic Archbishop of Perth) and the landowner of Lot 1500 Brockway Road demonstrating support for the location of the development and any relevant conditions; and/or
3. To provide amended plans which ensure all proposed development does not impact upon Easement I956057.

**Purpose**

The purpose of this report is for Council to consider the Development Assessment Panel application for a Sporting Facility at Lot 1500 Brockway Road, Mt Claremont. 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 24 May 2023.

**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**

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| --- | --- |
| **Metropolitan Region Scheme Zone** | Urban |
| **Local Planning Scheme Zone** | Urban Development |
| **Land area** | 15.17ha |
| **Land Use** | Recreation - Private |
| **Use Class** | N/A |

The application proposes a new sporting facility for Christ Church Grammar School (CCGS) consisting of:

* A two-storey sports pavilion containing spectator seating, a function room, kitchen, classroom, office, equipment storeroom, changerooms, bathrooms and a raised terrace.
* A single storey storage shed and office.
* Car parking area with 147 car bays and 10 bus bays.
* Playing fields

**Site Context**

The subject site has an area of 15.17 hectares and is presently vacant. The sole vehicular access to the site is obtained via Brockway Road to the east. The site is bound by existing CCGS playing fields to the west, John XXIII Catholic College to the south, a Western Power sub-station and telecommunications depot to the south-east, and Challenge Stadium to the north.

Prior to acquisition of the site by CCGS, the site was owned by the State Government. The site was used for operations of the Brockway Landfill facility. The site was sold to CCGS to provide a consolidated sporting facility for CCGS and the local community.

**Shared User Agreement**

As part of the negotiations in the acquisition of the land, CCGS approached the City requesting the City’s endorsement for their acquisition of the site for the purposes of playing fields. In seeking the City’s endorsement, CCGS proposed that access to the future playing fields and associated facilities would be made available to the general public and community sports clubs for training and competition outside of the times the school is required to use the facilities. This proposal was formalised in 2020 via the ‘Deed of Agreement for Access to Playing Fields – Brockway Playing Fields’. The deed sets out the conditions and obligations for both the City and CCGS in using the playing fields. It should be noted that this deed relates only to public use of the playing fields and does not relate to use of the proposed pavilions and sheds.

**School Sports Circuit**

The School Sports Circuit (SSC) is a project which was initiated in 2014. The project is intended to link schools and sporting facilities in the western suburbs by way of a 3m wide sealed accessible pathway. The proposed SSC is approximately 12.8km in length and covers areas throughout Mt Claremont in the City of Nedlands, Town of Claremont and the Town of Cambridge. A section of the SSC route runs through the west of the subject site. An easement has been created for the SSC as shown on the Deposited Plan. The proposed playing fields and structures have no impact upon the SSC easement.

**Discussion**

The proposal has been assessed against all relevant legislative requirements including Local Planning Scheme No.3 (LPS3), State Planning Policies and Local Planning Policies. The matters below have been identified as key considerations for the determination of this application.

* Objectives of the zone & strategic intent for the site.
* Parking.
* Easement I956057.

**Objectives of the zone & strategic intent for the site**

There are currently no approved structures plans, activity centre plans or local development plans that have been approved by the Western Australian Planning Commission as part of LPS3, which would ordinarily provide a coordinated response to this development area.

On that basis, the development is assessed on the merits and intent for the site as per the objectives of the “Urban Development” zone and the and additional provisions of Clause 36.

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| **Table 1: LPS 3 Clause 36 Assessment** | |
| **Objective** | **Assessment** |
| To prevent the introduction and intensification of land uses or development which would be incompatible with:   * Ongoing operation of the Subiaco Wastewater Treatment Plant. * Expansion of the capacity of the treatment plant to support population growth in the catchment; and * Establishment and operation of resource recovery infrastructure and land uses. | **Satisfied**  The site is currently vacant and thereby the proposal does present an intensification of land use. The proposal is consistent with the purposes for which the land was sold to CCGS and is not considered to impede the operation of the wastewater treatment plant, nor the establishment and operation of resource recovery infrastructure land uses. |
| To facilitate the use and development of land for uses which are beneficial to the operation of the Subiaco Wastewater Treatment Plant and the surrounding catchment. | **Satisfied**  The proposal will have negligible impact on the operation of the Subiaco Wastewater Treatment Plant. |
| To prevent adverse impacts on residential and other sensitive uses. | **Satisfied**  The pavilion building is located approximately 350m from the nearest residential properties on Blenheim Lane. The applicant has adequately demonstrated that the proposed lighting of the pavilion and sporting fields will comply with *AS 4282 Control of the obtrusive effects of outdoor lighting.* Further a condition of approval is recommended requiring the provision of a Noise Management Plan for the operation of the pavilion space, to ensure noise emissions comply with the *Environmental Protection (Noise) Regulations 1997.* In this regard the proposal has been effectively designed to minimise the impact on nearby residential properties. |
| **Additional Provisions** | **Assessment** |
| 1. No residential or other sensitive land uses as defined by EPA Guidance Statement No. 3 (Separation Distances Between Industrial and Sensitive Land Uses, June 2005) are to be located in the Subiaco Waste Water Treatment Plan odour buffer. | **Satisfied**  The application proposes a ‘Recreation-private’ land use in association with sporting playing fields and clubrooms. This is not defined as a sensitive by the EPA Guidance Statement No. 3. |
| 1. In considering any application for development approval, scheme amendment request, structure plan, local development plan or subdivision application, and in addition to the matters listed in clause 67 of the deemed provisions, the local government shall have regard to the following:    1. the recommendations of the Water Corporation and Department of Environment Regulation; and    2. potential odour impact of the waste water treatment plant and whether the proposal is compatible with the existing and proposed future use of the plant. | **Satisfied**  The application was referred to the Water Corporation and the Department of Water and Environmental Regulation as detailed in the RAR. Consideration has been given to the comments received and relevant conditions and advice notes have been recommended. |
| 1. A structure plan, activity centre plan, local development plan and/or scheme amendment proposal is to provide a current odour modelling technical report to review and confirm the boundaries of the odour buffer. | **Not Applicable**  No proposed Structure Plan, Activity Centre Plan, Local Development Plan or Scheme Amendment is proposed. |

**Parking**

The City’s Local Planning Policy – Parking (Parking LPP) requires a minimum of “1 car bay per 2 persons” for the ‘Recreation – private’ land use. It is acknowledged that the Parking LPP is silent on if this refers to the number of persons on site at any one time, or the number of persons accessing the site over a specified period of time.

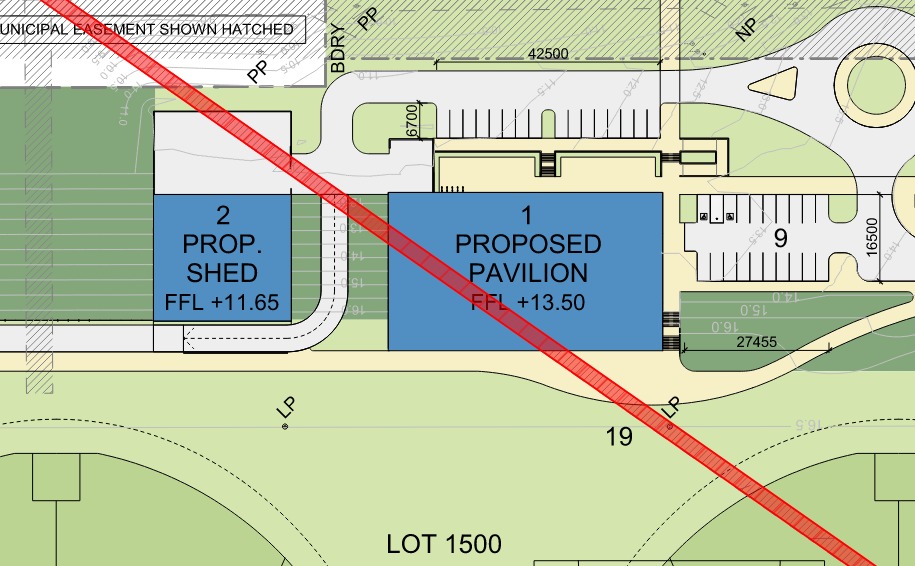
The applicant’s reports indicate that at peak usage, 700 people would be accessing the facilities. This occurs over a 4-hour period on Friday afternoons and over 5-hour period on Saturday mornings. However, it is estimated that approximately only 140 people would be using the facilities at any one time. This is estimated based on three AFL games being played at once. Given the above, the parking provision required by the Parking LPP could vary between 70 car bays and 350 car bays.

The application proposes 147 car bays and 10 bus bays. Irrespective of the interpretation of the Parking LPP, the proposed parking is considered appropriate for the following reasons:

* Given that the playing fields are associated with a High School, it is anticipated that a high number of users of the site would include students and staff, who would access the site via bus, as opposed to individual private vehicles.
* The parking provision proposed is commensurate with similar scale High School Sporting Facilities within Perth.
* In any scenario of which may induce excessive parking demand, such as a special event or fixturing abnormality, it is noted that there is sufficient space around the playing fields for overflow parking to occur on grassed areas.

**Easement I956057**

The site is burdened by Easement I956057 which runs diagonally across the site from north-west to south-east. The easement is to the benefit of Roman Catholic Archbishop of Perth (John XXIII College) and sits above an underground water pipe. A portion of the proposed pavilion and two light poles are proposed to be located directly above the easement (refer to **Figure 1**).

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**Figure 1:** Location of easement in red.

Without the consent of the easement beneficiary, John XXIII College, the pavilion would not be able to be built in its proposed location. The pavilion is not able to be simply shifted to avoid the easement without impacting on the proposed car parking area, and the urban design master planning to ensure the ability to provide road connections through to UWA Sports park in the future.

The applicant has requested that this issue be resolved via a condition of approval. Officers are of the opinion that a condition to this effect would not be a valid planning condition. To be a valid planning condition, a condition must be certain and final. A condition is considered to lack finality when it leaves open a requirement to obtain a further approval, particularly in instances where the approval might change important aspects of the approval. As above, the applicants requested condition leaves open a requirement to obtain a further approval from John XXIII College. Were the applicant not able to obtain the approval of John XXIII College, this would either make the development unbuildable, or would substantially change the development applied for.

To impose such a condition, the decision maker must have a reasonable degree of certainty that an agreement between the two relevant parties will be reached. To establish this certainty, on 19 December 2022 a written agreement between the relevant parties was requested, demonstrating support for the location of the development and any relevant conditions. To date, this has not been provided. It is noted that a formal objection to the proposal was submitted on behalf of John XXIII College during the public consultation period. Officers have contacted John XXIII College directly to query if they would agree to a condition of approval. However, no conclusive response was provided. Considering the above, it is recommended that the JDAP defer determination of the application to allow for an agreement to be reached between the two parties, or alternatively for amendments to the plans to ensure the easement is not impacted.

**Consultation**

**Public Consultation**

In accordance with the deemed provisions and the City’s Local Planning Policy – Consultation of Planning Proposals, the development was advertised for a period of 28 days from 11 November 2022 to 9 December 2022. The public consultation consisted of:

* Letters sent to all landowners and occupiers within a 200m radius of the 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 18 November 2022;
* A Social media post was made on one of the City’s Social Media platforms;
* A notice was affixed to the City’s Noticeboard at the City’s Administration Offices; and
* A community information session was made available on 24 November 2022, however no residents were present.

At the close of the advertising period, the City received eight submissions; two opposing the proposal, two in support and four providing comments only. A summary of the submissions is provided in **Table 2.**

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| **Table 2: Summary of Submissions** | |
| **Issue** | **Response** |
| The driveway from Brockway Road should be a gazetted road / potential thoroughfare between Brockway Road and Stephenson Avenue / Provide access through to McGillivray oval (UWA Sports park) | No new road connections are proposed via this application. The proposal has been designed to ensure that there is the ability to provide road connections through to UWA Sports park and/or Stephenson Road in the future, subject to negotiations with adjoining landowners. It is noted that the subject site is held in freehold and there is currently no planning framework to require that land be ceded for new gazetted roads. |
| Pedestrian access / Access form Blenheim Lane | Pedestrian access through the site to UWA Sports Park is to be provided via a public access easement pursuant to the SSC.  The subject site does not abut Blenheim Lane. Notwithstanding, its noted that the City is separately negotiating an access license agreement to link Blenheim with the SSC. |
| Concerns with light spill from light towers. | The applicant has provided a light spill memorandum which confirms lighting will uniformly illuminate the playing fields and will minimise light spill to adjoining residences. Further a condition on any approval will ensure compliance. |
| Concerns with parking and traffic | The applicant has provided a Transport Impact Assessment which adequately demonstrates that the proposed parking provision is appropriate to the scale of the development, and that the traffic generation from the development will not unduly impact the surrounding road network. The City accepts the findings within the report. |
| Concerns with noise from functions | Should the application be approved, a condition is recommended requiring the provision of a Noise Management Plan for the operation of the pavilion space, to ensure compliance with the *Environmental Protection (Noise) Regulations 1997.* |
| Concerns with development proposed above easement to the benefit of John XXIII College. | Upheld. Refer to comments in this report regarding Easement I956057. |

**Other Referrals**

The site falls within the Subiaco Strategic Water Resource Precinct and therefore was referred to Water Corp for comment. The land is also listed as “Contaminated – Remediation required” in the Department of Water and Environmental Regulation (DWER). Both agencies supported the application with conditions and advice notes that will be included in the event of an approval.

**Design Review Panel**

The application was referred to the City’s Design Review Panel (DRP) once with a final review by the DRP Chair. A summary of the DRP advice is provided in Table 3 below.

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| **Table 3: DRP Design Quality Evaluation** | | |
|  | Supported | |
|  | Further Information / Condition Required | |
|  | Not supported | |
| SPP 7.0 Principles | 7 November 2022 | DRP Chair Review 8 February 2023 |
| 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 |  |  |

Final comments were provided by the DRP Chair as follows: “I support the current proposal. Indeed, the proponents should be congratulated for their positive and very thorough response to their DRP review”.

**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 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 Responsible Authority Report (RAR) and lodged with the DAP Secretariat on or before 30 March 2023. 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 proposed development is supported in relation to its bulk and scale, architectural language, and compatibility with existing surrounding development. However, the proposed location of the pavilion, is located above an easement to the benefit of John XXIII College. Without the consent of John XXIII, the development would not be able to be constructed as proposed. Officers have not been able to gain any confirmation from John XXIII College that agreement between the relevant parties can be reached in relation to the construction of the pavilion. The City is not of the opinion that this matter can be resolved by a condition of approval, as a condition to this effect would not be certain nor final. In this regard, it is recommended that the JDAP defer determination of the application to allow for an agreement to be reached between the two parties, or alternatively for amendments to the plans to ensure the easement is not impacted.

It is recommended Council adopt the Officer Recommendation contained in the Responsible Authority Report to defer determination of the development application.

**Further Information**

Nil.

# PD23.05.23 Consideration of Responsible Authority Report for Amendments to Approved Mixed Use Development at 137 and 139 Broadway, Nedlands

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| **Meeting & Date** | Council – 23 May 2023 |
| **Applicant** | Element Advisory |
| **Information Provided** | All relevant information required has been provided. |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | The author, reviewers and authoriser of this report declare they have no financial or impartiality interest with this matter.  There is no financial or personal relationship between City staff involved in the preparation of this report and the proponents or their consultants. |
| **Report Author** | Nathan Blumenthal – A/Manager Urban Planning |
| **Director** | Tony Free – Director Planning and Development |
| **Attachments** | 1. Responsible Authority Report and Attachments |

**Councillor Bennett – Proximity & Impartiality Interest**

Councillor Bennett disclosed an interest in Item 20.3 – PD23.05.23 Consideration of Responsible Authority Report for Amendments to Approved Mixed Use Development at 137 and 139 Broadway, Nedlands. Councillor Bennett advised that although he does not have a conflict of interest with the actual 137-139 Broadway development site, as the City is aware, a commercial land use involving intensive building activities has been occurring at the residential property at 135 Broadway for more than a year. This dubious extension of the 137-139 construction site to adjoin his property puts him at a conflict-of-interest proximity and conflict-of-interest impartiality, therefore, Councillor Bennett declared he would leave the room during discussion on this item.

Councillor Bennett left the room at 10.03 pm.

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

Moved – Mayor Argyle

Seconded – Councillor Senathirajah

**That the Recommendation be adopted.**

(Printed below for ease of reference)

**CARRIED 9/1**

**(Against: Crs. Coghlan Smyth & 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 137 and 139 Broadway, Nedlands as follows:**

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

1. **Accept that the DAP Application reference DAP/20/01819 as detailed on the DAP Form 2 dated 29 March 2023 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/20/01819 and accompanying plan DA\_077 date stamped 3 March 2023 (Attachment 2) and all other plans approved 27 October 2020 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 amendment to the approved Mixed Use development at 137 and 139 Broadway, Nedlands.**

**Amended Conditions**

**24. Nine (9) apartments on the approved plans dated 17 September 2020 (drawing no DA\_077) shall meet ‘Silver Level’ universal access requirements as defined by the Liveable Housing Design Guidelines.**

**All other conditions and requirements detailed on the previous approval dated   
27 October 2020 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 137 and 139 Broadway, Nedlands. Minor amendments are proposed to the previously approved mixed use development of 29 multiple dwellings and 1 commercial tenancy at the subject site. The amendments alter the interior layout of one dwelling and thereby reduce the number of dwellings that meet ‘Silver Level’ universal housing by one.

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 19 June 2023.

Administration recommends Council adopt the Officer Recommendation for approval.

**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**

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| --- | --- |
| **Metropolitan Region Scheme Zone** | Urban |
| **Local Planning Scheme Zone** | Mixed Use R-AC3 |
| **R-Code** | R-AC3 |
| **Land area** | Lot 685:  880m2  Lot 686:  837m2  Total:      1,717m2 |
| **Land Use** | Residential (Multiple Dwellings) and Office – ‘P’ Permitted |
| **Use Class** | ‘P’ – Permitted Use |

**Application Details**

The “Form 2” application under regulation 17 of the Development Assessment Panel Regulations 2011 proposes an internal change to apartment 201 which replaces a powder room with a walk-in robe. The removal of the powder room from apartment 201 means that the unit no longer satisfies the requirements of the Silver Level Liveable Housing Design Guidelines.

The reduction in Silver Level designed dwellings triggers an amended development application to alter the wording of condition 24 which currently states:

“Ten (10) apartments on the hereby approved plans dated 17 September 2020 (drawing no DA\_077) shall meet ‘Silver Level’ universal access requirements as defined by the Liveable Housing Design Guidelines.”

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 six storey mixed use development of 29 multiple dwellings and 1 commercial tenancy at this site was originally considered by the Joint Development Assessment Panel (JDAP). The JDAP resolved to approve the application, subject to conditions, on 27 October 2020.

**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.

*Design Element 4.9 Universal Design*

The development provides a total of nine apartments which satisfy the Silver Level requirements as defined in the Liveable Housing Design Guidelines. This represents 31% of the total apartments in the development.

A multiple dwelling development of this size would typically include a 20% provision of universally designed dwellings. The 31% proposed by the subject development exceeds this standard and ensures the supply of an adequate number of apartments which accommodate people living with disabilities or limited mobility, achieving the Element Objective.

The replacement of the bathroom with a walk-in robe also results in a window (opening to the bathroom) being removed from the southern wall. The removal of the window does not impact the amenity or functionality of apartment 201 and the adjoining lots.

The proposal remains unchanged in all other aspects, and all Element Objectives are satisfied.

**Consultation**

The development application was not advertised to the public for comment.

**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/$FILE/Planning%20and%20Development%20(Development%20Assessment%20Panels)%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 19 June 2023. 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.

# Confidential Items

Confidential items to be discussed at this point.

Nil.

# Declaration of Closure

There being no further business, the Presiding Member declared the meeting closed at 10.08 pm.