******

***Agenda***

***Council Meeting***

***23 November 2021***

Dear Council Member

The next Ordinary Meeting of the City of Nedlands will be held on Tuesday 23 November 2021 in the Council Chamber, 71 Stirling Highway, Nedlands commencing at 7 pm. This meeting will also be livestreamed.

Once the venue is at capacity no further admission into the room will be permitted. Prior to entry, attendees will be required to register using the SafeWA App or by completing the manual contact register prior to entry - as stipulated by Department of Health mandatory requirements.

The public can continue to participate by submitting questions and addresses via the required online submission forms at:

<http://www.nedlands.wa.gov.au/intention-address-council-or-council-committee-form>

<http://www.nedlands.wa.gov.au/public-question-time>



Bill Parker

Chief Executive Officer

19 November 2021

**Table of Contents**

[Declaration of Opening 4](#_Toc88243969)

[Present and Apologies and Leave of Absence (Previously Approved) 4](#_Toc88243970)

[1. Public Question Time 5](#_Toc88243971)

[2. Addresses by Members of the Public 5](#_Toc88243972)

[3. Requests for Leave of Absence 5](#_Toc88243973)

[4. Petitions 5](#_Toc88243974)

[4.1 Mr G Bosich, Tyrell Street, Nedlands 5](#_Toc88243975)

[5. Disclosures of Financial / Proximity Interest 6](#_Toc88243976)

[6. Disclosures of Interests Affecting Impartiality 6](#_Toc88243977)

[7. Declarations by Council Members That They Have Not Given Due Consideration to Papers 6](#_Toc88243978)

[8. Confirmation of Minutes 7](#_Toc88243979)

[8.1 Ordinary Council Meeting 28 September 2021 7](#_Toc88243980)

[8.2 Special Council Meeting 19 October 2021 7](#_Toc88243981)

[8.3 Special Council Meeting 2 November 2021 7](#_Toc88243982)

[9. Announcements of the Presiding Member without discussion 7](#_Toc88243983)

[10. Members announcements without discussion 7](#_Toc88243984)

[11. Matters for Which the Meeting May Be Closed 7](#_Toc88243985)

[12. Divisional reports and minutes of Council Committees and administrative liaison working groups 8](#_Toc88243986)

[12.1 Minutes of Council Committees 8](#_Toc88243987)

[12.2 Planning & Development Report No’s PD34.21 to PD39.21 (copy attached) 9](#_Toc88243988)

PD34.21 [Consideration of Development Application (Single House) at No. 20B Vincent Street, Nedlands 9](#_Toc88243990)

[PD35.21](#_Toc88243991) [Consideration of Development Application – Additions to a Single House (Covered walkway, Retaining and Front Fence) at 30 Watkins Rd, Dalkeith 11](#_Toc88243992)

[PD36.21](#_Toc88243993) [Consideration of Development Application (Temporary Lighting) at St Johns Wood Playing Fields No. 68 Stephenson Avenue, Mt Claremont 14](#_Toc88243994)

[PD37.21](#_Toc88243995) [Consideration of Development application – 5 Grouped Dwellings at 18 Tyrell St, Nedlands 16](#_Toc88243996)

[PD38.21](#_Toc88243997) [Consideration of Development Application – Single House at 37C Kinninmont Avenue, Nedlands 25](#_Toc88243998)

[PD39.21 Scheme Amendment No. 16 – Fast Food Outlets Use Permissibility 31](#_Toc88243999)

[12.3 Corporate & Strategy Report No’s CPS18.21 to CPS19.21 (copy attached) 33](#_Toc88244000)

[CPS18.21 List of Accounts Paid – September 2021 33](#_Toc88244001)

[CPS19.21 Deed of Variation – Mayo Community Garden Inc. 34](#_Toc88244002)

[13. Reports by the Chief Executive Officer 35](#_Toc88244003)

[13.1 Appointment of Members to Chief Executive Officer Performance Review Committee 35](#_Toc88244004)

[13.2 Appointment of Replacement Deputy Members to Chief Executive Officer Recruitment & Selection Committee 40](#_Toc88244005)

[13.3 Appointment of Members to Public Art Committee 45](#_Toc88244006)

[13.4 Organisational Review Committee – Establishment and Appointment of Members 49](#_Toc88244007)

[13.5 Appointment of Members to the Site Assessment Working Group 52](#_Toc88244008)

[13.6 Appointment of Members to the Development Assessment Panel 60](#_Toc88244009)

[13.7 Appointent of Members to the Lake Claremont Advisory Committee 63](#_Toc88244010)

[13.8 Chief Executive Officer Position Description 64](#_Toc88244011)

[13.9 List of Accounts Paid – October 2021 67](#_Toc88244012)

[13.10 Monthly Financial Report – September 2021 70](#_Toc88244013)

[13.11 Monthly Investment Report – September 2021 75](#_Toc88244014)

[13.12 Monthly Financial Report – October 2021 78](#_Toc88244015)

[13.13 Monthly Investment Report – October 2021 83](#_Toc88244016)

[14. Council Members Notices of Motions of Which Previous Notice Has Been Given 86](#_Toc88244017)

[14.1 Mayor Argyle – Energy Efficiency / Sustainability 86](#_Toc88244018)

[14.2 Councillor Mangano – Increased Verge Bonds 88](#_Toc88244019)

[14.3 Councillor Mangano – Delegated Authority for Verge Permits. 89](#_Toc88244020)

[14.4 Councillor Mangano – Panel for Legal Advice 91](#_Toc88244021)

[14.5 Councillor Mangano – Solar Access Local Planning Policy 92](#_Toc88244022)

[14.6 Councillor Mangano – Invitation to DIMRS – Buildings and Energy Division 93](#_Toc88244023)

[14.7 Councillor Senathirajah – Age Friendly City 94](#_Toc88244024)

[15. Council Members notices of motion given at the meeting for consideration at the following ordinary meeting on 14 December 2021 96](#_Toc88244025)

[16. Urgent Business Approved By the Presiding Member or By Decision 97](#_Toc88244026)

[16.1 Allen Park Cottage – Structural Defects 97](#_Toc88244027)

[17. Confidential Items 104](#_Toc88244028)

[Declaration of Closure 104](#_Toc88244029)

**City of Nedlands**

**Notice of an Ordinary Meeting of Council to be held in the Council Chambers, Nedlands on Tuesday 23 November 2021 at 7 pm. This meeting will be livestreamed.**

###### Council Agenda

# Declaration of Opening

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

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

**Leave of Absence** None.

**(Previously Approved)**

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

**Disclaimer**

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

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

# Public Question Time

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

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

# Addresses by Members of the Public

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

# Requests for Leave of Absence

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

# Petitions

Petitions to be tabled at this point.

## Mr G Bosich, Tyrell Street, Nedlands – Petition to City of Nedlands R60 Zoning

Councillor Brackenridge will table a petition on behalf of Mr G Bosich and 20 other petitioners in regard to concerns with the Development Application at 18 Tyrell Street and The Precedent This May Set.

The petition presents the following:

1. We are opposed to the Development Application at 18 Tyrell Street and the precedent this may set.

2. We are opposed to any future three (3) storey development.

3. We request the Council acknowledge the proximity of the Tresillian Centre and the effect this facility has on street parking and traffic in Tyrell Street presently and our concern with future traffic.

4. We request the Council acknowledge the importance of the existing Streetscape of Tyrell Street which consists almost entirely of single storey character homes all built circa 1920s. Our concern is that presently this is not the case.

5. We request that the Council staff, Councillors and the Mayor represent the interests of existing residents and home owners. Our concern is that presently this is not the case.

# Disclosures of Financial / Proximity Interest

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

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

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

# Disclosures of Interests Affecting Impartiality

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

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

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

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

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

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

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

# Confirmation of Minutes

## Ordinary Council Meeting 28 September 2021

The Minutes of the Ordinary Council Meeting held 23 September 2021 are to be confirmed.

## Special Council Meeting 19 October 2021

The Minutes of the Special Council Meeting held 19 October 2021 are to be confirmed.

## Special Council Meeting 2 November 2021

The Minutes of the Special Council Meeting held 2 November 2021 are to be confirmed.

# Announcements of the Presiding Member without discussion

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

# Members announcements without discussion

Written announcements by Council Members to be tabled at this point.

Council Members may wish to make verbal announcements at their discretion.

# Matters for Which the Meeting May Be Closed

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

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

## Minutes of Council Committees

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

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

**Public Art Committee 13 September 2021**

Unconfirmed, Circulated to Councillors on 24 September 2021

**Council Committee 9 November 2021**

Unconfirmed, Circulated to Councillors on 19 November 2021

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

## Planning & Development Report No’s PD34.21 to PD39.21 (copy attached)

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

|  |  |
| --- | --- |
| **PD34.21** | **Consideration of Development Application (Single House) at No. 20B Vincent Street, Nedlands** |
|  | |
| **Committee** | 9 November 2021 |
| **Council** | 23 November 2021 |
| **Applicant** | Broadway Homes Pty Ltd |
| **Landowner** | J Ng and F Wijaya |
| **Director** | Tony Free – Director Planning & Development |
| **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 and the proponents or their consultants.  Whilst parties may be known to each other professionally, this relationship is consistent with the limitations placed on such relationships by the Codes of Conduct of the City and the Planning Institute of Australia. |
| **Report Type**  Quasi-Judicial | When Council determines an application/matter that directly affects a person’s right 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. |
| **Reference** | DA21/66646 |
| **Previous Item** | Nil |
| **Delegation** | In accordance with the City’s Instrument of Delegation, Council is required to determine the application due to objections being received. |
| **Attachments** | 1. Aerial Image and Zoning Map 2. Plans |
| **Confidential Attachments** | 1. Submissions |

**Committee Recommendation / Recommendation to Committee**

**In accordance with Clause 68(2)(b) of the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015,* Council approves the development application received on 21 July 2021 in accordance with amended plans date stamped 5 October 2021 for a Single House at 20B Vincent Street, Nedlands, subject to the following conditions:**

1. **The development shall at all times comply with the application and the approved plans, subject to any modifications required as a consequence of any condition(s) of this approval.**
2. **Landscaping shall be installed and maintained in accordance with the approved Landscaping Plan for the lifetime of the development thereafter, to the satisfaction of the City. Any modifications to the plans are subject to further approval by the City of Nedlands.**
3. **All building works to be carried out under this development approval are required to be contained within the boundaries of the subject lot.**
4. **Prior to occupation of the development the finish of the parapet walls is to be finished externally to the same standard as the rest of the development or in:**
5. **Face brick;**
6. **Painted render;**
7. **Painted brickwork; or**
8. **Other clean material as specified on the approved plans and maintained thereafter to the satisfaction of the City of Nedlands.**
9. **All stormwater from the development, which includes permeable and non-permeable areas shall be contained onsite.**
10. **Prior to occupation of the development, privacy screens to the side of Bedroom 2 located on the east elevation and Bedroom 3 located on the north elevation as shown on the approved plans shall be provided to prevent oblique overlooking in accordance with the Residential Design Codes by either:**
11. **Fixed obscured or translucent glass to a height of 1.60 metres above finished floor level; or**
12. **Timber screens, external blinds, window hoods and shutters to a height of 1.6m above finished floor level that are at least 75% obscure;**
13. **A minimum sill height of 1.60 metres as determined from the internal floor level; or**
14. **An alternative method of screening approved by the City of Nedlands.**

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

|  |  |
| --- | --- |
| **PD35.21** | **Consideration of Development Application – Additions to a Single House (Covered walkway, Retaining and Front Fence) at 30 Watkins Rd, Dalkeith** |
|  | |
| **Committee** | 9 November 2021 |
| **Council** | 23 November 2021 |
| **Applicant** | Hatch Roberts Day |
| **Landowner** | A & C Alder |
| **Director** | Tony Free – Director Planning & Development |
| **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 and the proponents or their consultants.  Whilst parties may be known to each other professionally, this relationship is consistent with the limitations placed on such relationships by the Codes of Conduct of the City and the Planning Institute of Australia. |
| **Report Type**  Quasi-Judicial | When Council determines an application/matter that directly affects a person’s right 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. |
| **Reference** | DA21/66766 |
| **Previous Item** | Nil |
| **Delegation** | In accordance with the City’s Instrument of Delegation, Council is required to determine the application due to objections being received. |
| **Attachments** | 1. Aerial image and zoning map 2. Streetscape Images 3. Plans 4. Architectural Renders |
| **Confidential Attachments** | 1. Submissions |

**Committee Recommendation**

**That the Chief Executive Officer be requested to present to Council reasons for refusal as part of the Council Agenda.**

**Additional Information**

The Committee considered a development application at 30 Watkins Road, Dalkeith at its meeting held on 9 November 2021. To assist Council in its consideration the application at the Ordinary Meeting of 23 November 2021, a refusal motion has been prepared, should Council wish to entertain this. The officer recommendation to grant conditional approval still stands as the formal administration position on this application.

In support of the development proposal, the applicant has provided additional architectural renders of the development proposal as viewed from the primary street and the first-floor balconies of the approved single house. Please see Attachments A1 and A2, attached.

Attachment 2 in the agenda and Attachment A1 (attached) show the proposed primary street fence within the context of the immediate eastern and western neighbouring lots (32 and 28 Watkins Road, Dalkeith). The scale and location of the proposed primary street fence is considered consistent with the immediate established character of Watkins Road and neighbouring properties.

Attachment A2 (attached) demonstrates the cone of vision from the upper floors of the approved single house. The proposed cone of vision is considered to provide opportunity for passive surveillance of Watkins Road from within the residence.

Accordingly, Council is requested to review the additional supporting information provided by the applicant (Attachments A1 and A2) in its consideration of the development proposal.

**Alternate Motion – Refusal**

In accordance with Clause 68(2)(c) of the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015,* Council resolves to refuse the development application received on 26 July 2021 in accordance with plans date stamped 26 July 2021 for additions to a single house (covered walkway, site works and front fence) at 30 Watkins Road, Dalkeith, for the following reasons:

1. The proposed development does not meet the Design Principles of Clause 5.2.4 – Street walls and fences of State Planning Policy 7.3 – Residential Design Codes (Volume 1) as:
   1. The front fence would restrict surveillance to the street; and
   2. Is unnecessary for traffic attenuation, noise and privacy of the outdoor living areas as the street is not designated as a primary or district distributor or integrator arterial.

Recommendation to Committee

In accordance with Clause 68(2)(b) of the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015,* Council approves the development application received on 26 July 2021 in accordance with the plans date stamped 26 July 2021 for a single house at Lot 142 (No.30) Watkins Rd, Dalkeith:

1. This development approval only pertains to additions to a single house including the construction of a covered walkway, site works and front fence as indicated on the plans attached.
2. Prior to the lodgement of a Building Permit, a detailed Landscaping Plan, prepared by a suitably qualified person, shall be submitted to and approved by the City of Nedlands.
3. Landscaping shall be installed and maintained in accordance with the approved Landscaping Plan for the lifetime of the development thereafter, to the satisfaction of the City. Any modifications to the plans are subject to further approval by the City of Nedlands.
4. All building works to be carried out under this development approval are required to be contained within the boundaries of the subject lot.
5. All stormwater from the development, which includes permeable and non-permeable areas shall be contained onsite.
6. The development shall at all times comply with the application and the approved plans, subject to any modifications required as a consequence of any condition(s) of this approval.

|  |  |
| --- | --- |
| **PD36.21** | **Consideration of Development Application (Temporary Lighting) at St Johns Wood Playing Fields No. 68 Stephenson Avenue, Mt Claremont** |
|  | |
| **Committee** | 9 November 2021 |
| **Council** | 23 November 2021 |
| **Applicant** | Perth Glory Football Club |
| **Landowner** | Christ Church Grammar School |
| **Director** | Tony Free – Director Planning & Development |
| **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 and the proponents or their consultants.  Whilst parties may be known to each other professionally, this relationship is consistent with the limitations placed on such relationships by the Codes of Conduct of the City and the Planning Institute of Australia. |
| **Report Type**  Quasi-Judicial | When Council determines an application/matter that directly affects a person’s right 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. |
| **Reference** | DA21-63805 |
| **Previous Item** | Nil |
| **Delegation** | In accordance with the Instrument of Delegation the application is determined by Council due to objections being received |
| **Attachments** | 1. Location Plan & Zoning Plan 2. Development plans 3. Site visit photos |
| **Confidential Attachments** | * + - 1. Submissions |

**Committee Recommendation / Recommendation to Committee**

1. **That in accordance with Clause 68(2)(c) of the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015,* Council refuse the development application received on 4 May 2021 for Temporary Lighting at Lot 816 (No. 68) Stephenson Avenue, Mt Claremont** **for the following reasons:**
2. **The proposed development is inconsistent with the objectives of the “Private Community Purposes” zone in accordance with City of Nedlands Local Planning Scheme No. 3, as the proposal will result in a detrimental impact on the amenity of the surrounding residential development in relation to noise and light spill, thereby being incompatible with surrounding development.**
3. **The proposed development is inconsistent with Clause 67(2)(d) of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015* as the application has not demonstrated that it is capable of compliance with the *Environmental Protection (Noise) Regulations 1997*.**
4. **The proposed development is inconsistent with Clause 67(2)(m) of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015* as the proposal is not considered compatible with its setting in considering the relationship to the abutting adjoining residential development.**
5. **The proposed development is inconsistent with Clause 67(2)(n) of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015* as the proposal is considered to result in undue adverse impact to the amenity of the locality in relation to noise and light spill.**
6. **In accordance with Section 214(3) of the *Planning and Development Act 2005,* Council directs the applicant to remove the Temporary Lighting from No. Lot 816 (No. 68) Stephenson Avenue, Mt Claremont** **within 60 days of the date of this direction. The site is to be restored as nearly as practicable to its condition immediately before the temporary lighting was placed on site, to the satisfaction of the City of Nedlands.**

|  |  |
| --- | --- |
| **PD37.21** | **Consideration of Development application – 5 Grouped Dwellings at 18 Tyrell St, Nedlands** |
|  | |
| **Committee** | 9 November 2021 |
| **Council** | 23 November 2021 |
| **Applicant** | Big Sky Homes Pty Ltd |
| **Landowner** | Joydem Pty Ltd |
| **Director** | Tony Free – Director Planning & Development |
| **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 and the proponents or their consultants.  Whilst parties may be known to each other professionally,  this relationship is consistent with the limitations placed on  such relationships by the Codes of Conduct of the City and  the Planning Institute of Australia. |
| **Report Type**  Quasi-Judicial | When Council determines an application/matter that directly affects a person’s right 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. |
| **Reference** | DA21/65367 |
| **Previous Item** | Nil |
| **Delegation** | In accordance with the City’s Instrument of Delegation, Council is required to determine the application due to an objection being received. |
| **Attachments** | 1. Aerial Image and Zoning Map 2. Plans 3. Design Review Panel Assessment Minutes 4. Architectural Perspective Drawings |
| **Confidential Attachments** | * + - 1. Submissions |

**Committee Recommendation**

**That the Chief Executive Officer be requested to present to Council reasons for refusal as part of the Council Agenda.**

**Additional Information**

The City of Nedlands has received a Development Application for five grouped dwellings at 18 Tyrell Street, Nedlands. The development proposal was presented to Council for consideration at the 9 November Council Committee Meeting. Following discussions between the applicant and Administration, amendments and further information have been prepared for the development proposal addressing landscaping (Attachment A1), providing further details on the balcony screens, and providing new streetscape renders (Attachment A2). Based on concerns raised at the meeting, Administration provides the following additional information and updated assessment for Council’s Consideration:

**Statutory limitations**

The application proposes five grouped dwellings with a common property driveway. Because the application proposes grouped dwellings (ie: side-by-side townhouses), not apartments (ie: units on top of each other), Volume 1 of the Residential Design Codes (R-Codes) applies. The statutory power of Volume 2 of the R-Codes is limited to apartments only in areas coded R40 or greater and are not applicable to the current development. They cannot be used as a basis of assessment for the current development proposal, nor would refusal based on Volume 2 provisions be upheld by the State Administrative Tribunal (SAT) as a valid reason for refusal, should the matter be appealed.

The deemed-to-comply provisions within Volume 1 of the R-Codes are objective criteria setting out defined measurements. If an element (ie: lot boundary setback, visual privacy setback, etc.) meets the deemed- to-comply provisions, that element cannot be used as a basis for a valid reason for refusal, nor can local government require changes to be made to that element. It is acknowledged that Volume 1 allows for less design control by local governments by using a ‘tick the box’ approach that limits local government discretion.

Where a proposal does not meet one or more deemed-to-comply provisions of the R-Codes Volume 1 is it assessed against the design principles. The design principles are subjective criteria that necessitate a judgement of merit by local government. Judgement of merit is exercised only for specific elements of a proposal which do not satisfy the relevant deemed-to-comply provisions, not for the whole of the development.

Should Council opt to refuse the subject development, refusal should be based on one or more of the elements seeking a design principle assessment. An alternate recommendation for refusal based on the items seeking a design principle assessment is provided below.

**Alternate Recommendation for Refusal**

Should Council opt to refuse the development, refusal should be based on the elements which do not meet the deemed-to-comply provisions. Further, all reasons for refusal based on the three elements in question above must be based on the design principles within the R-Codes. Any reason for refusal on an element that meets the deemed-to-comply provisions or does not relate to the design principles of the R-Codes will not be able to be successfully defended on SAT appeal.

An alternate recommendation for refusal is provided as follows:

In accordance with Clause 68(2)(b) of the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015,* Council refuses the development application as shown on amended plans date stamped 12 November 2021 for five grouped dwellings at 18 Tyrell Street, Nedlands for the following reasons:

* 1. The lot boundary setbacks are inconsistent with clause 5.1.3 of the Residential Design Codes and result in the appearance of excessive building bulk to adjoining properties, and do not provide adequate direct sun and ventilation to the building and open spaces on the site and neighbouring lots.
  2. The lack of sufficient onsite visitor parking is inconsistent with clause 5.3.3 of the Residential Design Codes and is inadequate to cater for the projected needs of the development given the parking restrictions along Tyrell Street.

**Additional information and changes made between the plans presented to Council on 9 November 2021 and the amended plans received 15 November 2021.**

1. Further detail has been provided on the balcony screening, showing it as angled slats and providing a view from the balcony demonstrating the amount of privacy achieved.
2. Streetscape and northern elevation 3D renders have been included demonstrating the final appearance of the dwellings and that they will be predominantly hidden behind the vegetation.
3. An amended landscaping plan has been submitted deleting the visitor bay, replacing the concrete paths with permeable paving, and increasing the amount of onsite vegetation.

**Administration Assessment**

At the 9 November Council Committee Meeting, Council was asked to exercise discretion on the following:

1. **Lot Boundary Setbacks**
   1. Unit 1 – Ground floor master bedroom (south): 1.2m setback
   2. Unit 5 – First floor balcony (east): 1.3m setback
   3. Unit 5 – First floor bed 2 to bed 3 (east): 1.3m setback
   4. Unit 5 – First floor kitchen (east): 1.8m setback
2. **Visitor car parking**
   1. One visitor bay proposed
3. **Site Works**
   1. Up to 1m excavation proposed towards the eastern (rear) portion of site. (*NB: It is not recommended that the item be refused on the basis of site works, as the proposal is for excavation which has minimal impact to adjoining sites and is generally encouraged.*)

Each of the above matters were addressed in Administration’s report (PD37.21) to the Council Committee Meeting on 9 November 2021.

Additionally, the development met the deemed-to-comply provisions for the following items:

* Street setback
* Lot boundary setback (except for the four variations noted above)
* Open space
* Building height
* Street surveillance
* Street walls and fences
* Sight lines
* Outdoor living areas
* Landscaping
* Parking (except for visitor parking)
* Design of car parking spaces
* Vehicular access
* Pedestrian access
* Stormwater management
* Visual privacy (subject to condition 4 of the approval)
* Solar access for adjoining sites
* Outbuildings
* External fixtures, utilities and facilities

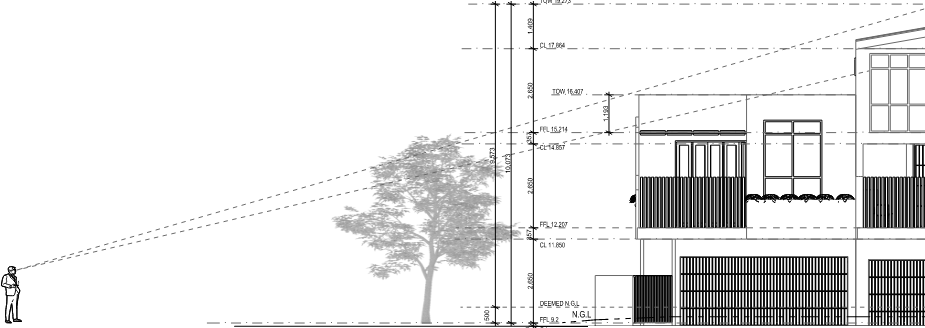
The revised landscaping plans delete the visitor bay and replace it with further landscaping, as suggested at the Committee meeting. As a result, the development is now proposing no visitor car bays in lieu of the previous one visitor bay. Should Council accept this plan, it is recommended that condition 5 be modified for clarity to state:

1. Prior to occupation of the development, the approved landscaping plan as amended on 15 November 2021 is to be installed and maintained in accordance with that plan, or any modifications approved thereto, for the lifetime of the development thereafter, to the satisfaction of the City of Nedlands.

**Building height**

At the 8 November 2021 Committee meeting, concerns were raised regarding the bulk, scale and streetscape impact. Notwithstanding that the building height meets the deemed-to-comply provisions of Council’s Local Planning Policy – Residential Development, the form of the building is an appropriate and considered outcome for the following reasons:

* Unit 1 presents to Tyrell Street as a two-storey house split into two sections: one with a maximum wall height of 6.3m and the other with a maximum wall height of 7.7m. This is 0.8m to 2.2m less than the maximum that would be permissible for a single house.
* The front two-storey unit on Tyrell Street will lessen the impact of the three-storey units by hiding most of them behind the front unit as viewed from the street (see Figure 1 below).



**Figure 1**: Sightlines of the building as viewed from the street.

* The unit at the rear of the site is also two storeys high (6.8m as measured from the existing ground levels). This allows it to interface in and present less building bulk to the existing similar- sized two-storey house on the lot to the rear of the site.
* A single house could be built that proposed three storeys (8.5m wall height) to both the street and the rear lots. Such a proposal would meet the deemed-to-comply provisions of Local Planning Policy – Residential Development and the R-Codes. The subject proposal reduces the overall size of the units at each end to better fit in with the existing housing form and scale within the immediate vicinity.

A**mendment to condition 4 – visual privacy**

At the 9 November Council Committee meeting, some discussion revolved around the visual privacy screening to the north-facing balconies. It was suggested that certain materials be used. However, there is no legislation that allows local government to specify screening materials for the subject development. Rather, screening is required to meet the obscurity requirements of the R-Codes in whatever form the applicant feels is appropriate. Screening may consist of obscure or translucent glazing, timber screens, external blinds, window hoods, increased sill heights, external shutters, or any other treatment that meets requirements.

The screening requirements of the R-Codes are only that all screening:

a. Is a minimum 1.6m above the finished floor level;

b. Is at least 75 percent obscure;

c. Is made of durable material;

d. Restricts views in the direction of overlooking to any adjoining property.

The screening requirements of the R-Codes are only that all screening:

a. Is a minimum 1.6m above the finished floor level;

b. Is at least 75 percent obscure;

c. Is made of durable material;

d. Restricts views in the direction of overlooking to any adjoining property.

The applicant has provided screening diagrams demonstrating that fixed slats set at a forty-five-degree angle can achieve the amount of obscurity set out in the R-Codes. Such a screen restricts viewing directly from the balcony and greatly inhibits viewing even to an angle.

The balconies shown in the plan are intended to be screened to the north to protect visual privacy. In order to provide clarity, the Administration recommends amending condition 4 as follows:

1. Prior to occupation of the development, the northern balconies of units 1,2,4 and 5, the Kitchen windows of unit 1 located on the south elevation, and the Bedroom 3 window of unit 5 on the south elevation, shall be screened in accordance with the Residential Design Codes by either;
   1. fixed obscured or fixed translucent glass to a height of 1.60 metres above the internal finished floor level; or
   2. fixed screening at least 75% obscure and to a height of 1.6m above the internal finished floor level; or
   3. a minimum sill height of 1.60 metres above the internal finished floor level.

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

It is noted that the balcony of unit 3 is set back 6 metres from the boundary and meets the deemed-to-comply provisions for visual privacy setbacks. No screening can therefore be required for this unit.

**Amended Officer Recommendation**

Administration remains of the opinion that the approval should be approved subject to the following conditions (Note: Should Council prefer the original plan with the visitor car bay in lieu of the landscaping, condition 4 should be amended to substitute the words “as amended on 15 November 2021” with “as shown on plans dated 5 October 2021”.

**In accordance with Clause 68(2)(b) of the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015,* Council approves the development application received on 23 June 2021 in accordance with amended plans date stamped 5 October 2021 for five grouped dwellings at 18 Tyrell Road, Nedlands, subject to the following conditions:**

1. **The development shall at all times comply with the application and the approved plans, subject to any modifications required as a consequence of any condition(s) of this approval.**
2. **All stormwater from the development, which includes permeable and non-permeable areas shall be contained onsite.**
3. **Prior to occupation of the development the finish of the parapet walls is to be finished externally to the same standard as the rest of the development or in:**
   * 1. **Face brick;**
     2. **Painted render;**
     3. **Painted brickwork; or**
     4. **Other clean material as specified on the approved plans;**

**and maintained thereafter to the satisfaction of the City of Nedlands.**

1. **Prior to occupation of the development, the northern balconies of units 1,2,4 and 5, the Kitchen windows of unit 1 located on the south elevation, and the Bedroom 3 window of unit 5 on the south elevation, shall be screened in accordance with the Residential Design Codes by either;**
2. **fixed obscured or fixed translucent glass to a height of 1.60 metres above the internal finished floor level; or**
3. **fixed screening at least 75% obscure and to a height of 1.6m above the internal finished floor level; or**
4. **a minimum sill height of 1.60 metres above the internal finished floor level.**

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

1. **Prior to occupation of the development, the approved landscaping plan as amended on 15 November 2021 is to be installed and maintained in accordance with that plan, or any modifications approved thereto, for the lifetime of the development thereafter, to the satisfaction of the City of Nedlands.**
2. **Prior to the lodgement of Building Permit, a Construction Management Plan shall be submitted and approved to the satisfaction of the City. The approved Construction Management Plan shall be observed at all times throughout the construction process to the satisfaction of the City. Adjoining landowners shall be notified in writing no less than 14 days prior to construction.**
3. **The development shall comply with the approved Waste Management Plan to the satisfaction of the City of Nedlands. Any modification to the approved waste management plan will require further approval by the City.**
4. **Prior to the lodgement of a Building Permit, a Landscape Management Plan, shall be submitted and approved by the City of Nedlands. It shall in addition to include a comprehensive maintenance plan for all proposed landscaping on the site and contingencies for replacement of dead and diseased plants.**
5. **Prior to occupation the development is to incorporate at least one energy efficiency initiative that exceeds the minimum practice, or all dwellings are to exceed the minimum NATHERS requirement by 0.5 stars.**

Recommendation to Committee

In accordance with Clause 68(2)(b) of the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015,* Council approves the development application received on 23 June 2021 in accordance with amended plans date stamped 5 October 2021 for five grouped dwellings at 18 Tyrell Road, Nedlands, subject to the following conditions:

1. The development shall at all times comply with the application and the approved plans, subject to any modifications required as a consequence of any condition(s) of this approval.
2. All stormwater from the development, which includes permeable and non-permeable areas shall be contained onsite.
3. Prior to occupation of the development the finish of the parapet walls is to be finished externally to the same standard as the rest of the development or in:
4. Face brick;
5. Painted render;
6. Painted brickwork; or
7. Other clean material as specified on the approved plans;

and maintained thereafter to the satisfaction of the City of Nedlands.

1. Prior to occupation of the development the kitchen windows of Lot 1 located on the south elevation, and the Bedroomroom 3 window of Unit 5 on the south elevation, shall be screened in accordance with the Residential Design Codes by either;
2. fixed obscured or translucent glass to a height of 1.60 metres above finished floor level; or
3. Timber screens, external blinds, window hoods and shutters to a height of 1.6m above finished floor level that are at least 75% obscure;
4. a minimum sill height of 1.60 metres as determined from the internal floor level; or
5. an alternative method of screening approved by the City of Nedlands.

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

1. Prior to occupation of the development, the approved landscaping plan is to be installed and maintained in accordance with that plan, or any modifications approved thereto, for the lifetime of the development thereafter, to the satisfaction of the City of Nedlands.
2. Prior to the lodgement of Building Permit, a Construction Management Plan shall be submitted and approved to the satisfaction of the City. The approved Construction Management Plan shall be observed at all times throughout the construction process to the satisfaction of the City. Adjoining landowners shall be notified in writing no less than 14 days prior to construction.
3. The development shall comply with the approved Waste Management Plan to the satisfaction of the City of Nedlands. Any modification to the approved waste management plan will require further approval by the City.
4. Prior to the lodgement of a Building Permit, a Landscape Management Plan, shall be submitted and approved by the City of Nedlands. It shall in addition to include a comprehensive maintenance plan for all proposed landscaping on the site and contingencies for replacement of dead and diseased plants.
5. Prior to occupation the development is to incorporate at least one energy efficiency initiative that exceeds the minimum practice, or all dwellings are to exceed the minimum NATHERS requirement by 0.5 stars.

|  |  |
| --- | --- |
| **PD38.21** | **Consideration of Development Application – Single House at 37C Kinninmont Avenue, Nedlands** |
|  | |
| **Committee** | 9 November 2021 |
| **Council** | 23 November 2021 |
| **Applicant** | Oswald Homes |
| **Landowner** | A & A Beamish |
| **Director** | Tony Free – Director Planning & Development |
| **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 and the proponents or their consultants.  Whilst parties may be known to each other professionally, this relationship is consistent with the limitations placed on such relationships by the Codes of Conduct of the City and the Planning Institute of Australia. |
| **Report Type**  Quasi-Judicial | When Council determines an application/matter that directly affects a person’s right 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. |
| **Reference** | DA21/66409 |
| **Previous Item** | Nil |
| **Delegation** | In accordance with the City’s Instrument of Delegation, Council is required to determine the application due to objections being received. |
| **Attachments** | 1. Zoning Plan and Aerial Image 2. Plans 3. Architectural Perspective Drawings |
| **Confidential Attachments** | 1. Submissions 2. Applicant’s Justification Report |

**Committee Recommendation**

**That the Chief Executive Officer be requested to present to Council reasons for refusal as part of the Council Agenda.**

**Additional Information**

The Committee considered a development application at 37C Kinninmont Avenue, Nedlands at its meeting held on 9 November 2021. Following discussions between the applicant and Administration, the applicants have provided amended elevation plans and supporting information.

**Amended Elevation Plan and Cross Section:**

The applicant submitted amended elevation plans on 16 November 2021 which are contained as Attachment A1 of this Memorandum. The amended plans show a panel of obscure film on the windows to the staircase to reduce overlooking to the south. The obscure film is 1m above the finished floor level of the upper floor with a total height of 0.65m. This is be shown in the cross section included as attachment A2 of this Memorandum.

Administration notes that the windows on the southern elevation facing south from the staircase, hallway and void are to non-habitable rooms/spaces. Therefore, the visual privacy provisions of the R-Codes are not applicable. The master bedroom is provided with a highlight window to meet the deemed-to-comply provisions of the R-Codes for visual privacy. The proposed obscure film is provided over and above the deemed-to- comply provisions of the R-Code**s.**

**Statutory Limitations**

The deemed-to-comply provisions within Volume 1 of the R-Codes are objective criteria setting out defined measurements. If an element (ie: lot boundary setback, visual privacy setback, etc.) meets the deemed-to-comply provisions, that element cannot be used as a basis for a valid reason for refusal, nor can local government require changes to be made to that element.

Where a proposal does not meet one or more deemed-to-comply provisions of the R- Codes Volume 1 is it assessed against the design principles. The design principles are subjective criteria that necessitate a judgement of merit by local government. Judgement of merit is exercised only for specific elements of a proposal which do not satisfy the relevant deemed to comply provisions, not for the whole of the development.

**Alternate Motion – Refusal**

Should Council opt to refuse the development, refusal should be based on the elements which do not meet the deemed-to-comply provisions. Further, all reasons for refusal must be based on the design principles within the R-Codes. Any reason for refusal on an element that meets the deemed-to-comply provisions or does not relate to the design principles of the R-Codes will not be able to be successfully defended on SAT review.

As the windows to the hall, stairwell and void are not habitable, they are considered to be deemed-to-comply. Consequently, the overlooking of the southern property is not a reason for refusal.

In the event of 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.

An alternate motion for refusal is provided as follows:

In accordance with Clause 68(2)(c) of the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015,* Council resolves to refuse the development application received on 15 July 2021 in accordance with plans date stamped 16 November 2021 for a single house at 37C Kinninmont Avenue, Nedlands, for the following reasons:

* 1. The proposed development does not meet the design principles of Clause 5.1.3 - Lot Boundary Setbacks of State Planning Policy 7.3 – Residential Design Codes (Volume 1) as the building is not setback from lot boundaries so as to reduce impacts of building bulk on adjoining properties.
  2. The proposed development does not meet the design principles of Clause 5.2.2 - Garage Width of State Planning Policy 7.3 – Residential Design Codes (Volume 1) as the streetscape is dominated by the garage door and the visual connectivity between the dwelling and the streetscape is not maintained.

**Officer Recommendation – Approval**

Administration remains of the opinion that the proposal should be **approved**. Council is requested to make a decision in accordance with clause 68(2) of the Deemed Provisions. Council may determine to approve the development without conditions (cl.68(2)(a)), approve with development with conditions (cl68(2)(b)), or refuse the development (cl.68(2)(c)).

The application for the two-storey single house has been presented for Council consideration due to objections having been 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 Residential Design Codes.

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

**In accordance with Clause 68(2)(b) of the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015,* Council approves the development application received on 15 July 2021 in accordance with amended plans date stamped 16 November 2021 for a single house at 37C Kinninmont Avenue, Nedlands, subject to the following conditions:**

1. **All building works to be carried out under this development approval are required to be contained within the boundaries of the subject lot.**
2. **All stormwater from the development, which includes permeable and non- permeable areas shall be contained onsite.**
3. **Prior or to occupation of the development the finish of the parapet walls is 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 material as specified on the approved plans,**

**and maintained thereafter to the satisfaction of the City of Nedlands.**

1. **Prior to occupation of the development, the balcony on the southern elevation facing south shall be screened to satisfy the deemed to comply criteria of clause 5.4.1 of the Residential Design Codes Volume 1. Screening referred to in c1.1(ii) of the Residential Design Codes Volume 1 is to be in the form of:**
   1. **Fixed obscured or translucent glass to a height of 1.60 metres above finished floor level;**
   2. **Timber screens, external blinds, window hoods and shutters to a height of 1.60m above finished floor levet that are a least 75% obsure;**
   3. **A minimum sill height of 1.60 metres as determined from the internal floor level; or**
   4. **An alternative method of screening approved by the City of Nedlands.**

**The required setbacks and/or screening shall be thereafter maintained to the satisfaction of the City of Nedlands.**

1. **The obscure glazing provided to the window of the staircase on the southern elevation is to be at least 75% obscure and permanently fixed in accordance with clause 5.4.1 of the Residential Design Codes Volume 1.**
2. **Landscaping shall be installed and maintained in accordance with the approved plans, including the planting of one (1) tree with a minimum planting area of 2m x 2m. All landscaping shall be maintained for the lifetime of the development thereafter, to the satisfaction of the City.**
3. **The development shall at all times comply with the application and the approved plans, subject to any modifications required as a consequence of any condition(s) of this approval.**

Recommendation to Committee

In accordance with Clause 68(2)(b) of the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015,* Council approves the development application received on 15 July 2021 in accordance with amended plans date stamped 6 October 2021 for a Single House at 37c Kinninmont Avenue, Nedlands, subject to the following conditions:

1. All building works to be carried out under this development approval are required to be contained within the boundaries of the subject lot.
2. All stormwater from the development, which includes permeable and non-permeable areas shall be contained onsite.
3. Prior or to occupation of the development the finish of the parapet walls is 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 material as specified on the approved plans,

and maintained thereafter to the satisfaction of the City of Nedlands.

1. Prior to occupation of the development, the balcony on the southern elevation facing south shall be screened to satisfy the deemed to comply criteria of clause 5.4.1 of the Residential Design Codes Volume 1. Screening referred to in c1.1(ii) of the Residential Design Codes Volume 1 is to be in the form of:
2. Fixed obscured or translucent glass to a height of 1.60 metres above finished floor level;
3. Timber screens, external blinds, window hoods and shutters to a height of 1.6m above finished floor level that are at least 75% obscure;
4. A minimum sill height of 1.60 metres as determined from the internal floor level; or
5. An alternative method of screening approved by the City of Nedlands.

The required setbacks and/or screening shall be thereafter maintained to the satisfaction of the City of Nedlands

1. Landscaping shall be installed and maintained in accordance with the approved plans, including the planting of one (1) tree with a minimum planting area of 2m x 2m. All landscaping shall be maintained for the lifetime of the development thereafter, to the satisfaction of the City.
2. The development shall at all times comply with the application and the approved plans, subject to any modifications required as a consequence of any condition(s) of this approval.

|  |
| --- |
| **PD39.21 Scheme Amendment No. 16 – Fast Food Outlets Use Permissibility** |

|  |  |
| --- | --- |
| Committee | 9 November 2021 |
| Council | 23 November 2021 |
| Applicant | City of Nedlands |
| Director | Tony Free – Director Planning & Development |
| Employee Disclosure under section 5.70 of the Local Government Act 1995 | Nil.  “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 and the proponents or their consultants. Whilst parties may be known to each other professionally, this relationship is consistent with the limitations placed on such relationships by the Codes of Conduct of the City and the Planning Institute of Australia”. |
| Attachments | 1. Scheme Amendment No. 16 – Justification Report 2. Summary of Submissions |
| Confidential Attachments | 1. Full copy of Submissions |

**Committee Recommendation**

**Council:**

1. **pursuant to section 75 of the *Planning and Development Act 2005*and in accordance with Regulation 41(3)(a) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, resolves tosupport Amendment No. 16 to the City of Nedlands Local Planning Scheme No. 3 as follows:**
   1. **As detailed in Attachment 1 – Amendment No. 16 Justification Report.**
2. **resolves to provide a summary of the reasons why the City supports Amendment No.16 to the City of Nedlands Local Planning Scheme No.3, and a schedule of submissions made on the Amendment, to the Western Australian Planning Commission within twenty-one (21) days of the Resolution, in accordance with Regulation 44 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.**

Recommendation to Committee

Council:

1. Pursuant to section 75 of the *Planning and Development Act 2005* and in accordance with Regulation 41(3)(c) of the *Planning and Development (Local Planning Schemes) Regulations 2015* resolves to NOT support Amendment No. 16 to the City of Nedlands Local Planning Scheme No. 3 for the following reasons:
2. The Amendment is inconsistent with the City’s Local Planning Strategy that was endorsed by the Western Australian Planning Commission in 2017, and therefore does not align with the City’s strategic planning framework or direction.
3. The Amendment could unfairly prejudice the development of takeaway food businesses that fall within the land use definition of Fast Food Outlet, and prevent services being located in suitable locations (such as the Mixed Used zone or Specialised Activity Centres).
4. The Urban Development zone is not considered to be the most appropriate zone for the development of Fast Food Outlets, given it comprises only a small portion of the Scheme area.
5. Resolves to provide a summary of the reasons why the City does not support Amendment No.16 to the City of Nedlands Local Planning Scheme No.3, and a schedule of submissions made on the Amendment, to the Western Australian Planning Commission within twenty-one (21) days of the Resolution, in accordance with Regulation 44 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

## Corporate & Strategy Report No’s CPS18.21 to CPS19.21 (copy attached)

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

|  |
| --- |
| **CPS18.21 List of Accounts Paid – September 2021** |

|  |  |
| --- | --- |
| **Committee** | 9 November 2021 |
| **Council** | 23 November 2021 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under *section 5.70 Local Government Act 1995*** | Nil. |
| **Director** | Ed Herne – Director Corporate & Strategy |
| **Attachments** | 1. Creditor Payment Listing – September 2021; and 2. Credit Card and Purchasing Card Payments – September 2021 |
| **Confidential Attachments** | 1. Nil. |

**Committee Recommendation / Recommendation to Committee**

**Council receives the List of Accounts Paid for the month of September 2021 as per the attachments.**

|  |
| --- |
| **CPS19.21 Deed of Variation – Mayo Community Garden Inc.** |

|  |  |
| --- | --- |
| **Committee** | 9 November 2021 |
| **Council** | 23 November 2021 |
| **Applicant** | Mayo Community Garden Inc. |
| **Employee Disclosure under *section 5.70 Local Government Act 1995*** | Nil. |
| **Director** | Ed Herne – Director Corporate & Strategy |
| **Attachments** | Nil. |
| **Confidential Attachments** | Nil. |

Amended Administration Recommendation

Council:

1.      approves the request from Mayo Community Garden Inc. to remove the portion of land which the ‘Verandah’ sits on from the agreed lease premises and requests the CEO arrange a Deed of Variation to formalise the request; and

2.      authorises the CEO and Mayor to execute the agreement and apply the City’s Common Seal.

**Committee Recommendation / Recommendation to Committee**

**Council:**

1. **approves the request from Mayo Community Garden Inc. to remove the ‘Verandah’ structure from the agreed lease premises and requests the CEO arrange a Deed of Variation to formalise the request; and**
2. **authorises the CEO and Mayor to execute the agreement and apply the City’s Common Seal.**

# Reports by the Chief Executive Officer

## Appointment of Members to Chief Executive Officer Performance Review Committee

|  |  |
| --- | --- |
| **Council** | 23 November 2021 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under *section 5.70 Local Government Act 1995*** | Nil. |
| **Officer** | Nicole Ceric – Executive Officer |
| **Attachments** | Nil. |

**Executive Summary**

The purpose of this report is to appoint members of the Chief Executive Officer’s Performance Review Committee and adopt the terms of reference.

**Recommendation to Council**

**Council:**

1. **appoints the Mayor and the following four (4) Councillors (one from each ward) to the Chief Executive Officer’s Performance Review Committee for the period ending immediately prior to the next Local Government Elections in 2023;**

**Councillor (insert name) – Coastal Ward;**

**Councillor (insert name) – Dalkeith Ward;**

**Councillor (insert name) – Hollywood Ward;**

**Councillor (insert name) – Melvista Ward;**

1. **appoints the following four (4) Councillors (one from each ward) as deputy delegates:**

**Councillor (insert name) – Coastal Ward;**

**Councillor (insert name) – Dalkeith Ward;**

**Councillor (insert name) – Hollywood Ward;**

**Councillor (insert name) – Melvista Ward; and**

1. **adopts the Terms of Reference of the Chief Executive Officer’s Performance Review Committee as below:**

**Terms of Reference**

**Purpose**

Under delegated authority to manage the performance appraisal process of the Chief Executive Officer in order to meet both Council’s statutory obligations in accordance with the provisions of Section 5.38(1) of the Local Government Act 1995 and any terms and conditions of the employment contract of the Chief Executive Officer.

**Scope**

In managing the performance appraisal process, the Committee:

1. May recommend an independent consultant to Council for the purposes of conducting the performance appraisal;
2. Is to determine and set in place, an appropriate performance appraisal process;
3. Is to make recommendations to Council regarding:
   1. The setting of goals and objectives
   2. The measurement of key performance indicators (KPIs); and
   3. Changes to the remuneration package within the terms of the Chief Executive Officer’s contract; and
4. May draw on the resources and professional advice of the Manager Human Resources and any additional assistance that the Manager Human Resources may recommend to determine the process and plan and conduct the appraisal.

Any goals, objectives, KPI measurement or remuneration package changes approved by Council must be acknowledged in writing by both the Mayor and the Chief Executive Officer.

All Elected Members are to be briefed of the outcomes of the appraisal prior to any decision by Council.

**Membership**

1. The membership of the committee shall comprise the Mayor and one Councillor from each ward with the Councillors being determined by nomination and if necessary, a ballot conducted at a Council Meeting.
2. The membership of the Committee shall comprise of one Councillor from each ward as deputy members with voting rights with the Councillors being determined by nomination and if necessary, a ballot conducted at a Council Meeting.
3. Deputy members are only required to attend and vote if the primary member is absent, an apology or on leave or has resigned.
4. The Committee must comprise of at least one independent person.
5. If a vacancy on the committee occurs for whatever reason, then Council shall appoint a replacement in accordance with the same arrangements as for the original appointment.
6. The term of the presiding member and committee members will expire immediately prior to the next ordinary Council election.
7. The presiding member shall be determined by election amongst the members of the committee.
8. The election of the presiding member will take place at the first meeting following the reconstitution of the committee after each ordinary Council election.
9. Should the elected presiding member not be present during a meeting of the committee then a temporary presiding member shall be elected in accordance with 5 above.

**Meetings**

1. The Council Committee operates under the Council’s Standing Orders Local Law.
2. The quorum for a meeting will be 50% of the offices of the Chief Executive Officer’s Performance Review Committee as per section 5.19 of the Local Government Act 1995.
3. The Committee shall formally meet three times a year. A schedule of meetings will be developed and agreed to by the members. Additional meetings may be called by the Presiding member.
4. The Executive Officer will be the Committee's Administrator and will be a non-voting member. The Administrator's responsibility is to serve as a secretariat to the Committee by preparing agendas and minutes and ensuring timely distribution to all members; to ensure that meetings are effectively organised and recorded and to provide administrative and governance support for the purposes of the Committee.

**Staff**

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

* Manager Human Resources
* Chief Executive Officer; (when invited)
* Executive Officer
* Other staff may attend committee meetings when requested by the Committee through the Chief Executive Officer.

**Reporting**

The Committee shall report annually to the Council Summarising its activities during the previous financial year.

**ABSOLUTE MAJORITY VOTE REQUIRED**

**Voting Requirements**

Absolute Majority Required.

**Discussion/Overview**

**Background**

**5.38. Annual review of employees’ performance**

* 1. A local government must review the performance of the CEO if the CEO is employed for a term of more than 1 year.
  2. The CEO must ensure that the performance of each other employee who is employed for more than 1 year is reviewed.
  3. A review under subsection (1) or (2) must be conducted at least once in relation to each year of the person’s employment.

The Chief Executive Officer’s Performance Review Committee meets from time to time on an as required basis.

Previous members for the period ending October 2021 were the Deputy Mayor McManus and Councillors, Bennett, Coghlan, Horley & Wetherall.

**Consultation**

Nil.

**Strategic Implications**

Ensures good governance.

**Budget/Financial Implications**

Nil.

**Conclusion**

It is recommended that Council reappoint members to the CEO Performance Review Committee to ensure the review the performance of the CEO compliance with the Local Government Act 1995.

## Appointment of Replacement Deputy Members to Chief Executive Officer Recruitment & Selection Committee

|  |  |
| --- | --- |
| **Council** | 23 November 2021 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil |
| **Officer** | Nicole Ceric – Executive Officer |
| **Attachments** | Nil. |

**Executive Summary**

The purpose of this report is to appoint replacement members to the CEO Recruitment & Selection Committee due to two positions being vacant following the recent Local Government Elections in October 2021.

The positions required to be filled are that of two deputy members, one from the Coastal Ward and one from the Hollywood Ward as per the Terms of Reference.

**Recommendation to Council**

**Council:**

1. **appoints the following ward councillors to the CEO Recruitment & Selection Committee for the life of the Committee as replacement deputy delegates:**
   1. **Councillor (insert name) – Coastal Ward**
   2. **Councillor (insert name) – Hollywood Ward**
2. **adopts the amended Terms of Reference as per below:**

**Terms of Reference**

**Purpose**

The CEO Recruitment and Selection Committee is to be an interim Committee for the life of the CEO recruitment and selection processes.

The CEO Recruitment and Selection Committee will coordinate the end-to-end recruitment process, including working with an Executive Search consultancy as required to advertise for and search and select appropriate candidates.

**Membership**

1. The membership of the committee shall comprise the Mayor and one Councillor from each ward appointed at a Council Meeting with a deputy member being appointed for each member with full voting rights.
2. Deputy members are only required to attend and vote if the primary member is absent, an apology or on leave or has resigned.
3. The Committee must comprise of at least one independent person.
4. The CEO Recruitment and Selection Committee is to source independent advice from a human resources consultant, independent of the City (commonly an Executive Search & Recruitment company).
5. The term of the presiding member and committee members will expire immediately following the appointment of a permanent CEO.
6. The presiding member shall be determined by election from amongst the members of the committee.
7. The election of the presiding member will take place at the first meeting.
8. Should the elected presiding member not be present during a meeting of the committee then a temporary presiding member shall be elected in accordance with clause 6 above.
9. If a vacancy on the committee occurs for whatever reason, then Council shall appoint a replacement in accordance with the same arrangements as for the original appointment.

**Operation**

1. The Committee will operate in accordance with Local Government (Administration) Amendment Regulations 2021 and Guidelines for Local Government CEO Recruitment and Selection (effective 3 February 2021).
2. In the interests of professionalism for all parties and the reputation of the City, matters discussed and information relating to executive search companies that are commercial in confidence or relating to applicants and their details will be treated in the strictest confidence.
3. All selection panel members, Councillors, staff and the Executive Search & Recruitment Company dealing with the CEO recruitment and selection processes are to sign a confidentiality agreement.

**Meetings**

1. The CEO Recruitment & Selection Committee meetings will operate under the Council’s Standing Orders Local Law.
2. The quorum for a meeting will be 50% of the offices of the Chief Executive Officer’s Recruitment & Selection Committee as per section 5.19 of the Local Government Act 1995.

**Administrative Support**

An administrator to the Committee will be appointed by the CEO or Acting CEO. The Administrator’s responsibility is to serve as a secretariat to the Committee by preparing agendas and minutes and ensuring timely distribution to all members; to ensure that meetings are effectively organised and recorded and to provide administrative and governance support for the purposes of the Committee.

**Reporting**

The CEO Recruitment and Selection Committee will report back to Council at important points in the process as approved by Council and enable Council to make the final decision regarding selection and appointment of the interim CEO and the long-term CEO.

**Discussion/Overview**

The CEO is a key role for the City of Nedlands, being responsible for leading the administration of the City.

The CEO is required to run the administration of the City.

**Recruitment of a CEO**

Council is responsible for the appointment of the CEO.

The recruitment of a local government CEO needs to be compliant with the requirements of the Local Government Act 1995 and in line with the Guidelines Council is able to delegate the recruitment of a CEO to a sub-committee of Council with full Councils needing to be involved in the following stages:

* Commencement of a CEO recruitment process
* Review of the job description including selection criteria and responsibilities of the CEO role
* Review of the employment contract
* Endorsement of the final appointment/review.

**Key Relevant Previous Council Decisions:**

At the Ordinary Council Meeting of the 15 December 2020, Council resolved the following:

That Council:

1. forms a CEO Recruitment & Selection Committee comprising the Mayor and four Councillors, being one Councillor from each ward:
2. appoints the members of this Committee:
3. Mayor de Lacy with alternate Deputy Mayor McManus.
4. Coastal Ward Councillor Smyth with alternate Councillor Horley.
5. Hollywood Ward Councillor Wetherall with alternate Councillor Poliwka.
6. Melvista Ward Councillor Coghlan with alternate Councillor Senathirajah.
7. Dalkeith Ward Councillor Mangano with alternate Councillor Youngman.
8. appoints the Mayor as Chair of the Committee.
9. instructs the CEO Recruitment & Selection Committee to review and confirm the Terms of Reference at their first meeting and recommend to Council for adoption; and
10. requests the CEO to immediately procure the services of a recruitment agency for the purpose of recruiting an interim CEO. The recruitment agency is to support the CEO Recruitment & Selection Committee.

**Consultation**

Nil.

**Strategic Implications**

Ensures good governance.

**Budget/Financial Implications**

Nil.

**Conclusion**

It is recommended that Council appoint two replacement deputy delegates to the CEO Recruitment & Selection Committee to ensure compliance with Council’s adopted Terms of Reference for this Committee.

## Appointment of Members to Public Art Committee

|  |  |
| --- | --- |
| **Council** | 23 November 2021 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under *section 5.70 Local Government Act 1995*** | Nil. |
| **Officer** | Nicole Ceric – Executive Officer |
| **Attachments** | 1. Public Art Council Policy |

**Executive Summary**

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

**Recommendation to Council**

**Council:**

1. **appoints the Mayor and the following four (4) Councillors (one from each ward) to the Public Art Committee for the period ending immediately prior to the next Local Government Elections in 2023;**

**Councillor (insert name) – Coastal Ward;**

**Councillor (insert name) – Dalkeith Ward;**

**Councillor (insert name) – Hollywood Ward;**

**Councillor (insert name) – Melvista Ward;**

1. **appoints the following four (4) Councillors (one from each ward) as deputy delegates:**

**Councillor (insert name) – Coastal Ward;**

**Councillor (insert name) – Dalkeith Ward;**

**Councillor (insert name) – Hollywood Ward;**

**Councillor (insert name) – Melvista Ward;**

1. **requests the CEO to call for expressions of interest from the Community for the Community Members of the Committee; and**
2. **adopts the Terms of Reference of the Public Arts Committee as below:**

**Terms of Reference**

**Purpose**

The Public Art Committee will be established under the Local Government Act1995to implement public art projects within the City of Nedlands.

**Aim**

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

**Scope**

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

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

**Procedure**

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

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

**Delegated Authority**

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

**Membership**

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

**Meetings**

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

**Staff**

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

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

**Terms of Reference**

The Terms of Reference will be reviewed annually.

**Discussion / Overview**

**Background**

The Public Arts Committee was established in 2014 and meets from time to time. Councillor members for the period ending October 2021 were the Deputy Mayor and four Councillors, one from each ward being Councillors Hodsdon, Mangano, McManus and Smyth.

## Organisational Review Committee – Establishment and Appointment of Members

|  |  |
| --- | --- |
| **Council** | 22 November 2021 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under *section 5.70 Local Government Act 1995*** | Nil. |
| **CEO** | Bill Parker |
| **Attachments** | Nil. |

**Executive Summary**

The purpose of this report is to establish and appoint council members and employees to the Organisational Review Committee and adopt the terms of reference.

**Recommendation to Council**

**Council:**

1. **appoints the Mayor,** **four Councillors (one Councillor from each ward), Chief Executive Officer, Director Planning & Development, Director Corporate & Strategy and Director Technical Services to the Organisational Review Committee for the period of the review; and**
2. **adopt the Terms of Reference for the Organisational Review Committee as per below:**

**Terms of Reference**

**Purpose**

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

**Scope**

1. To evaluate the responses to the request for the provision of organisational review services and to select a preferred consultant;
2. To work with the appointed consultant to prepare the brief for the organisational review;
3. To consider and approve the brief for the organisational review;
4. To consider the draft organisational review and make a recommendation to Council on the adoption of the organisational review;
5. To consider the draft workforce plan and make a recommendation to Council on the adoption of the workforce plan;

**Membership**

1. The membership of the committee shall comprise the Mayor, four Councillors (one Councillor from each ward), Chief Executive Officer, Director Planning & Development, Director Corporate & Strategy and Director Technical Services.
2. Councillors will be determined by nomination and if necessary, a ballot conducted at a Council Meeting.
3. Council may if it considers it appropriate, appoint deputies to the members of the committee.
4. If a vacancy on the committee occurs for whatever reason, then Council shall appoint a replacement in accordance with the same arrangements as for the original appointment.

**Staff**

In addition to the appointed staff members, the following staff will attend committee meetings to provide technical support and advice:

* Executive Officer (administrative support)
* Manager Human Resources (technical support)

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

**Meetings**

1. The Council Committee operates under the Council’s Standing Orders Local Law.
2. The Committee shall have flexibility in relation to when it needs to meet, but as a minimum shall meet monthly. It is the responsibility of the presiding member to call the meetings of the committee.

**ABSOLUTE MAJORITY VOTE REQUIRED**

**Voting Requirement**

Absolute Majority Required.

**Discussion/Overview**

**Background**

In adopting the 2021/22 budget, Council allocated funding for an Organisational Review. The Organisational Review will inform the Workforce Plan and Long Term Financial Plan. Both of these key documents are Key Focus Areas for the Interim Chief Executive Officer.

The role of Council as defined within the *Local Government Act 1995* is to oversee the allocation of the local government’s finances and resources. As the Organisational Review may have implications on both of these key areas, it is essential that Councillors are engaged in the process. For this reason, it is proposed that an Organisational Review Committee is established for the period of the review.

## Appointment of Members to the Site Assessment Working Group

|  |  |
| --- | --- |
| **Council** | 23 November 2021 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil |
| **Officer** | Nicole Ceric, Executive Officer |
| **Attachments** | Nil. |
| **Confidential Attachments** | Nil. |

**Executive Summary**

The purpose of this Report is for the appointed members of the Site Assessment Working Group and adopt the terms of reference.

These Terms of Reference define the role of the Site Assessment Working Group (SAWG) and provide a framework for its establishment and operation. All members of the SWAG will be required to agree to these Terms of Reference.

**Recommendation to Council**

**Council:**

1. **appoints Councillor (insert name) to chair the Site Assessment Working Group and Councillor (insert name) as the Deputy Chair;**
2. **endorses the Site Assessment Working Group (SAWG) Terms of Reference as per below:**

**Purpose**

For the purpose of this Terms of Reference, the ‘Site’ is defined as the proposed Hospice site and its vicinity within the Allen Park Master Plan location. The establishment of the SAWG will enable the key stakeholders to be directly involved in reviewing the proposal for a Perth Children’s Hospice in Swanbourne.

The feedback provided by the SAWG will assist the City of Nedlands and Council in making decisions that respond to community concerns and aspirations and have the best overall outcomes for the community.

**Objectives of the SAWG**

The objectives of the SAWG are to:

* Foster stakeholder and community awareness and understanding of the proposed development in Allen Park;
* Discuss any required variation to the Allen Park Master Plan.
* Foster the City of Nedlands’ awareness of community concerns and aspirations for the respective residence proposal at Allen Park and regularly report the results of this engagement to Council.
* Obtain and provide local input and knowledge into the area as part of the review process.
* Collaborate and communicate with other parties to facilitate understanding of the issues.
* To provide the provision of feedback to the City on the project development.

The SAWG is an advisory group, not a decision-making group. Decisions relating to the final development of Allen Park are the responsibility of City of Nedlands Council and the State Government.

**Membership on SAWG**

Participation in the SAWG is voluntary and open to key stakeholders within the suburb of Swanbourne.

The membership for the SAWG will comprise of the following:

* Two Council Members
* A Councillor appointed as Chairperson by Council.
* A Councillor appointed as the Deputy Chairperson
* Up to 12 appointed members selected from the pool of applicants received:
* A secretary, appointed by the CEO.

A City secretary will provide administrative assistance to the SAWG. Other administration advice will be provided on an as-needs basis, at the discretion of the CEO.

**Conflict of Interest**

A conflict of interest arises where the City of Nedlands interests are, potentially or perceived, to be in conflict with the member’s private interest and where these may be seen to influence the member’s decisions and actions while participating in the SAWG. If an actual or potential conflict of interest arises in relation to a particular topic, SAWG members must inform the City of Nedlands and the rest of the SAWG as soon as practicable.

**Protocols**

The following code of conduct is expected to be adhered to by all members of the SAWG.

**Code of Conduct**

* Act with honesty, good faith and integrity.
* Abide by the Terms of Reference as set out in this document.
* Actively participate in meetings.
* Declare any actual or perceived conflicts of interest at the commencement of the meeting.
* Represent the interests of their local community rather than individual interests or issues; and
* Maintain confidentiality of discussions within meetings.

**Provision of Information**

The City will provide SAWG with all relevant information within reasonable timeframes to enable the group to effectively perform its role.

**Sharing of Information**

Members will not use any information disclosed at meetings for personal purposes or gains for either themselves or others (including financial gains) and maintain confidentiality of all information provided.

In particular, members are required not to use any SAWG for any public lobbying or political purposes, including use of social media to promote specific campaigns or strategies.

Any material breach of this code of conduct may result in immediate termination of membership.

**Meeting Procedures**

All SAWG members will be required to provide the City with contact details (email and phone number) to ensure that the City is able to communicate with SAWG members throughout its existence and provide updates as and when required.

* Prior to any scheduled meeting, the City of Nedlands will provide all members with any relevant background materials, including meeting agendas and minutes, prior to any scheduled SAWG meetings.
* SAWG members will be given access to a dedicated online engagement portal to access relevant information and to ask any specific questions.
* The format of the meetings, as to where, when and how they will be conducted will be confirmed following appointment of the successful SAWG members.

**SAWG facilitation**

The City of Nedlands in its capacity of a facilitator agrees to:

* Facilitate SAWG meetings in a fair and unbiased manner.
* Ensure all members have an opportunity to make comments, ask questions and raise issues.
* Manage the meeting so that all agenda items are discussed within a reasonable timeframe and that meetings start and finish at the agreed time.
* The facilitator may extend the finish time of a meeting or schedule another meeting if it is evident that further discussion on a specific item is warranted.

**Members’ responsibilities and outcomes**

Members are appointed to the SAWG to represent their local community. Members will, to the best of their ability:

* Review and understand the background materials (to be provided prior to the meetings). This will help you get up to speed and come to the meetings ready to listen and contribute.
* Attend all meetings and site tours of the SAWG;
* If absence from a meeting cannot be avoided, notify the City of Nedlands of their apology as soon as possible;
* Act in the interests of the local community and/or organisation they represent;
* Discuss feedback being raised by their local community;
* Provide a two-way communication channel between the project and the community, including dissemination of information provided by the City of Nedlands to their local community and/or organisation;
* Should members receive confidential or commercially sensitive information it will be clearly marked as such and must not be disseminated.

**Differing views and consensus**

The aim of the SAWG is to represent a diversity of viewpoints. It is not a requirement, or anticipated, that consensus will always be reached among members on the topics discussed. Where group members hold a range of perspectives on a topic, the differing viewpoints will be noted and taken into consideration.

**Media protocol**

SAWG members are not to speak or respond to media enquiries. If you are approached, you must direct the query to the City of Nedlands Communication team who will liaise with the City’s spokesperson who is the Mayor and/or CEO for a response.

**Privacy**

All SAWG members will be required to provide the City of Nedlands with contact details to allow for distribution of meeting notes and communication between meetings.

The City of Nedlands will not provide contact details to any other party without the consent of the SAWG member/s in question.

All SAWG members are free to discuss the outcomes of the meetings with other people, however the specific views and opinions of other reference group members are confidential and not to be shared outside the reference group.

Any published documents relating to the SAWG, including agendas and minutes of the SAWG meetings will have names removed.

**ABSOLUTE MAJORITY REQUIRED**

**Voting Requirement**

Absolute majority required.

**Discussion/Overview**

The City of Nedlands agreed at the Council meeting on 25 August 2020 to proceed with establishing a Site Assessment Working Group (SAWG) for the proposed Perth Children’s Hospice. The objectives of SAWG are to:

• Foster stakeholder and community awareness and understanding of the proposed development in Allen Park and discuss any required variation to the Allen Park Master Plan;

• Foster the City of Nedlands awareness of community concerns and aspirations for the respective residence proposal at Allen Park and regularly report the results of this engagement to Council;

• Obtain and provide local input and knowledge into the area as part of the review process;

Terms of Reference were created and will be agreed and finalised at the first SAWG meeting.

The SAWG was established by the City of Nedlands following public invitation for nominations from residents of Swanbourne. The SAWG members were randomly selected from the pool of applicants by City of Nedlands representatives.

The Community Working Group will consist of:

* A Councillor appointed as Chairperson by Council;
* 12 appointed members selected from the pool of applicants received; and
* A secretary, appointed by the CEO.

Councillor Horley has resigned from this working group.

**Key Relevant Previous Council Decisions:**

**Council Resolution 13.8 - Council Meeting 15 December 2020**

“Council:

1. appoints Councillor Smyth to chair the Site Assessment Working Group and Councillor Horley as the Deputy Chair;
2. endorses the Site Assessment Working Group (SAWG) Terms of Reference as recommended by the SAWG with minor changes recommended.”

**Council Resolution 13.6 - Council Meeting 25 August 2020**

“Council requests the Chief Executive Officer to:

1. undertake community engagement, in compliance with Council’s Community Engagement Policy, on the residence proposal at Allen Park and report the results of this engagement to Council by October 2020;
2. advise the Perth Children’s Hospital Foundation that joining the project control group, will be subject to a future Council decision to vary the Allen Park Master Plan with the residence project incorporated;
3. simultaneously advertise for expressions of interest to Swanbourne residents for a site assessment working group, to commence October 2020;
4. Council requests the Mayor to advise the Minister for Health of its current position in respect to the Allen Park Masterplan and that any changes will be informed by transparent community and stakeholder engagement; and
5. If this proposed land resumption becomes inevitable the CEO is instructed to vigorously pursue a land swap for recreation purposes with the State Government to replace this recreational land.”

**Council Resolution 13.7 – Council Meeting – 27 October 2020**

“Council:

1. notes the results of the community and stakeholder engagement summarised in this report;
2. endorses the Site Assessment Working Group (SAWG) Terms of Reference as per Attachment 1 of this report;
3. endorses the 12 candidates selected from the Ballot Selection Process held on the 14 October 2020 for the SAWG;
4. appoints Councillor Horley to chair this working group and Councillor Smyth as the Deputy Chair; and
5. formally establishes the SAWG.”

**Council Resolution 14.2 - Council Meeting 22 September 2020**

“Council requests the Chief Executive Officer to:

1. undertake community engagement, in compliance with Council’s Community Engagement Policy, on the residence proposal at Allen Park and report the results of this engagement to Council by October 2020, as resolved by Council;
2. advise the Minister for Health and the Chair of the Perth Children’s Hospital Foundation that the Council and City of Nedlands acknowledges the State Government decision for the location of the Children’s Hospice on the park land previously occupied by the Swanbourne Bowling Club. All land associated with the development (including bushfire protection measures and firebreaks) is to be contained within the site, preserving the adjacent bushland;
3. proceed with formation of the Swanbourne residents site assessment working group by October 2020 and to include in the terms of reference, the provision of feedback to the City on the project development;
4. consider further the invitation from the Chair of the Perth Children’s Hospital Foundation for him, or his delegate, to join this Project Control Group as a supporting member ensuring the City is informed as the Hospice development proceeds;
5. recommend to the Chair of the Perth Children’s Hospital Foundation that the Deputy Mayor be invited also to join the Project Control Group as a Council representative; and
6. continues to negotiate with the WA Government Minister for LG and Minister for Planning for a parcel of land within the City to replace the recreational land foregone for the Hospice, as there is a critical shortage of such land within the City of Nedlands. If the residence is going to proceed with an excision of the A Class Reserve, all remaining titles within Allen Park including the bushland Lot 150, are to be given A Class Reserve status.”

## Appointment of Members to the Development Assessment Panel

|  |  |
| --- | --- |
| **Council** | 23 November 2021 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under *section 5.70 Local Government Act 1995*** | Nil. |
| **Officer** | Nicole Ceric – Executive Officer |
| **Attachments** | Nil. |

**Executive Summary**

The Planning and Development (Development Assessment Panels) Regulations 2011 (DAP Regulations) requires Council to nominate four elected members of the Council, comprising two local members and two alternate local members to sit on the Joint Development Assessment Panel (DAP).

The purpose of this report is for Council to nominate local members and alternate local members to the Development Assessment Panel and these are required to be submitted to the Department of Planning, Lands and Heritage by 19 November 2021. However, an extension has been given until 24 November 2021. Confirmation is required if there is no change to the nominees.

Any new nominees will be considered by the Minister and will be appointed local government DAP members for the term ending 26 January 2024. Current appointed local members will remain in place until 26 January 2022.

**Recommendation to Council**

**Council:**

1. **Pursuant to Regulation 26 of the Planning and Development (Development Assessment Panels) Regulations 2011, nominates the following local members to sit on the City of Nedlands Development Assessment Panel:**

**Local member:**

1. **(insert nominee)**
2. **(insert nominee)**

**Alternate local member:**

1. **(insert nominee)**
2. **(insert nominee)**
3. **approves these nominations to be submitted to the Department of Planning.**

**Background**

**Key Relevant Previous Council Decisions:**

In 2021, following Councillor Poliwka’s resignation Councillor Tyson was appointed 2nd alternate local member.

In 2020, Council nominated Councillor Bennett as 1st local member; to replace Mayor de Lacy and noted that Councillor Smyth remained the 2nd local member. Councillor Coghlan was nominated as 1st alternate local member and Councillor Poliwka as 2nd alternate local member.

In 2019, Council nominated Mayor de Lacy and Councillor Smyth as delegates and Councillor Bennett and Councillor Wetherall as alternate local members.

In 2017, Council nominated Mayor Hipkins and Councillor Shaw as local members and Councillor Smyth and Councillor Wetherall as alternative members.

In 2015, Council nominated Mayor Hipkins and Councillor Shaw as local members and Councillor Hassell and Councillor Smyth as alternative members.

In 2013, Council nominated Mayor Hipkins and Councillor Shaw as local members and Councillor Hassell and Councillor Somerville-Brown as alternative members.

In 2011, Council nominated Councillors Tan and Negus as local members and Mayor Frose and Cr Hodson as alternate members.

**Consultation**

Required by legislation: Yes  No

Required by City of Nedlands policy: Yes  No

**Legislation / Policy**

* Planning and Development (Development Assessment Panels) Regulations 2011 (DAP Regulations)
* Planning and Development (Development Assessment Panels) Amendment Regulations 2016 (DAP Amendment Regulations)

**Budget/Financial Implications**

Within current approved budget: Yes  No

Requires further budget consideration: Yes  No

**Risk Management**

If the Council fails to nominate members and submit nominations to the Department of Planning, the Minister has the power to appoint non-councillors from the community.

**Discussion**

Development Assessment Panels (DAP) were introduced by the (then) Department of Planning during 2011 to assist with decision making involved with complex development applications.

Each DAP consists of three specialist members, one of which is the presiding member, and two local government members.

Appointment of the City’s current DAP members, Councillor Bennett and Councillor Smyth as local members, and Councillor Coghlan and ex Councillor Tyson as alternate local members), expires on 26 January 2022.

The Council is being requested to nominate replacement and alternate replacement nominees in the event that current DAP members are no longer Councillors following the local government election.

DAP members are entitled to be paid for their attendance at DAP meetings and training, unless they fall within a class of persons excluded from payment.

If Council nominates new members and new alternate members, the nominees will be submitted to the Department of Planning and the Minister of Planning will consider and appoint the nominee with term ending 26 January 2024. All appointed members will be placed on the local government member register and advised of DAP training dates and times. Training is only required for those who have not had training already.

The Department of Planning. Lands and Heritage has noted in their letter of advice that:

“The McGowan Government has recently launched OnBoardWA as part of its commitment to increase the total number of women appointed to Government board and committees to 50 percent by 2019. I encourage you to consider diversity of representation when putting forward your local government nominations in supporting this important election commitment.”

**Conclusion**

It is recommended that, as requested, Council nominate local members and alternate local members for the Development Assessment Panel for the consideration of the Minister.

## Appointent of Members to the Lake Claremont Advisory Committee

|  |  |
| --- | --- |
| **Council** | 23 November 2021 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under *section 5.70 Local Government Act 1995*** | Nil. |
| **Officer** | Nicole Ceric – Executive Officer |
| **Attachments** | Nil. |

**Executive Summary**

The purpose of this report is to appoint members of the Lake Claremont Committee. Previously, Council resolved to appoint Councillor Smyth as the Delegate and Councillor Bennett as Deputy Delegate.

**Recommendation to Council**

**Council appoints one (1) Councillor as delegate and one (1) Councillor be appointed as deputy delegate to the Lake Claremont Committee for a period ending immediately prior to the next Local Government Elections 2023.**

**ABSOLUTE MAJORITY VOTE REQUIRED**

**Voting Requirement**

Absolute majority required.

**Discussion/Overview**

**Background**

The Committee was established to prepare and implement a Management Plan for the Lake. Lake Claremont Committee, with community participation, ensures that they Lake is Managed by the Town of Claremont, as a healthy natural seasonal lake for both conservation and recreational purposes.

## Chief Executive Officer Position Description

|  |  |
| --- | --- |
| **Council** | 23 November 2021 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under *section 5.70 Local Government Act 1995*** | Nil. |
| **Officer** | Shelley Mettam - Manager Human Resources |
| **Attachments** | 1. Operational Guidelines for Local Government CEO Recruitment and Selection 2. Draft Job Description |
| **Confidential Attachments** | Nil. |

**Executive Summary**

One of the steps in CEO recruitment and selection is to review the requirements of the role as reflected in the Job Description which describes the job skills and attributes required.

Operational Guidelines for recruitment of a local government CEO, *Local Government Operational Guidelines* contains guidance for appointing a CEO (Attachment 1). The minimum standards for recruitment and selection will be met if (et al):

* 1. The Council has identified and agreed to the qualifications and selection criteria necessary to effectively undertake the role and duties of the CEO within the particular local government context; and
  2. The Council has approved by absolute majority, the Job Description Form (JDF) which clearly outlines the qualifications, selection criteria and responsibilities of the position. The JDF is made available to all applicants.

A draft Job Description is attached for Council consideration and approval (Attachment 2).

**Recommendation to Council**

**That Council approves the proposed Job Description as per attachment 2 for the CEO role, the content of which will be reflected in advertising material for the role and to provide a profile for consideration of applicants’ skills and attributes against that description when recruiting for the role.**

**Voting Requirement**

Absolute Majority.

**Discussion/Overview**

The CEO is a key role for the City of Nedlands, being responsible for leading the administration in the delivery of the City’s services and programs. In December 2020, with the impending departure of CEO Mark Goodlet, steps were taken to consider a replacement CEO. The CEO Recruitment and Selection Committee was formed to recruit the Interim CEO, and, subsequently, the Long-Term CEO.

The CEO Recruitment and Selection Committee (the Committee) has been guided by the Local Government (Administration) Amendment Regulations 2021 (CEO Standards) pertaining to the recruitment and selection of local government CEOs (per Attachment 1).

Following a tender process to select an independent consultancy to assist Council with the CEO recruitment process, at Special Council Meeting 8 April 2021, Executive Search Consultants, *Hunter Executive* were confirmed as the consultancy to assist.

The Committee subsequently met, together with *Hunter Executive to* discuss therecruitment process including the need to identify the skills and attributes of the CEO being sought. At Committee Meeting 9 August 2021, Consultant Gregor McNally, of *Hunter* received the Committee’s feedback on preferred skills and attributes. (**Attachment 3**). The Committee’s feedback identified the following as necessary attributes:

* Business management;
* Strategic planning; and
* Change management.

The Job Description has been amended by Consultant Gregor McNally to incorporate the identified attributes and this is now commended to Council for endorsement.

**Key Relevant Previous Council Decisions:**

* Confidential Item – Council Meeting 22 June 2021
* Confidential Special Council Meeting - 8 April 2021
* Confidential Special Council Meeting – 11 February 2021
* Confidential Special Council Meeting – 9 February 2021
* Special Council Meeting – 2 February 2021

**Consultation**

The attached job description has been drafted following consultation with the CEO Recruitment & Selection Committee.

**Strategic Implications**

The CEO role is a key position and selection of an appropriate person to fill the role leads to appropriate business management and good governance of the City.

**Budget/Financial Implications**

Within current budget.

**Conclusion**

The CEO Recruitment and Selection Committee has discussed key skills and attributes required of a Long-Term CEO and has incorporated those requirements into a Job Description and therefore recommends to Council the attached job description for approval before embarking on the recruitment and selection process.

## List of Accounts Paid – October 2021

|  |  |
| --- | --- |
| **Council** | 9 November 2021 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under *section 5.70 Local Government Act 1995*** | Nil. |
| **Director** | Ed Herne - Director Corporate & Strategy |
| **Attachments** | 1. Creditor Payment Listing – October 2021; and 2. Credit Card and Purchasing Card Payments October 2021 |
| **Confidential Attachments** | Nil. |

**Executive Summary**

In accordance with Regulation 13 of the *Local Government (Financial Management) Regulations 1996* Administration is required to present the List of Accounts Paid for the month to Council.

**Recommendation to Council**

**Council receives the List of Accounts Paid for the month of October 2021 as per attachments.**

**Voting Requirement**

Simple Majority.

**Discussion/Overview**

**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.

**Risk Management**

The accounts payable procedures ensure that 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 Financial Accounting and the Manager Financial Services (or designated alternative officers).

**Key Relevant Previous Council Decision:**

There are no previous Council decisions to consider.

**Consultation**

Required by legislation: Yes  No

Required by City of Nedlands policy: Yes  No

**Strategic Implications**

**How well does it fit with our strategic direction?**

The 2020/21approved budget is in line with the City’s strategic direction. Payments are made to meet the City’s spend on operations and capital expenses undertaken in accordance with the approved budget.

**Who benefits?**

The 2020/21approved budget ensured that there is an equitable distribution of benefits in the community.

**Does it involve a tolerable risk?**

The 2020/21budget was prepared in line with the City’s level of tolerance of risk and it is managed through budgetary review and control.

**Do we have the information we need?**

All relevant information has been provided in this report and through the attachments.

**Does this affect any CEO Key Result Areas?**

N/A

**Budget/Financial Implications**

**Can we afford it?**

The payments are made in accordance with the approved budget.

**How does the option impact upon rates?**

This does not have any impact upon the rates.

**Conclusion**

The List of Accounts Paid for the months of October 2021 complies with the relevant legislation and can be received by Council (see attachments).

## Monthly Financial Report – September 2021

|  |  |
| --- | --- |
| **Council** | 23 November 2021 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil |
| **Director** | Ed Herne – Director Corporate & Strategy |
| **Attachments** | 1. Financial Summary (Operating) by Business Units – 30 September 2021 2. Capital Works & Acquisitions – 30 September 2021 3. Statement of Net Current Assets – 30 September 2021 4. Statement of Financial Activity –30 September 2021 5. Borrowings – 30 September 2021 6. Statement of Financial Position – 30 September 2021 7. Operating Income & Expenditure by Reporting Activity – 30 September 2021 8. Operating Income by Reporting Nature & Type – 30 September 2021 |

**Executive Summary**

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

**Recommendation to Council**

**Council receives the Monthly Financial Report for 30 September 2021.**

**Voting Requirement**

Simple Majority.

**Discussion/Overview**

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

This report gives an overview of the revenue and expenses of the City for the year to date 30 September 2021 together with a Statement of Net Current Assets as at 30 September 2020.

The operating revenue at the end of September 2021 was $30.20m which represents $176k unfavourable variance compared to the year-to-date budget.

The operating expense at the end of September 2021 was $7.88m, which represents $2.21m favourable variance compared to the year-to-date budget.

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

**Governance**

Expenditure: Favourable variance of $ 308,926

The Favourable expenditure variance is mainly due to:

* Governance and HR Professional fees, Special projects and other employee costs of $223k not spent yet.
* Staff recruitment and Insurance cost of $65k not spent yet.
* Communication salary of $19k not spent due to delay in filling current vacancy.

**Corporate and Strategy**

Expenditure: Favourable variance of $ 354,260

Revenue: Unfavourable variance of $ (79,740)

The favourable expenditure variances are mainly due to:

* Professional fees and ICT expenses of 305k not spent yet
* Rates administration and collection charges of $23k not spent yet.

Unfavourable revenue variances are mainly due to:

* Lower income for land property leases of $16k due to timing of lease start date;
* Lower rates income of $61k mainly from instalment interest and admin charges.

**Community Development and Services**

Expenditure: Favourable variance of $ 111,090

Revenue: Favourable variance of $ 98,894

The favourable expenditure variance is mainly due to:

* Community development operational activities, donations and other special projects of $30k not expensed yet.
* Other expenses of $37k not spent yet,
* PRCC salaries of 15k due to delay in filling current vacancy.

The favourable income variance is mainly due to:

* Increased Tresillian fees & charges of $73k.

**Planning and Development**

Expenditure: Favourable variance of $ 663,129

Revenue: Unfavourable variance of $ (230,048)

The Favourable expenditure variance is mainly due to:

* Urban Planning professional fees and projects expenses of $356k not spent yet.
* Planning salary of $42k due to delay in filling current vacancy.
* Environmental operation activities of $179k not spent yet.

The Unfavourable revenue variance is mainly due to:

* Lower fees & charges from planning and building services of $229k.

**Technical Services**

Expenditure: Favourable variance of $ 781,653

Revenue: Favourable variance of $ 34,007

The favourable expenditure variance is mainly due to:

* Maintenance expense for park services and Waste expenses of $770k not expensed yet.

Small favourable revenue variance is mainly due to:

* Increased waste fees & charges of $16k.
* Increased Verge inspection fees amount of $10k.

**Borrowings**

As at 30 September 2021, we have a balance of borrowings of $961k.

**Net Current Assets Statement**

At 30 September 2021, net current assets were $28.37m compared to $24.27m as at 30 September 2020.Current assets increased by $6.64m compared to 30 June 2020 offset by increased current liabilities of $2.80m.

Outstanding rates debtors are $11.44m as at 30 September 2021 compared to $11.53m as at 30 September 2020. Breakdown as follows:

|  |  |  |  |
| --- | --- | --- | --- |
|  | **30September 2021**  **($000)** | **30September 2020**  **($000)** | **Variance**  **($000)** |
| **Rates** | $9,256 | $9,391 | ($135) |
| **Rubbish & Pool** | $508 | $257 | $251 |
| **Pensioner Rebates** | $950 | $1,202 | ($252) |
| **ESL** | $734 | $677 | $57 |
| **Total** | $11,448 | $11,532 | $79 |

**Capital Works Programme**

As at 30 September, expenditure on capital works was $517k with additional capital commitments of $2m which represents 31% of a total budget of $8.24m.

**Employee Data**

|  |  |
| --- | --- |
| **Description** | **Number** |
| Number of employees (total of full-time, part-time and casual employees) as of the last day of the previous month | 171 |
| Number of contract employees (temporary/agency) as of the last day of the previous month | 10 |
| \*Occupied FTE (Full Time Equivalent) count as of the last day of the previous month | 145.87 |
| Number of unfilled employee positions at the end of each month | 34 |

Contrast between end August 2021 and end September 2021: number of unfilled staff positions reduced from 42 to 34; occupied FTE increased from 139.50 to 145.8; total active employees (comprising both full time and part time employees) increased from 164 to 171 employees.

**Conclusion**

The statement of financial activity for the period ended 30 September 2021 indicates that operating expenses are under the year-to-date budget by 21.96% or $2.21m, and revenue is under the budget by 0.58% or $176k.

**Key Relevant Previous Council Decisions:**

Nil.

**Consultation**

N/A

**Strategic Implications**

The 2021/22 approved budget is in line with the City’s strategic direction. Our operations and capital spend, and income is undertaken in line with and measured against the budget.

The 2021/22 approved budget ensures that there is an equitable distribution of benefits in the community.

The 2021/22 budget was prepared in line with the City’s level of tolerance of risk and it is managed through budgetary review and control.

The approved budget was based on 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.

**Budget/Financial Implications**

As outlined in the Monthly Financial Report.

## Monthly Investment Report – September 2021

|  |  |
| --- | --- |
| **Council** | 23 November 2021 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995 and section 10** | Nil. |
| **Director** | Ed Herne – Director Corporate & Strategy |
| **Attachments** | 1. Investment Report for the period ended 30 September 2021 |

**Executive Summary**

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

**Recommendation to Council**

**Council receives the Investment Report for the period ended 30 September 2021.**

**Voting Requirement**

Simple Majority.

**Discussion/Overview**

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 September 2021 and 30 September 2020 the City held the following funds in investments:

|  |  |  |
| --- | --- | --- |
|  | **30-Sep-2021** | **30-Sep-2020** |
| **Municipal Funds** | $ 5,321,913 | $ 5,910,054 |
| **Reserve Funds** | $ 3,576,530 | $ 11,894,191 |
| **Total investments** | $ 8,898,444 | $ 17,804246 |
|  |  |  |

The City has $5.8m in a Westpac online saver account which returns an interest rate of 0.40% per annum. As this rate is higher than the rates quoted for the term deposits as of end November, the surplus cash is maintained in the Westpac online saver account.

The total interest earned from investments as at 30 Sep 2021 was $4,924.

The Investment Portfolio comprises holdings in the following institutions:

|  |  |  |  |
| --- | --- | --- | --- |
| **Financial Institution** | **Funds Invested** | **Interest Rate** | **Proportion of Portfolio** |
| NAB | $2,966,890 | 0.27% - 0.30% | 33.34% |
| Westpac | $1,995,827 | 0.22% - 1.05% | 22.43% |
| ANZ | $1,187,900 | 0.05%- 0.10% | 13.35% |
| CBA | $2,747,827 | 0.16% - 0.24% | 30.88% |
| **Total** | **$8,898,444** |  | **100.00%** |

**Conclusion**

The Investment Report is presented to Council.

**Key Relevant Previous Council Decisions:**

Nil.

**Consultation**

Required by legislation: Yes  No

Required by City of Redlands policy: Yes  No

**Strategic Implications**

The investment of surplus funds in the 2021/22 approved budget is in line with the City’s strategic direction.

The 2021/22 approved budget ensured that there is an equitable distribution of benefits in the community.

The 2021/22 budget was prepared in line with the City’s level of tolerance of risk and it is managed through budgetary review and control.

The interest income on investment in the 2021/22 approved budget was based on economic and financial data available at the time of preparation of the budget.

**Budget/Financial Implications**

The Sep YTD Actual interest income from investments is $4,924 compared to the Sep YTD Budget of $10,500.

## Monthly Financial Report – October 2021

|  |  |
| --- | --- |
| **Council** | 23 November 2021 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil |
| **Director** | Ed Herne – Director Corporate & Strategy |
| **Attachments** | 1. Financial Summary (Operating) by Business Units – 31 October 2021 2. Capital Works & Acquisitions – 31 October 2021 3. Statement of Net Current Assets – 31 October 2021 4. Statement of Financial Activity –31 October 2021 5. Borrowings – 31 October 2021 6. Statement of Financial Position – 31 October 2021 7. Operating Income & Expenditure by Reporting Activity – 31 October 2021 8. Operating Income by Reporting Nature & Type – 31 October 2021 |

**Executive Summary**

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

**Recommendation to Council**

**Council receives the Monthly Financial Report for 31 October 2021.**

**Voting Requirement**

Simple Majority.

**Discussion/Overview**

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

This report gives an overview of the revenue and expenses of the City for the year to date 31 October 2021 together with a Statement of Net Current Assets as at 31 October 2020.

The operating revenue at the end of October 2021 was $30.99m which represents $91k unfavourable variance compared to the year-to-date budget.

The operating expense at the end of October 2021 was $10.37m, which represents $2.93m favourable variance compared to the year-to-date budget.

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

**Governance**

Expenditure: Favourable variance of $ 487,262

Revenue: Favourable Variance of $ 33,182

The Favourable expenditure variance is mainly due to:

* Governance and HR Professional fees, Special projects and other employee costs of $315k not spent yet.
* Insurance and MOC cost of $134k not spent yet.
* Communication salary of $33k not spent due to delay in filling current vacancy.

The favourable revenue variance of $33k is mainly due to leased property ESL payment.

**Corporate and Strategy**

Expenditure: Favourable variance of $ 545,769

Revenue: Unfavourable variance of $ (32,579)

The favourable expenditure variances are mainly due to:

* Professional fees, Special projects and ICT expenses of 484k not spent yet
* ICT and Land & Property salary of 52k not spent due to delay in filling current vacancy.

Unfavourable revenue variances are mainly due to:

* Lower income for land property leases of $25k due to timing of lease start date;

**Community Development and Services**

Expenditure: Favourable variance of $ 119,024

Revenue: Favourable variance of $ 142,506

The favourable expenditure variance is mainly due to:

* Community development special projects of $21k not expensed yet.
* NCC and PRCC salaries of 63k not spend yet. This will even out at the end of year.

The favourable income variance is mainly due to:

* Increased Tresillian fees & charges of $104k.
* Increased PRCC fees & charges of $47k

**Planning and Development**

Expenditure: Favourable variance of $ 787,571

Revenue: Unfavourable variance of $ (282,816)

The Favourable expenditure variance is mainly due to:

* Urban Planning professional fees and projects expenses of $382k not spent yet.
* Planning and Environmental Health salary of $103k not expensed yet due to delay in filling current vacancy.
* Environmental operation activities of $216k not spent yet.

The Unfavourable revenue variance is mainly due to:

* Lower fees & charges from planning and building services of $283k.

**Technical Services**

Expenditure: Favourable variance of $ 986,978

Revenue: Favourable variance of $ 48,591

The favourable expenditure variance is mainly due to:

* Maintenance expense for parks and Waste management of $970k not expensed yet due to delay in projects.

Small favourable revenue variance is mainly due to:

* Increased waste fees & charges of $24k.

**Borrowings**

As at 31 October 2021, we have a balance of borrowings of $910k.

**Net Current Assets Statement**

At 31 October 2021, net current assets were $26.73m compared to $22.78m as at 31 October 2020.Current assets increased by $6.64m compared to 30 June 2020 offset by increased current liabilities of $3.98m.

Outstanding rates debtors are $8.7m as at 31 October 2021 compared to $8.8m as at 31 October 2020. Breakdown as follows:

|  |  |  |  |
| --- | --- | --- | --- |
|  | **31October 2021**  **($000)** | **31October 2020**  **($000)** | **Variance**  **($000)** |
| **Rates** | $7,471 | $7,675 | ($204) |
| **Rubbish & Pool** | $ 266 | $ 191 | $ 75 |
| **Pensioner Rebates** | $ 590 | $ 543 | $ 47 |
| **ESL** | $ 373 | $ 442 | $69 |
| **Total** | $8,709 | $ 8,851 | $-142 |

**Capital Works Programme**

As at 31 October, expenditure on capital works was $794k with additional capital commitments of $2m which represents 34% of a total budget of $8.24m.

**Employee Data**

|  |  |
| --- | --- |
| **Description** | **Number** |
| Number of employees (total of full-time, part-time and casual employees) as of the last day of the previous month | 172 |
| Number of contract employees (temporary/agency) as of the last day of the previous month | 6 |
| \*Occupied FTE (Full Time Equivalent) count as of the last day of the previous month | 146.88 |
| Number of unfilled employee positions at the end of each month | 34 |

Employee numbers are largely stable in the October month compared to the September month, apart from a reduction in contract employees from 10 (September) to 6 (October). Unfilled employee positions remain the same at 34.

**Conclusion**

The statement of financial activity for the period ended 31 October 2021 indicates that operating expenses are under the year-to-date budget by 22.02% or $2.9m, and revenue is under the budget by 0.29% or $176k.

**Key Relevant Previous Council Decisions:**

Nil.

**Consultation**

N/A

**Strategic Implications**

The 2021/22 approved budget is in line with the City’s strategic direction. Our operations and capital spend, and income is undertaken in line with and measured against the budget.

The 2021/22 approved budget ensures that there is an equitable distribution of benefits in the community.

The 2021/22 budget was prepared in line with the City’s level of tolerance of risk and it is managed through budgetary review and control.

The approved budget was based on 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.

**Budget/Financial Implications**

As outlined in the Monthly Financial Report.

## Monthly Investment Report – October 2021

|  |  |
| --- | --- |
| **Council** | 23 November 2021 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil. |
| **Director** | Ed Herne – Director Corporate & Strategy |
| **Attachments** | 1. Investment Report for the period ended 31 October 2021 |

**Executive Summary**

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

**Recommendation to Council**

**Council receives the Investment Report for the period ended 31 October 2021.**

**Voting Requirement**

Simple Majority.

**Discussion/Overview**

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

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

The Investment Summary shows that as at 31 October 2021 and 31 October 2020 the City held the following funds in investments:

|  |  |  |
| --- | --- | --- |
|  | 31-Oct-2021 | 31-Oct-2020 |
| Municipal Funds | $ 5,322,981 | $ 5,913,037 |
| Reserve Funds | $ 13,578291 | $ 11,903,504 |
| Total investments | $ 18,901,272 | $ 17,816,541 |
|  |  |  |

The City has $5.8m in a Westpac online saver account which returns an interest rate of 0.40% per annum. As this rate is higher than the rates quoted for the term deposits as of end November, the surplus cash is maintained in the Westpac online saver account.

The total interest earned from investments as at 31 October 2021 was $7,752.

The Investment Portfolio comprises holdings in the following institutions:

|  |  |  |  |
| --- | --- | --- | --- |
| **Financial Institution** | **Funds Invested** | **Interest Rate** | **Proportion of Portfolio** |
| NAB | $6,967,970 | 0.27% - 0.30% | 36.87% |
| Westpac | $1,996,343 | 0.22% - 1.05% | 10.56% |
| ANZ | $2,187,987 | 0.05%- 0.15% | 11.58% |
| CBA | $6,001,972 | 0.16% - 0.32% | 41.00% |
| **Total** | **$18,901,272** |  | **100.00%** |

**Conclusion**

The Investment Report is presented to Council.

**Key Relevant Previous Council Decisions:**

Nil.

**Consultation**

Required by legislation: Yes  No

Required by City of Redlands policy: Yes  No

**Strategic Implications**

The investment of surplus funds in the 2021/22 approved budget is in line with the City’s strategic direction.

The 2021/22 approved budget ensured that there is an equitable distribution of benefits in the community.

The 2021/22 budget was prepared in line with the City’s level of tolerance of risk and it is managed through budgetary review and control.

The interest income on investment in the 2021/22 approved budget was based on economic and financial data available at the time of preparation of the budget.

**Budget/Financial Implications**

The Oct YTD Actual interest income from investments is $7,752 compared to the YTD Oct Budget of $14,000.

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

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

## Mayor Argyle – Energy Efficiency / Sustainability

At the Council meeting on 28 September 2021 Mayor Argyle gave notice of her intention to move the following at this meeting.

**That the Chief Executive Officer:**

* 1. **prepares a report for Council’s consideration that details:**
* **the existing and proposed energy efficiency provisions for residential and mixed-use development under the Residential Design Codes Volume 1 and 2.**
* **The various planning instruments that are available to Council to reduce non-renewable energy use, with via development approvals.**

* 1. **prepares a report for Council’s consideration on the merits and implications of preparing a strategy that:**
* **Identifies opportunities to improve greening and biodiversity, as well as reduce non-renewable energy, water and waste within the City.**
* **Sets realistic targets to achieve these sustainability measures based on quantifiable baseline data.**
* **Is consistent with the City’s Community Strategic Plan 2018-2028.**

Administration Comment

The Notice of Motion is in two parts. The first part details with energy efficiency provisions for residential and mixed used developments. This is a relevant planning consideration and worthy of consideration. The future report to Council will review the existing planning framework and identify opportunities for Nedlands to add to the framework, if appropriate to ensure energy efficiency measures are appropriately considered as part of development approvals.

The second part of the Notice of Motion refers to the preparation of a strategy. This is appropriate and ultimately would support and enhance any measures introduced as result of the first part of motion. The future report would outline the merits and implications of such a strategy, so Council has a clear understanding of these prior to embarking on the process. The preparation of such a strategy, fundamentally has merit and is consistent with many other local governments and has the potential to provide the Council and the administration with a clear strategic direction upon which future decision can be based.

## Councillor Mangano – Increased Verge Bonds

On the 12 October 2021 Councillor Mangano gave notice of his intention to move the following at this meeting.

**Council approves that a verge bond of $10,000 per lineal metre of frontage be applied for all single residential developments exceeding $1M and all multiple and grouped dwellings developments, and that administration time, legal fees and damage is deducted from this bond. In addition, if the costs exceeded the bond, the applicant is liable for those costs and must agree to this condition prior to the verge permit being issued.**

Justification

The City is currently expending huge amounts of administration time and legal costs on dealing with problem builders across Nedlands, and this is not being covered by the current verge bonds. In the case of 95A Waratah Ave, in excess of $50,000 has been expended to date on administration time and legal fees, and also Councillor time which is not costed. These costs should not be borne by the ratepayers and this will act a deterrent to builders who do not respect the city’s property and ratepayers interests.

Administration Comment

A change of this significance should be the subject of a report to Council by officers. The ability to use bonds in the method proposed should be reviewed to ensure that this is legal a use of a bond. The methodology of determining the bond amount should also be reviewed and the implications of any bond amount should be considered via an officer report. The ability to impose a condition on the permit as proposed should also be further considered.

A more appropriately worded resolution would be:

That the Chief Executive officer prepare a report for Council’s consideration outlining the implications and process of Council imposing a verge bond of$10,000 per lineal metre of frontage be applied for all single residential developments exceeding $1M and all multiple and grouped dwellings developments, and that administration time, legal fees and damage is deducted from this bond. In addition, if the costs exceeded the bond, the applicant is liable for those costs and must agree to this condition prior to the verge permit being issued.

## Councillor Mangano – Delegated Authority for Verge Permits

On the 12 October 2021 Councillor Mangano gave notice of his intention to move the following at this meeting.

**Council withdraws delegated authority for all construction related uses of City owned land, verges, and any other land vested in the City.**

Justification

The 95A Waratah Ave and 102 Adelma Road verge related issues have been mismanaged by City’s administration. Time and time again builders damage infrastructure, take up space outside of their permitted area, do not use traffic management, and Administration do not infringe them.

All applications to use City land or vested land need to be brought to full Council for approval by Council. This needs to be done to ensure that the community has a say if the City’s land is to be obstructed.

Administration Comment

The table below shows the of permits to Use the Nature Strip (verge) issued under Regulation 6(1) of the *Local Government (Uniform Local Provisions) Regulations 1996* over current and recent financial years. Under the Notice of Motion there would be an additional number of items sent to Council for determination. It would be estimated therefore that if Council were to be dealing with these applications for this financial year an estimated additional 150 reports will need to be presented to Council to be determine.

|  |  |  |
| --- | --- | --- |
| FY | No. Permits Issued | Revenue |
| 19-20 | 111 | $31,720 |
| 20-21 | 128 | $43,874 |
| 21-22 Ongoing | 62 (end Oct 21) | $20,904 (end Oct 21) |

Currently the average approval time for a verge use permit is 2 days, usually coinciding with the issue of a building permit.

Given the turnaround time to produce a report for Council meetings, the turnaround time for approval of these permits would then be expected to be between 6 to 8 weeks depending upon the timing of applications being lodged.

This would not coincide with the issue of building permits which are required to be issued within 10 days of submission as dictated by legislation. It would make it more difficult for the builders to coincide management of stage setup for construction and may cause considerable delays and frustration to the commencement of construction works.

Verge use permits are issued for durations from 1 month to 24 months. Many are issued for single use on a time basis for one month, which are primarily residents (not developers) wishing to place skips on the verge, If these permits had a 6 to 8 week wait for approval this is expected to result in significant frustration for residents.

To add an additional workload for the writing and administration of 150 reports to Council, the City would need to employ an additional officer. Currently the City is not resourced to cope with the quantity of Council reports that will need to be written to cope with the removal of delegation to approve these permits as currently occurs. That would initially add approximately $85,000 in employment costs to the City’s budget.

Currently the City receives revenue based upon $1/m2/month as dictated by legislation.

Until just recently the City’s development compliance functions have been fragmented across the organisation with the City‘s response initiated by complaints and re-active outcomes. The City now has in place a dedicated development compliance team whose approach is the provision of a central customer service point of contact and the move to a pro-active compliance approach resulting in appropriate enforcement measures for verge use.

Moving forward this new approach will significantly enhance the City’s compliance regime including the control and use of Council verge land, avoiding the current complaint based reactive approach.

The removal of the delegated authority to approve verge use permits by administration is not considered either an effective or efficient use of Council’s time and resource. It will also necessitate additional budgetary considerations. For these reasons the notice of motion is not seen as an improvement to the existing process.

## Councillor Mangano – Panel for Legal Advice

On the 13 October 2021 Councillor Mangano gave notice of his intention to move the following at this meeting.

**That Council directs the CEO to establish a panel of at least three (3) legal firms to use for general LG legal advice, as the current exclusive use of Mcleods only is unfair to similar firms, who may be capable of providing a similar service.**

Justification

At a briefing earlier this year a Mcleods lawyer, Neil Douglas, referred to a case of bullying at City of Stirling. I said that the person, a councillor (she) was exonerated in the SAT, and he denied any knowledge of it, when in fact he represented the City of Stirling against that councillor.

I am concerned that Mcleods do not act in the interests of elected members and are regularly being used by Administration against elected members.

Also, this monopoly use of Mcleods is anti-competitive and unfair to other legal firms who may be available to provide legal advice to the City.

Administration Comment

Under the Procurement of Goods and Services Policy, a panel of pre-qualified suppliers can be established where the City has a continuing need for any particular good or service. Panels are established in accordance with Division 3 of the *Local Government (Functions and General) Regulations 1996* with work sourced from the panel according to price, availability, demonstrated understanding of the project and any specialist requirements.

Establishing a unique panel of prequalified suppliers is a resource intensive task.

As an alternative, WALGA has established a panel of prequalified suppliers for legal and debt management services under the Preferred Supplier Program. The City of Nedlands can access this panel. Under the City’s Procurement Policy and when utilising WALGA’s panel, quotations should still be sought from at least 3 suppliers to ensure value for money is achieved.

## Councillor Mangano – Solar Access Local Planning Policy

On the 21 October 2021 Councillor Mangano gave notice of his intention to move the following at this meeting.

**That the Chief Executive Officer prepares a report for Council’s consideration on the potential of modifying the planning framework to provide further protections with respect to the:**

* **overshadowing of any existing solar energy facility mounted on the roof of an adjoining dwelling**
* **overshadowing of windows of main living areas of an adjoining dwelling**
* **potential future provision of solar energy facilities on adjoining properties.**

Justification

This is the most effective way to reduce levels of our city’s carbon footprint – the biggest emitter being electricity. Just last week, the International Energy Agency released a report claiming the world needs to increase green energy by 300%. Nedlands has a key opportunity, to cover a large majority of roof in solar energy.

The world and Nedlands must decarbonize, and Nedlands needs to lead on this. Solar is heavily subsidised by the Government and we must accelerate the takeup of this technology. Hence, I put forward this NOM for all new builds to include solar PV.

Administration Comment

The Victorian Government released Planning Practice Note 88 of October 2018, which dealt with existing residential rooftop solar energy facilities, is a useful resource. While the City of Nedlands response will need to be considered within the Western Australian Planning Framework, the Victorian practice note will be useful in addressing the potential of a modification to the Nedlands planning provision in terms of any protection of existing solar energy facilities.

The ability to protect potential future solar energy facilities will provide problematic, given the number of unknowns and assumptions that would need to be made, the incorporation of such a provision is likely to be very challenging. These challenges would be explored in the report presented to Council. The overshadowing of the windows of the main living areas of adjoining dwellings, will need to be considered in the context of the Residential Design Codes Volume 1 and 2. The report to Council will outline this specific measure in the context of the consideration of overshadowing more generally.

## Councillor Mangano – Invitation to DIMRS – Buildings and Energy Division

On 11 November 2021 Councillor Mangano gave notice of his intention to move the following at this meeting.

**That the CEO provides an invitation to the Buildings and Energy Division of DMIRS to brief Councillors and Executives on Building controls responsibilities and related issues.**

Justification

Western Australia has a serious problem with developments not complying with approved plans (including encroachment on other property) and/or with Australian standards which has resulted in lawsuits against Councils and high legal costs to defend them.

Administration Comment

The Chief Executive Officer will issue the invitation and advise Councillors.

## Councillor Senathirajah – Age Friendly City

On 11 November 2021 Councillor Senathirajah gave notice of his intention to move the following at this meeting.

**That Council requests the CEO to initiate the process to establish an Age-Friendly Nedlands Alliance which will assess the needs of the elders (age 60 years and above) in Nedlands and assist in developing Strategies to address the unsatisfied needs. It is anticipated that the Alliance will include representatives from the Council, Administration, resident elders, careers, relevant not-for-profit organisations, and the local business sector.**

Justification

1. Latest published statistics indicate that 24 % of the population of Nedlands are elders (60 years or older), compared to 21% for the nation. It is estimated that this percentage will be higher when the 2021 census figures are released. It is thus important that the City gives due importance to this sector of the residents.
2. The World Health Organisation (WHO) has promoted the Age-Friendly Cities approach to effectively provide services to the elderly.
3. In an Age-Friendly Community (City), there is a culture of inclusion shared by people of all ages and ability levels. Policies, services and structures related to the physical and social environment are designed to support and enable older people to “age actively”, that is, to live in security, enjoy good health and continue to participate fully in society.
4. While the City does provide some services aimed at positive ageing of the elderly in Nedlands, the Age-Friendly Community framework will enable a reliable assessment of the essential needs of the elderly that are currently not provided for by the City or other organisations providing services to the elderly.
5. An Alliance concept is advocated to encourage all stakeholders to participate in identifying the unfulfilled needs of different sectors of the community, and in addressing these needs. It is possible that some of these needs are better addressed by organisations other than the City, and hence the advantage of engaging all stakeholders early in the project.

Administration Comment

The City currently delivers aged-care services to eligible community members via the Nedlands Community Care program and its associated services. The Notice of Motion proposes initiating a new service, beyond what is currently provided.  This new service is likely to have budget and staffing implications.  Therefore, it is recommended that Council requests the CEO to investigate the provision of such a service, including its financial implications as part of the forthcoming organisational review.

Administration Recommendation

That council instruct the CEO to consider establishing an age-friendly service offering as part of the forthcoming organisational review.

# Council Members notices of motion given at the meeting for consideration at the following ordinary meeting on 14 December 2021

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

Notices of motion for consideration at the Council Meeting to be held on 14 December 2021 to be tabled at this point in accordance with Clause 3.9(2) of Council’s Local Law Relating to Standing Orders.

# Urgent Business Approved By the Presiding Member or By Decision

Any urgent business to be considered at this point.

**Please note the following item has been approved as urgent business by the Presiding Member.**

## Allen Park Cottage – Structural Defects

|  |  |
| --- | --- |
| **Council** | 23 November 2021 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 *Local Government Act 1995*** | Nil. |
| **Director** | Andrew Melville, Acting Director Technical Services |
| **CEO** | Bill Parker |
| **Attachments** | 1. Structural Inspection Report |
| **Confidential Attachments** | Nil. |

**Executive Summary**

The purpose of this report is for Council to consider the future options for the building known as Allen Park Cottage, located within Reserve R7804 on Lot 502.

The Allen Park Cottage Project is a refurbishment project in the 2021/22 Financial Year Capital Works Program. During current construction works significant structural defects have been identified and a Council decision is required on the future of the building. Rectification of the identified issues is technically possible, however would be highly complex and come with significant risk and cost implications.

Administration recommends a change of scope to the project. The change in scope would include demolishing the existing structure and replacing the structure with a storage shed within the Allen Park Cottage site. This change of scope would be delivered under the current allocated budget.

The Friends of Allen Park Bushland Group currently utilise the Allen Park Cottage to securely store their tools and equipment.

**Recommendation to Council**

**Council approves:**

1. **the demolition of the existing Allen Park Cottage located on lot 502 within Reserve 7804.; and**
2. **the design and installation of a powered storage shed within current Allen Park Cottage site, within the existing project budget.**

**Voting Requirement**

Simple Majority.

**Discussion/Overview**

The Allen Park Cottage is a timber framed building built in the early 1900’s. The building is located within Reserve R7804 on Lot 502 and constructed from timber framing, supported partially on a limestone perimeter foundation on the southern elevation, and on timber stumps for the remainder. A rear extension consisting of masonry walls and a concrete slab has been added to the cottage at some time in the past.

The original project proposal showed a construction cost estimate of $250,000 exclusive of GST and on-costs (2020). Council were advised in Council Report TS15.20 on 22 September 2020, that due to the condition and age of the building, there was a significant risk that unforeseen items may arise during the works which had the potential to exceed the allocated budget.

Administration commissioned Hodge Collard Preston Architects to undertake a full structural assessment and development of detailed specifications for the building to be upgraded, and to achieve the compliance certification as a (Class 9b) community building. A summary of the scope is shown below:

1. Restumping
2. Recladding
3. Roof replacement
4. Internal modifications including replacing walls and ceilings
5. Bush fire prevention measures
6. Improving accessibility.

At the Ordinary Council meeting on 22 September 2020, in response to TS15.20, Council resolved that:

“That Administration review the options to undertake basic remediation to the fabric of the building up to the value of $150,000 in order for the building to be retained as a non-habitable facility.”

In order to meet this Resolution the building would be reclassified at a Class 7b structure. As part of the annual budget process for the 2021/22 Financial year it was put to Council to deliver the scope of works in three packages. The project has been broken up into three stages, with works planned for delivery over three consecutive Financial Years. Stages 1 and 2 of the renovation works form part of the 2021/22 Capital Works Program and are budgeted at:

1. Stage 1: Original budget 2020/21 - $150,000. Approx. $23,000 spent on design works for the project.
2. Stage 1: Revised budget carried over from 2020/21 into 2021/22 – $136,916.
3. Stage 2: budget: $75,465
4. Stage 3: budget (2022/23, yet to be adopted) - $75,000

Once this 7b reclassification is finalised, the building would only be able to be used as a storage shed. It is understood that previously the Friends of Allen Park Bushland Group have utilised the Cottage for meetings. Under the new classification, this will not be able to occur, and the Friends of Allen Park Bushland meetings will need to be relocated to an alternate facility.

Community Development will liaise with the Friends of Allen Park Bushland to determine their facility needs (in relation to meeting times, storage etc.) and investigate accommodating the group in the Allen Park Pavilion (lower), given their need to be close to the bushland itself.

In the 2020/21 financial year, the Administration underwent a procurement process to appoint a builder to undertake Stage 1 of the renovation works. This package of works was awarded to Walcott Industries on 21 June 2021. Due to supply chain impacts on the construction industry, commencement of works onsite were delayed until 16 September 2021.

As part of the Stage 1 works, the cladding of the building required replacement. The builder commenced removal of the cladding on 8 November 2021. When a portion of the cladding was removed the builder observed significant termite damage to various structural members of the building, and immediately informed Administration.

Administration completed an inspection on 9 November 2021 and concluded that a structural assessment of the building was required. A Structural Engineer was engaged and undertook a site inspection and investigation of the Cottage on 11 November 2021, and subsequently prepared an inspection report (attachment 1).

The Inspection Report identified a number of structural defects with the Cottage inducing:

* Cracking in walls,
* Floor movement,
* Ceiling staining and movement,
* Timber deterioration,
* Window Lintel Corrosion,
* Foundation issues; and
* Corrosion in the metal roof.

The major item of concern from the Structural Inspection is the Terminate damage to the structural elements of the walls. The elements visible are heavily damaged, and where the building is to be reopened for use, they would require replacement.

The remaining cladding has not been removed but it is expected that the structural elements are in a similar condition. If the building is to be refurbished, the removal and replacement of individual structural components in sequence will be required. This is complicated by the roof and walls requiring to be temporarily supported to ensure the building maintains its structural integrity during the repair.

As structural components of the building are removed the building is weakened. This remedial construction process is highly complicated, costly and carries significant risk. An Engineer is required to assess each structural member and to design the structural support requirements throughout the remediation process.

A building/structure of this type would typically have an expected life span of 50 years. Given the current poor condition of the structure, it is unlikely that repair and remediation works can be undertaken in a cost-effective manner. Therefore, the Structural Engineer recommends demolition.

Administration recommends the City constructs a replacement purpose-built powered shed on the Allen Park Cottage site to enable the secure and adequate storage of the equipment and materials used by the Friends of Allen Park Bushland. This will significantly lower the ongoing maintenance costs.

The alternative to this recommendation is to undertake a complete refurbishment program of the Facility that would require the removal of all wall cladding, floorboards, roof coverings and ceilings to inspect and replace where necessary structural members.

This is needed to achieve long term durability and reduced ongoing maintenance costs, however, would require a significant increase to the project budget.

**Key Relevant Previous Council Decisions:**

TS15.20 - That Administration review the options to undertake basic remediation to the fabric of the building up to the value of $150,000 in order for the building to be retained as a non-habitable facility.

**Consultation**

Due to the time constraints and high-risk levels of this item no consultation has been undertaken.

**Strategic Implications**

**How well does it fit with our strategic direction?**

The revised scope will provide a cost-effective facility for the storage of equipment and materials.

**Who benefits?**

The main benefit of this project is to provide a storage facility that the Friends group can use. By demolishing the current Cottage and installing an off-the-shelf storage solution, the Friends of Allen Park Bushland will have a dedicated storage area, whilst the City’s risks and ongoing costs are minimised.

**Does it involve a tolerable risk?**

Continuing the refurbishment of the Cottage is a high-risk process. The construction/refurbishment method is complex and carries significant risk.

There is a high likelihood of additional works and additional budget being required as the project continues, and more defects are expected to be uncovered.

**Do we have the information we need?**

Yes, the Structural Investigation is attached to this report.

**Does this affect any CEO Key Result Areas?**

No.

**Budget/Financial Implications**

The City has engaged a builder to undertake Stage 1 of the works. Until such time as a decision has been made by Council, the builder has been temporarily stood down. If this were to continue there may be additional cost implications to the City.

If a full refurbishment of the Cottage is undertaken, the scope of works will have to be changed significantly, with additional design, planning and procurement required. The City may be subject to further delay or loss of profit costs if a new procurement process were to commence.

An estimate to undertake these additional works is difficult to develop, due to the unknown extent of the damage and not having a developed construction methodology.

Administration estimates that a budget of at least $350,000 (excluding on costs) would be required to make the building safe. Due to the uncertainties surrounding the remainder of the building this estimate has a 50% accuracy.

Installing a shed will significantly lower the ongoing maintenance costs. The current annual maintenance budget is $10,000. This would reduce to approx. $3,000 to cover pest inspections and gutter cleaning if a shed is installed. If the building were to be refurbished, the annual maintenance costs are expected to be approx. $20,000 which would include more in-depth pest control, ongoing timber and internal maintenance treatments and cleaning.

Administration has prepared a cost estimate of $55,000 to demolish the Allen Park Cottage and replace it with a storage shed. These estimates are at a 30% accuracy, need to be market tested and exclude on costs.

**Can we afford it?**

Yes, the project sits within the existing 2021/22 Capital Works Program.

**How does the option impact upon rates?**

The Administration’s recommendation will not impact on rates as the expected costs align with the existing 2021/22 Capital Works Program.

An increase of the project budget to accommodate a full refurbishment of this facility would require additional funding where no Capital savings have yet been identified to date this Financial Year.

**Conclusion**

The Allen Park Cottage has had identified significant structural defects, and there is a high chance of uncovering more if the current refurbishment works continue.

The construction methodology to refurbish the building is high risk and costly, therefore it is recommended that the City demolish the existing structure and construct a storage shed in its place.

# Confidential Items

Any confidential items to be considered at this point.

# Declaration of Closure

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