

***Agenda***

***Council Meeting***

***24 July 2018***

Dear Council member

The next Ordinary Meeting of the City of Nedlands will be held on Tuesday 24 July 2018in the Council Chambers at 71 Stirling Highway Nedlands commencing at 7 pm.



Greg Trevaskis

Chief Executive Officer

18 July 2018

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**City of Nedlands**

**Notice of an Ordinary Meeting of Council to be held in the Council Chambers, Nedlands on Tuesday 24 July 2018 at 7 pm.**

###### Council Agenda

# Declaration of Opening

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

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

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

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

**(Previously Approved)**

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

**Disclaimer**

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

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

# Public Question Time

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

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

# Addresses by Members of the Public

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

# Requests for Leave of Absence

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

# Petitions

Petitions to be tabled at this point.

# Disclosures of Financial Interest

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

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

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

# Disclosures of Interests Affecting Impartiality

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

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

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

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

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

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

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

# Confirmation of Minutes

## Ordinary Council meeting 26 June 2018

The Minutes of the Ordinary Council Meeting held 26 June 2018 are to be confirmed.

# Announcements of the Presiding Member without discussion

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

# Members announcements without discussion

Written announcements by Councillors to be tabled at this point.

Councillors may wish to make verbal announcements at their discretion.

# Matters for Which the Meeting May Be Closed

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

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

## Minutes of Council Committees

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

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

**Council Committee 10 July 2018**

Circulated to Councillors on 13 July 2018

**Note: As far as possible all the following reports under items 12.2, 12.3, 12.4 and 12.5 will be moved en-bloc and only the exceptions (items which Councillors wish to amend) will be discussed.**

## Planning & Development Report No’s PD30.18 to PD35.18 (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.

|  |  |
| --- | --- |
| **PD30.18** | **(Lot 5146) No. 2 Alfred Road, Claremont – Increase in Staff and Children Numbers for a Child Day Care Centre (Retrospective)** |
|  | |
| **Committee** | 10 July 2018 |
| **Council** | 24 July 2018 |
| **Applicant** | R Skinner |
| **Landowner** | A Skinner |
| **Director** | Peter Mickleson – Director Planning & Development Services |
| **Reference** | DA2017/253 |
| **Previous Item** | PD12.18 – April 2018 |
| **Delegation** | In accordance with Clause 6.7.1a) of the City’s Instrument of Delegation, Council is required to determine the application due to objections being received. |
| **Attachments** | 1. Photograph of the subject property 2. Photographs of the Parking Situation on 19 October 2017 3. Photographs of the Parking Situation on 24 October 2017 4. Photographs of the Parking Situation on 25 October 2017 5. Photographs of the Parking Situation on 21 March 2018 6. Photographs of the unauthorised patio structures 7. Noise Management Plan (received on 7 March 2018) 8. Photographs of the unauthorised shade sail structure 9. Photograph of the unauthorised sign |

**Committee Recommendation**

**Council approves the retrospective development application to increase staff and children numbers at (Lot 5146) No. 2 Alfred Road, Claremont, in accordance with the amended plans received on 7 December 2017, subject to the following conditions and advice:**

1. **The development shall at all times comply with the approved plans.**
2. **The on-site car-parking bays being maintained by the landowner to the City’s satisfaction.**
3. **A maximum of 10 staff and 46 children on the premises at any one time.**
4. **The child day care centre only being permitted to operate between 7.00am and 6.00pm Monday to Friday (excluding public holidays).**
5. **All stormwater from the development, which includes permeable and non-permeable areas, shall be contained onsite.**
6. **The landowner complying with the noise management plan received on 7 March 2018 (Attachment 7) to the City’s satisfaction.**
7. **Absorptive lining being applied to the underside of the patios’ roof frame within 28 days from the date of this decision, in accordance with the Patio Acoustic Assessment dated 9 February 2018, to the City’s satisfaction.**
8. **The absorptive lining applied to the underside of the patios’ roof frame is to remain and be maintained by the landowner thereafter to the City’s satisfaction.**
9. **That a 2.4m masonry boundary wall be constructed on the boundary between the site and number 4 Alfred Road.**

**Advice Notes specific to this proposal:**

1. **A separate application is required to be lodged and approved by the City prior to increasing staff and/or children numbers for the child day care centre in future.**
2. **All downpipes from guttering shall be connected so as to discharge into drains, which shall empty into a soak-well; and each soak-well shall be located at least 1.8m from any building, and at least 1.8m from the boundary of the block.**
3. **The landowner is advised that all mechanical equipment and activities on the property are required to comply with the *Environmental Protection (Noise) Regulations 1997*, in relation to noise.**
4. **The applicant shall make application to the City’s Building Services for a Building Approval Certificate, to acknowledge the unauthorised works.**

Recommendation to Committee

Council approves the retrospective development application to increase staff and children numbers at (Lot 5146) No. 2 Alfred Road, Claremont, in accordance with the amended plans received on 7 December 2017, subject to the following conditions and advice:

1. The development shall at all times comply with the approved plans.
2. The on-site car-parking bays being maintained by the landowner to the City’s satisfaction.
3. A maximum of 10 staff and 46 children on the premises at any one time.
4. The child day care centre only being permitted to operate between 7.00am and 6.00pm Monday to Friday (excluding public holidays).
5. All stormwater from the development, which includes permeable and non-permeable areas, shall be contained onsite.
6. The landowner complying with the noise management plan received on 7 March 2018 (Attachment 7) to the City’s satisfaction.
7. Absorptive lining being applied to the underside of the patios’ roof frame within 28 days from the date of this decision, in accordance with the Patio Acoustic Assessment dated 9 February 2018, to the City’s satisfaction.
8. The absorptive lining applied to the underside of the patios’ roof frame is to remain and be maintained by the landowner thereafter to the City’s satisfaction.

Advice Notes specific to this proposal:

1. A separate application is required to be lodged and approved by the City prior to increasing staff and/or children numbers for the child day care centre in future.
2. All downpipes from guttering shall be connected so as to discharge into drains, which shall empty into a soak-well; and each soak-well shall be located at least 1.8m from any building, and at least 1.8m from the boundary of the block.
3. The landowner is advised that all mechanical equipment and activities on the property are required to comply with the *Environmental Protection (Noise) Regulations 1997*, in relation to noise.
4. The applicant shall make application to the City’s Building Services for a Building Approval Certificate, to acknowledge the unauthorised works.

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| **PD31.18** | **(Lot 55) No. 5 Webster Street, Nedlands – Proposed Retaining Walls and Dividing Fencing** |
|  | |
| **Committee** | 10 July 2018 |
| **Council** | 24 July 2018 |
| **Applicant** | L and E Stoyanov |
| **Landowner** | As above |
| **Director** | Peter Mickleson – Director Planning & Development Services |
| **Reference** | DA2018/28736 |
| **Previous Item** | Nil. |
| **Delegation** | In accordance with Clause 6.7.1a) of the City’s Instrument of Delegation, Council is required to determine the application due to an objection being received. |
| **Attachments** | 1. Photograph of the subject property |

**Committee Recommendation / Recommendation to Committee**

**Council approves the development application dated 23 April 2018, with amended plans received on 11 May 2018, for proposed retaining walls and fencing at (Lot 55) No. 5 Webster Street, Nedlands, subject to the following conditions and advice:**

1. **The development shall at all times comply with the application and the approved plans, subject to any modifications required as a consequence of any condition(s) of this approval.**
2. **This development approval only pertains to the fencing and retaining walls proposed along the property’s southern lot boundary.**
3. **Amended plans being submitted as part of the building permit application which show the finished ground level proposed as part of this development application not exceeding 0.5m above natural ground level.**
4. **All stormwater from the development, which includes permeable and non-permeable areas, shall be contained onsite.**
5. **All footings and structures to retaining walls and fences shall be constructed wholly inside the site boundaries of the property’s Certificate of Title.**

**Advice Notes specific to this approval:**

**1. Stormwater to be contained on site by draining to soak-wells of adequate capacity to contain runoff from a 20-year recurrent storm event. All downpipes from guttering shall be connected so as to discharge into drains, which shall empty into a soak-well; and each soak-well shall be located at least 1.8m from any building, at least 1.8m from the boundary of the block. Soak-wells shall be a minimum capacity of 1.0m3 for every 80m2 of calculated surface area of the development.**

**2. All street tree assets in the nature-strip (verge) shall not be removed. Any approved street tree removals shall be undertaken by the City of Nedlands and paid for by the owner of the property where the development is proposed, unless otherwise approved under the Nature Strip Development approval.**

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

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| **PD32.18** | **(Lot 4) No. 67 Minora Road, Dalkeith – Proposed Patio** |
|  | |
| **Committee** | 10 July 2018 |
| **Council** | 24 July 2018 |
| **Applicant** | Oasis Patios Pty Ltd |
| **Landowner** | S and M Gonsalves |
| **Director** | Peter Mickleson – Director Planning & Development Services |
| **Reference** | DA18/28229 |
| **Previous Item** | Nil. |
| **Delegation** | In accordance with Clause 6.7.1a) of the City’s Instrument of Delegation, Council is required to determine the application due to an objection being received. |
| **Attachments** | 1. Photograph of the patio’s proposed location |

**Committee Recommendation**

**That Council refuse the development application.**

Recommendation to Committee

Council approves the development application for a patio to be constructed at (Lot 4) No.67 Minora Road, Dalkeith, received on 11 April 2018, with an amended elevation plan received on 1 May 2018, subject to the following conditions and advice:

1. The development shall at all times comply with the application and the approved plans, subject to any modifications required as a consequence of any condition(s) of this approval.
2. This development approval pertains to the proposed patio only.
3. All stormwater from the development, which includes permeable and non-permeable areas, shall be contained onsite.

Advice Notes specific to this approval:

* + - 1. The swimming pool shall be kept dry during the construction period. Alternatively, the water shall be maintained to a quality which prevents mosquitoes from breeding.
      2. Stormwater to be contained on site by draining to soak-wells of adequate capacity to contain runoff from a 20-year recurrent storm event. All downpipes from guttering shall be connected so as to discharge into drains, which shall empty into a soak-well; and each soak-well shall be located at least 1.8m from any building, at least 1.8m from the boundary of the block. Soak-wells shall be a minimum capacity of 1.0m3 for every 80m2 of calculated surface area of the development.
      3. This decision constitutes planning approval only and is valid for a period of two years from the date of approval. If the subject development is not substantially commenced within the two-year period, the approval shall lapse and be of no further effect.

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| **PD33.18** | **(Lot 226) No. 37 Tyrell Street, Nedlands – Additions to Existing Single Dwelling** |
|  | |
| **Committee** | 10 July 2018 |
| **Council** | 24 July 2018 |
| **Applicant** | Dale Alcock Home Improvements |
| **Landowner** | C Monaco |
| **Director** | Peter Mickleson – Director Planning & Development Services |
| **Reference** | DA18/28482 |
| **Previous Item** | Nil. |
| **Delegation** | In accordance with Clause 6.7.1d) of the City’s Instrument of Delegation, Council is required to determine the application when refusal is recommended and discretion exists for Council to approve the variations under the City’s Town Planning Scheme No. 2, Council Policies and/or the Residential Design Codes. |
| **Attachments** | 1. Photographs of the subject property |

**Committee Recommendation / Recommendation to Committee**

**Council:**

**1. Refuses the games room component of the development application dated 20 April 2018, with amended plans received on 1 May 2018, for (Lot 226) No. 73 Tyrell Street, Nedlands, for the following reasons:**

1. **The development will adversely affect the amenity of the local area as the it will increase the bulk and scale due to its reduced rear lot boundary setback and will set an undesirable precedent.**
2. **The proposal does not satisfy the design principles stipulated under clause 5.1.3 (Lot Boundary Setback) of the *Residential Design Codes 2018* due to the bulk of the building when seen from adjoining properties caused by the rear lot boundary setback.**
3. **The proposal does not satisfy provisions (m), (n) and (s) of Clause 67 within the *Planning and Development (Local Planning Schemes) Regulations 2015*, as the appearance of the building will negatively impact the amenity of the locality due to its rear lot boundary setback.**
4. **A habitable room setback 1.78m in lieu of 6m from a rear lot boundary does not represent the orderly and proper planning of the City and conflicts with cl. 6.5.1 of Town Planning Scheme No. 2.**

**2. Approves the carport and street boundary fencing components of the development application dated 20 April 2018, with amended plans received on 1 May 2018, for (Lot 226) No. 73 Tyrell Street, Nedlands, subject to the following conditions and advice:**

1. **The development shall comply with the approved plans at all times.**
2. **All footings and structures to the fencing and carport shall be constructed wholly inside the site boundaries of the Certificate of Title.**
3. **All stormwater from the development, which includes permeable and non-permeable areas, shall be contained onsite.**
4. **The carport shall not accommodate a door.**

**Advice Notes specific to this approval:**

1. **Any construction in the verge will require a Nature-Strip Development Application (NSDA) to be lodged with, and approved by, the City’s Engineering section, prior to construction.**
2. **The crossover to the street shall be constructed to the Council’s Crossover Specifications and the applicant / landowner to obtain levels for crossovers from the Council’s Infrastructure Services under supervision onsite, prior to commencement of works.**
3. **A separate development application is required to be submitted to and approved by the City prior to erecting any further fencing within the street setback area(s) which is not compliant with the deemed-to-comply provisions of the Residential Design Codes, and/or erecting any fencing behind the primary street setback area which is more than 1.8m in height above natural ground level.**
4. **All internal water closets and ensuites without fixed or permanent window access to outside air or which open onto a hall, passage, hobby or staircase, shall be serviced by a mechanical ventilation exhaust system which is ducted to outside air, with a minimum rate of air change equal to or greater than 25 litres / second.**
5. **All downpipes from guttering shall be connected so as to discharge into drains, which shall empty into a soak-well; and each soak-well shall be located at least 1.8m from any building, and at least 1.8m from the boundary of the block.**
6. **The landowner is advised that all mechanical equipment (e.g. air-conditioner, swimming pool or spa) is required to comply with the *Environmental Protection (Noise) Regulations 1997*, in relation to noise.**
7. **Prior to the commencement of any demolition works, any Asbestos Containing Material (ACM) in the structure to be demolished, shall be identified, safely removed and conveyed to an appropriate landfill which accepts ACM.**
   * 1. **Removal and disposal of ACM shall be in accordance with *Health (Asbestos) Regulations 1992*, Regulations 5.43 - 5.53 of the *Occupational Safety and Health Regulations 1996*, *Code of Practice for the Safe Removal of Asbestos 2nd Edition*, *Code of Practice for the Management and Control of Asbestos in a* Workplace, and any Department of Commerce Worksafe requirements.**
     2. **Where there is over 10m2 of ACM or any amount of friable ACM to be removed, it shall be removed by a Worksafe licensed and trained individual or business.**
8. **This decision constitutes planning approval only and is valid for a period of two years from the date of approval. If the subject development is not substantially commenced within the two-year period, the approval shall lapse and be of no further effect.**

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| **PD34.18** | **(Lot 3) No. 7 Nardina Crescent, Dalkeith – Proposed Street Boundary Fencing (Retrospective)** |
|  | |
| **Committee** | 10 July 2018 |
| **Council** | 24 July 2018 |
| **Applicant** | C Wang |
| **Landowner** | C Wang |
| **Director** | Peter Mickleson – Director Planning & Development Services |
| **Reference** | DA2017/334 |
| **Previous Item** | Nil. |
| **Delegation** | In accordance with Clause 6.7.1d) of the City’s Instrument of Delegation, Council is required to determine the application when refusal is recommended and discretion exists for Council to approve the variations under the City’s Town Planning Scheme No. 2, Council Policies and/or the Residential Design Codes. |
| **Attachments** | 1. Photographs of the subject property |

**Committee Recommendation / Recommendation to Committee**

**Council approves the retrospective development application received on 1 December 2017, with amended plans received on 28 March 2018, for the existing street boundary fencing to remain at (Lot 3) No. 7 Nardina Crescent, Dalkeith, subject to the following conditions and advice:**

1. **The development shall at all times comply with the application and the approved plans, subject to any modifications required as a consequence of any condition(s) of this approval.**
2. **This development approval only pertains to the fencing which exists along the Nardina Crescent and Minora Road boundaries of the property.**
3. **Amended plans being provided as part of the Building Certificate Application which shows the following alterations:**
4. **The pillar for the letterbox on the northern side of the drive way being 0.5m in width; and**
5. **The fencing on the southern side of the driveway consisting of one brick pier 1.9m in height and 0.5m in width, solid infill of 0.75m in height, and visually permeable infill up to 1.8m in height above natural ground level (refer to advice note 1).**
6. **The alterations required to be made to the fencing specified under Condition 3 of this approval decision being made within 28 days of the Building Certificate being issued by the landowner to the City’s satisfaction, or by an alternative date agreed to in writing by the City.**
7. **All footings and structures to the fencing shall be constructed wholly inside the site boundaries of the property’s Certificate of Title.**

**Advice Notes specific to this approval:**

* + - 1. **The applicant is advised that a wall for the gas and electric meter is able to be located within the street setback area subject to being solid up to 1.8m in height, 1m in width, right aligned to the street, and not being closer than 1.5m from where a driveway meets the crossover on the subject property and/or an adjoining property.**
      2. **A separate development application is required to be submitted to and approved by the City prior to erecting any further fencing within the street setback area(s) which does not form part of this approval, is not compliant with the deemed-to-comply provisions of the Residential Design Codes, and/or erecting any fencing behind the primary street setback area which is more than 1.8m in height above natural ground level.**
      3. **The applicant shall make application to the City’s Building Services for a Building Approval Certificate, to acknowledge any unauthorised works.**

|  |  |  |
| --- | --- | --- |
| **PD35.18** | **(Lot 352) No. 81 Dalkeith Road, Nedlands – Home Business (Acupuncturist) Renewal** | |
|  | | |
| **Committee** | | 10 July 2018 |
| **Council** | | 24 July 2018 |
| **Applicant** | | C Xu and P Ding |
| **Landowner** | | C Xu and P Ding |
| **Director** | | Peter Mickleson – Director Planning & Development Services |
| **Reference** | | DA2018/28882 |
| **Previous Item** | | Nil. |
| **Delegation** | | In accordance with Clause 6.7.1a) of the City’s Instrument of Delegation, Council is required to determine the application due to an objection being received. |
| **Attachments** | | 1. Details of the home business from the applicant’s website 2. Photographs of the acupuncture rooms on the subject property 3. Photographs of the car parking situation taken on 7 and 8 June 2018 |

**Committee Recommendation**

**Council approves the development application for a home business (acupuncturist) to continue operating at (Lot 352) No. 81 Dalkeith Road, Nedlands, received on 14 May 2018, subject to the following conditions and advice:**

1. **The development shall at all times comply with the application and the approved plans, subject to any modifications required as a consequence of any condition(s) of this approval.**
2. **The home business approval being valid for a period of 3 years from the date of Council’s decision in accordance with Council’s Home Business Policy, after which time it is not permitted to continue operating unless a separate planning application has been approved.**
3. **The proposed use complying with the home business definition stipulated under the City’s Town Planning Scheme No. 2 (refer to advice note 1).**
4. **Patients visiting the property by prior appointment only.**
5. **The home business only being permitted to operate between the following times:**

**Mondays to Fridays – 8.00am to 6.30pm**

**Saturdays – 8.00am to 1.00pm**

1. **Provision be made for 2 onsite car parking bays on the premises.**

**Advice Notes specific to this approval:**

1. **With regard to Condition 2, The applicant is advised that the use ‘Home Business’ is defined as being the following under the City’s Town Planning Scheme No. 2:**

***“Home Business - means a business, service or profession carried out in a dwelling or on land around a dwelling by an occupier of the dwelling which:***

1. ***does not employ more than 2 people not members of the occupier's household;***
2. ***will not cause injury to or adversely affect the amenity of the neighbourhood;***
3. ***does not occupy an area greater than 50 square metres;***
4. ***does not involve the retail sale, display or hire of goods of any nature;***
5. ***in relation to vehicles and parking, does not result in traffic difficulties as a result of the inadequacy of parking or an increase in traffic volumes in the neighbourhood, and does not involve the presence, use or calling of a vehicle more than 3.5 tonnes tare weight; and***

1. ***does not involve the use of an essential service of greater capacity than normally required in the zone.”***

**2. Noise levels are to comply with the *Environmental Protection (Noise) Regulations* *1997*.**

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

Recommendation to Committee

Council approves the development application for a home business (acupuncturist) to continue operating at (Lot 352) No. 81 Dalkeith Road, Nedlands, received on 14 May 2018, subject to the following conditions and advice:

1. The development shall at all times comply with the application and the approved plans, subject to any modifications required as a consequence of any condition(s) of this approval.
2. The home business approval being valid for a period of 12 months from the date of Council’s decision in accordance with Council’s Home Business Policy, after which time it is not permitted to continue operating unless a separate planning application has been approved.
3. The proposed use complying with the home business definition stipulated under the City’s Town Planning Scheme No. 2 (refer to advice note 1).
4. Patients visiting the property by prior appointment only.
5. The home business only being permitted to operate between the following times:

Mondays to Fridays – 8.00am to 6.30pm

Saturdays – 8.00am to 1.00pm

Advice Notes specific to this approval:

1. With regard to Condition 2, The applicant is advised that the use ‘Home Business’ is defined as being the following under the City’s Town Planning Scheme No. 2:

*“Home Business - means a business, service or profession carried out in a dwelling or on land around a dwelling by an occupier of the dwelling which:*

1. *does not employ more than 2 people not members of the occupier's household;*
2. *will not cause injury to or adversely affect the amenity of the neighbourhood;*
3. *does not occupy an area greater than 50 square metres;*
4. *does not involve the retail sale, display or hire of goods of any nature;*
5. *in relation to vehicles and parking, does not result in traffic difficulties as a result of the inadequacy of parking or an increase in traffic volumes in the neighbourhood, and does not involve the presence, use or calling of a vehicle more than 3.5 tonnes tare weight; and*
6. *does not involve the use of an essential service of greater capacity than normally required in the zone.”*

2. Noise levels are to comply with the *Environmental Protection (Noise) Regulations* *1997*.

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

## Technical Services Report No’s TS14.18 to TS18.18 (copy attached)

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

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| TS14.18 School Sports Circuit Project |

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| --- | --- |
| **Committee** | 10 July 2018 |
| **Council** | 24 July 2018 |
| **Applicant** | City of Nedlands |
| **Officer** | Director Technical Services |
| **Director** | Director Technical Services |
| **Attachments** | 1. School Sports Circuit Project Synopsis 2017 |

**Committee Recommendation**

**That the item be referred back for Councillor Briefing.**

Recommendation to Council

Council:

1. supports in principle the proposed School Sports Circuit Project subject to the following:
   1. The Administration secures right of access over the lands required for the route not owned or managed by the City; and
   2. A minimum of 50 percent alternative funding (grant or private contribution) is sourced to fund the project.
2. agrees that where the route coincides with existing path replacement projects, the path is constructed to meet the minimum width requirements for universal access.

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| TS15.18 St Johns Wood Boulevard POS Community Consultation |

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| **Committee** | 10 July 2018 |
| **Council** | 24 July 2018 |
| **Applicant** | City of Nedlands |
| **Officer** | Director Technical Services |
| **Director** | Director Technical Services |
| **Attachments** | 1. Community Consultation Report 2. Revised Concept Plan |

**Committee Recommendation**

**Council:**

1. **in consideration of the community’s support, approves the development of St Johns Wood Boulevard Public Open Space in accordance with the revised Concept Plan (refer attachment 2);**
2. **endorses the Administration’s action to seek a management order for Lot 415 St Johns Wood Boulevard for the purposes of recreation.**

Recommendation to Committee

Council:

1. in consideration of the community’s support, approves the development of St Johns Wood Boulevard Public Open Space in accordance with the revised Concept Plan (refer attachment 2);
2. approves that St Johns Wood Boulevard Public Open Space be renamed Abbey Park; and
3. endorses the Administration’s action to seek a management order for Lot 415 St Johns Wood Boulevard for the purposes of recreation.

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| TS16.18 Proposed Removal and Replacement of Street Trees in Beecham Road, Mt Claremont |

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| **Committee** | 10 July 2018 |
| **Council** | 24 July 2018 |
| **Applicant** | City of Nedlands |
| **Officer** | Andrew Dickson – Manager Parks Services |
| **Director** | Martyn Glover – Director Technical Services |
| **Attachments** | 1. Arboricultural Report January 2009 2. Tree Assessment June 2010 |

**Committee Recommendation**

**Council:**

* 1. **authorises the removal of the 11 street trees, identified in arboricultural report as being considered to have a potentially greater associated risk, to ensure the safety of persons and property in both the public and private realm;**
  2. **instructs Administration to stage the removal of the 11 street trees over a period of not less than four (4) years, to ensure the transition of the streetscape, prioritising removal of trees posing the greatest concern to safety; and**
  3. **instructs Administration to replace all removed trees and reinstate the streetscape with appropriate vegetation.**

Recommendation to Committee

Council:

1. authorises the removal of the 11 street trees, identified in arboricultural report as being considered to have a potentially greater associated risk, to ensure the safety of persons and property in both the public and private realm;
2. instructs Administration to stage the removal of the 11 street trees over a period of not less than four (4) years, to ensure the transition of the streetscape, prioritising removal of trees posing the greatest concern to safety; and
3. instructs Administration to replace all removed trees and reinstate the streetscape in accordance with the renewed northern portion of Beecham Road as previously supported by the majority of residents consulted, and agreed by Council, in 2010.

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| TS17.18 City of Nedlands Waste Management Services Tender 2013/14.01 Contract Extension |

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| **Committee** | 10 July 2018 |
| **Council** | 24 July 2018 |
| **Applicant** | City of Nedlands |
| **Officer** | Chaminda Mendis – Waste Minimisation Co-ordinator |
| **Director** | Martyn Glover – Director Technical Service |
| **Attachments** | 1. SUEZ Contract Extension Request letter |

**Committee Recommendation / Recommendation to Committee**

**Council accepts the City of Nedlands Waste Management Service tender 2013/14.01 contract extension for a further two (2) years from 3 December 2018 to 3 December 2020.**

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| **TS18.18 RFT 2017-18.11 Traffic Management Services** |

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| **Committee** | 10 July 2018 |
| **Council** | 24 July 2018 |
| **Applicant** | City of Nedlands |
| **Officer** | Nathan Brewer – Purchasing and Tenders Coordinator |
| **Director** | Martyn Glover – Director Technical Services |
| **Attachments** | 1. Final Evaluation (Confidential) |

**Committee Recommendation / Recommendation to Committee**

**Council:**

**1. agrees to award tender no. 2017-18.11 to Advanced Traffic Management WA Pty Ltd for Traffic Management Services as per the schedule of rates submitted; and**

**2. authorises the Chief Executive Officer to sign an acceptance of offer for this tender.**

## Corporate & Strategy Report No’s CPS16.18 (copy attached)

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

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| **CPS16.18 List of Accounts Paid – May 2018** |

|  |  |
| --- | --- |
| **Committee** | 10 July 2018 |
| **Council** | 24 July 2018 |
| **Applicant** | City of Nedlands |
| **Officer** | Vanaja Jayaraman – Manager Finance |
| **Director** | Lorraine Driscoll – Director Corporate & Strategy |
| **Attachments** | 1. Creditor Payment Listing May 2018 2. Purchasing Card Payments May 2018 (28th April – 28th May) |

**Committee Recommendation / Recommendation to Committee**

**Council receives the List of Accounts Paid for the month of May 2018** **(refer to attachments).**

# Reports by the Chief Executive Officer

## Common Seal Register Report – June 2018

The attached Common Seal Register Report for the month of June 2018 is to be received.

**June 2018**

| **SEAL NUMBER** | **DATE SEALED** | **DEPARTMENT** | **MEETING DATE / ITEM NO.** | **REASON FOR USE** |
| --- | --- | --- | --- | --- |
| 911 | 6 June 2018 | CEO Office | Ordinary Council Meeting  28 November 2017  Council Resolution Item 13.5 | Seal Certification - Seal No. 911 - Execution of Transfer of Land Document - Sale of 75 Doonan Road, Nedlands. |
| 912 | 25 June 2018 | Planning & Development | Delegated Authority | Seal Certification - Seal No. 912 - Removal of Section 70A Lot 101, 102 & 103 Monash Avenue, Nedlands (Regis Site). |

## List of Delegated Authorities – June 2018

The attached List of Delegated Authorities for the month of June 2018 is to be received.

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Date of use of delegation of authority** | **Title** | **Position exercising delegated authority** | **Act** | **Section of Act** | **Applicant / CoN / Property Owner / Other** |
| **June 2018** | | | | | |
| 01/06/2018 | 3029776 - Parking Infringement Withdrawals – other compassionate grounds | Manager Health & Compliance – Andrew Melville | Local Government Act 1995 | Section 9.20/6.12(1) | Rebeca Madosa |
| 05/06/2018 | 3027771 - Parking Infringement Withdrawals – other compassionate grounds | Manager Health & Compliance – Andrew Melville | Local Government Act 1995 | Section 9.20/6.12(1) | Olivia Seymour |
| 07/06/2018 | (APP) – DA18/29247 – 8 Finch Way, Mt Claremont – Two Storey Single House | A/Manager Planning – Andrew Bratley | City of Nedlands TPS2 | Section 6.7.1 | Coastview Australia Pty Ltd |
| 07/06/2018 | (APP) – DA18/28888 – 45 Viking Rd, Dalkeith – Amendment to DA17/311 | A/Manager Planning – Andrew Bratley | City of Nedlands TPS2 | Section 6.7.1 | Mercedes Group Pty Ltd |
| 07/06/2018 | (APP) – DA18/29079 – 57 Portland St, Nedlands – Additions (Patio) to Existing Aged Person’s Dwelling | Kate Bainbridge – Senior Statutory Planning Officer | City of Nedlands TPS2 | Section 6.7.1 | T Kempson |
| 07/06/2018 | 3030148 - Parking Infringement Withdrawals – other compassionate grounds | Manager Health & Compliance – Andrew Melville | Local Government Act 1995 | Section 9.20/6.12(1) | Carla Martin |
| 07/06/2018 | 3031622 - Parking Infringement Withdrawals – other compassionate grounds | Manager Health & Compliance – Andrew Melville | Local Government Act 1995 | Section 9.20/6.12(1) | Evan Larter |
| 08/06/2018 | (APP) – DA18/27687 – 61 Strickland St, Mt Claremont – Additions (Pavillion) to Single House | A/Manager Planning – Andrew Bratley | City of Nedlands TPS2 | Section 6.7.1 | Kyle Riemann – Platinum Outdoors |
| 14/06/2018 | Approval to write off minor rates debt May 2018 - $3.59 | Chief Executive Officer – Greg Trevaskis | Local Government Act | Section 6.12 (1) (c) | City of Nedlands |
| 14/06/2018 | 3031625 - Parking Infringement Withdrawals – other compassionate grounds | Manager Health & Compliance – Andrew Melville | Local Government Act 1995 | Section 9.20/6.12(1) | Lia Bailey |
| 11/06/2018 | (APP) – DA18/27878 – 20 Landon Way, Mt Claremont – Two Storey Single House | A/Manager Planning – Andrew Bratley | City of Nedlands TPS2 | Section 6.7.1 | Aintree Holdings Pty Ltd |
| 12/06/2018 | (APP) – DA18/28871 – 8 Kennedia Lane, Mt Claremont – Single Storey Single House | Senior Statutory Planning Officer – Kate Bainbridge | City of Nedlands TPS2 | Section 6.7.1 | Gold Style Homes |
| 15/06/2018 | 3031659 - Parking Infringement Withdrawals – other compassionate grounds | Manager Health & Compliance – Andrew Melville | Local Government Act 1995 | Section 9.20/6.12(1) | James Cresswell |
| 15/06/2018 | (APP) – DA18/28862 – 22 Hillway, Nedlands – Swimming Pool and Fencing | A/Manager Planning – Andrew Bratley | City of Nedlands TPS2 | Section 6.7.1 | Distinctive Pools Pty Ltd |
| 19/06/2018 | (APP) – DA18/28140 – 12A James Road, Swanbourne – Two storey Grouped Dwelling | A/Manager Planning – Aron Holbrook | City of Nedlands TPS2 | Section 6.7.1 | Webb & Brown Neaves |
| 19/06/2018 | (APP) – DA18/29075 – 51 Taylor Road, Nedlands – Single Storey Single House | A/Manager Planning – Aron Holbrook | City of Nedlands TPS2 | Section 6.7.1 | M K O’Halloran |
| 21/06/2018 | 3031684 - Parking Infringement Withdrawals – other compassionate grounds | Manager Health & Compliance – Andrew Melville | Local Government Act 1995 | Section 9.20/6.12(1) | Jay Treloar |
| 20/06/2018 | (APP) – DA18/29130 – 10 Stephanie Street, Dalkeith – Additions to Single House | A/Manager Planning – Aron Holbrook | City of Nedlands TPS2 | Section 6.7.1 | Tascone Design Team |
| 26/06/2018 | 3016018 - Parking Infringement Withdrawals – other compassionate grounds | Manager Health & Compliance – Andrew Melville | Local Government Act 1995 | Section 9.20/6.12(1) | Sean Foley |
| 29/06/2018 | (APP) – DA18/28732 – 9 Lynton Street, Swanbourne – 2x Two Storey Grouped Dwelling | A/Manager Planning – Aron Holbrook | City of Nedlands TPS2 | Section 6.7.1 | Distinctive Homes WA Pty Ltd |
| 29/06/2018 | (APP) – DA18/28430 – 65 Hobbs Avenue, Dalkeith – Amendment to DA17/257 | A/Manager Planning – Aron Holbrook | City of Nedlands TPS2 | Section 6.7.1 | BuildingLines Approvals Ltd |
| 29/06/2018 | 3029922 - Parking Infringement Withdrawals – other compassionate grounds | Manager Health & Compliance – Andrew Melville | Local Government Act 1995 | Section 9.20/6.12(1) | Ray Miller |
| 29/06/2018 | (APP) – DA18/28917 – 35 Waroonga Rd, Nedlands – Additions (patio) to Single Huse | A/Manager Planning – Aron Holbrook | City of Nedlands TPS2 | Section 6.7.1 | Outdoor Professionals |
| 30/06/2018 | Approval to write off minor rates debt June 2018 - $.24 | Chief Executive Officer – Greg Trevaskis | Local Government Act | Section 6.12 (1) (c) | City of Nedlands |

## Professional Development Approved by the Chief Executive Officer

The attached Professional Development Approved by the Chief Executive Officer for the month of January 2018 is to be received.

|  |  |  |
| --- | --- | --- |
| **Name** | **Conference Details** | **Reason** |
| Caroline Walker, Community Engagement Coordinator | International Association of Public Participation (Position & Outrage)  Melbourne  27 & 28 June 2018 | Interstate training approved to allow Caroline to complete her IAP2 training as this training is not offered in Western Australia. No registration fees or accommodation charges. Airfares only. |
| Caroline Walker, Community Engagement Coordinator | International Association of Public Participation (Leadership & Engagement) (Engagement Training Forum)  Sydney  22 & 23 July 2018 | Interstate training approved to allow Caroline to complete her IAP2 training as this training is not offered in Western Australia. No registration fees. Airfares and accommodation only. |

## Monthly Financial Report – June 2018

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| --- | --- |
| **Council** | 24 July 2018 |
| **Applicant** | City of Nedlands |
| **Officer** | Vanaja Jayaraman –Manager Financial Services |
| **Director** | Lorraine Driscoll – Director Corporate & Strategy |
| **Attachments** | 1. Financial Summary (Operating) by Business Units – 30 June 2018 2. Capital Works & Acquisitions – 30 June 2018 3. Net Current Assets – 30 June 2018 4. Statement of Activity – 30 June 2018 |

**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 June 2018.**

**Discussion/Overview**

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

The monthly financial variance from the budget of each business unit is reviewed with the respective Manager and the Executive to identify the need for any remedial action. Significant variances are highlighted to Council in the Monthly Financial Report.

This report gives an overview of the year to date revenue and expenses of the City for the month of June together with a Net Assets Statement as at 30 June 2018.

The operating expenditure at the end of June 2018 was $34.8 M, which represents a $754K favourable variance compared to the year-to-date budget.

The operating revenue at the end of June 2018 was $33.1 M which represents a $804k favourable variance compared to the year-to-date budget.

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

The monthly financial report for 30 June 2018 are based on transactions recorded until 30th June 2018. However, the City will continue to receive supplier invoices for the financial year 30 June 2018 in July 2018. Invoices received after the year end are not included in this report due to the timing of due date of this report. However, for final audited accounts, these invoices and other final journal adjustments as required by Accounting Standards will be included.

**Governance**

Expenditure: Favourable variance of $172,586

Revenue: Favourable variance of $82,103

Cost savings were made through lower expenses for the WESROC, Other employee costs and special projects.

The favourable revenue variance is due to invoicing of the 2016/17 cost of WESROC projects invoiced to other Councils in July 2017.

**Corporate and Strategy**

Expenditure: Favourable variance of $417,019

Revenue: Favourable variance of $486,046

Favourable expenditure variance is due to Customer Service, ICT, General Finance salary and other employee cost savings of $246k due to vacancies not filled yet, and savings on Office, professional fees, depreciation and Special projects of $162k.

Favourable revenue variance is due to interim rates income and advance payment of 2018/19 FAG Grant of $395k.

**Community Development and Services**

Expenditure: Favourable variance of $502,517

Revenue: Favourable variance of $17,983

The favourable expenditure variance is mainly due to a lower community development donation payment of $91k, savings in community events and special project of $58k. Savings on NCC and Library Salary, other employee costs, office expenses, others, professional fees and ICT expenses of $330K.

The small favourable revenue variance is due to increase income of NCC and Tresillian fees and charges.

**Planning and Development**

Expenditure: Favourable variance of $376,497

Revenue: Unfavourable variance of $(67,215)

The favourable expenditure variance is due to savings in other operational activities of Sustainability, Environmental Health, and Conservation of $92k. Further savings on Ranger services motor vehicles, finance, other and ICT expenses of $50k. There is also some cost savings in professional fees, salaries and other employee costs of $219k arising from vacancies not filled yet.

The unfavourable revenue variance is due to lower Development Applications received compared to the Budget.

**Technical Services**

Expenditure: Favourable variance of $ 823,776

Revenue: Favourable variance of $ 330,203

The favourable expenditure variance is due to underground power works amounting to $500k delayed to the 2018/19 financial year. The remaining favourable variance of $300k is due partly to maintenance works delayed to the new financial year and partly to invoices not received by 30th June 2018. As mentioned above, invoices received subsequent to 30th June 2018 relating to the 2018 financial year will be adjusted to be included in the final accounts for 30th June 2018.

Favourable revenue variance is due to extra revenue on infrastructure services of $46k for Montario Quarter subdivision supervision fees and Parks fines & penalties of $176K for unauthorised development activities within the reserve area. Also, unbudgeted vehicle registration refund from department of Transport $32k and higher profit on sale of assets of $15k.

**Capital Works Programme**

At the end of June, the expenditure on capital works were $10.5 M with further commitments of $848K which is 79.8% of a total revised budget of $14.27 M.

**Net Current Assets Statement**

At 30 June 2018, net current assets were $4.1 M compared to $3.6 M in prior period. This is mainly due to drawdown of reserves amount and less creditor payment.

**Conclusion**

The statement of financial activity for the period ended 30 June indicates that operating expenses are under the year-to-date budget by 6.2% or $2.2m, while revenue is above the Budget by 2.6% or $849k.

**Key Relevant Previous Council Decisions:**

Nil.

**Consultation**

N/A

**Budget/Financial Implications**

As outlined in the Monthly Financial Report.

## Investment Report – June 2018

|  |  |
| --- | --- |
| **Council** | 24 July 2018 |
| **Applicant** | City of Nedlands |
| **Officer** | Vanaja Jayaraman – Manager Financial Services |
| **Director** | Lorraine Driscoll – Director Corporate & Strategy |
| **Attachments** | * + - 1. Investment Report for the period ended 30 June 2018 |

**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 June 2018.**

**Discussion/Overview**

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

The Investment Policy of the City, which is reviewed each year by the Audit and Risk Committee of Council, is structured so as to minimise any risks associated with the City’s cash investments. The officers adhere to this Policy, and continuously monitor market conditions to ensure that the City obtains attractive and optimum yields without compromising on risk management.

The Investment Summary shows that as at 30 June 2018 the City held the following funds in investments:

Municipal Funds $ 2,018,719.06

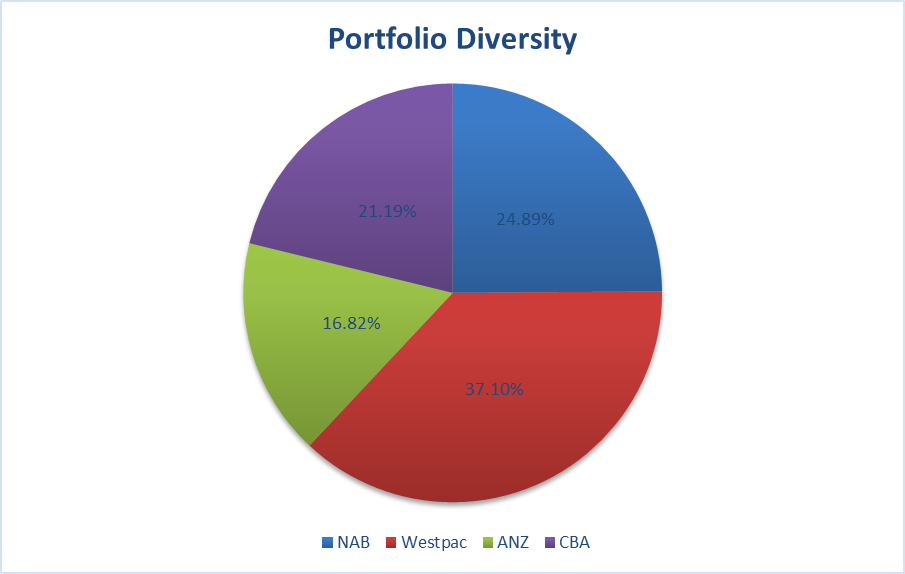
Reserve Funds $ 5,017,194.01

Total $ 7,035,913.07

The total interest earned from investments as at 30 June 2018 was $325,021.78.

The Investment Portfolio comprises holdings in the following institutions:

|  |  |  |  |
| --- | --- | --- | --- |
| **Financial Institution** | **Funds Invested** | **Interest Rate** | **Proportion of Portfolio** |
| NAB | $1,751,039.58 | 2.46% - 2.74% | 24.89% |
| Westpac | $2,610,662.34 | 2.50% - 2.81% | 37.10% |
| ANZ | $1,183,533.76 | 1.72% - 2.50% | 16.82% |
| CBA | $1,490,677.39 | 0.60% - 2.47% | 21.19% |
| **Total** | **$7,035,913.07** |  | **100.00%** |



**Conclusion**

The Investment Report is presented to Council.

**Key Relevant Previous Council Decisions:**

Nil.

**Consultation**

Required by legislation: Yes  No

Required by City of Redlands policy: Yes  No

**Budget/Financial Implications**

Investment income is steady as per budget.

## RFT 2017-18.07 Beaton Park – Jo Wheatley All Abilities Play Space – Toilet Block, Design and Construction

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| --- | --- |
| **Council** | 24 July 2018 |
| **Applicant** | City of Nedlands |
| **Officer** | Nathan Brewer – Purchasing and Tenders Coordinator |
| **CEO** | Greg Trevaskis |
| **Attachments** | 1. Final Evaluation (confidential). |

**Executive Summary**

To award the tender for the design and construction of the toilet block at the Jo Wheatley All Abilities Play Space, Beaton Park.

**Recommendation to Council**

**Council:**

**1. agrees to award tender no. RFT 2017-18.07 to Landmark Products Pty Ltd for the design and construction of the toilet block at the Jo Wheatley All Abilities Play Space, Beaton Park as per the price submitted; and;**

**2. authorises the Chief Executive Officer to sign an acceptance of offer for this tender.**

**Discussion/Overview**

At the Ordinary Meeting of Council on 22 May 2018 Council approved pre-funding for Jo Wheatley All Abilities Changing Place Ablution Facility at Beaton Park. Following Councils resolution, the City developed and released a tender seeking submissions for the design and construction of the facility.

The results are outlined in this report seeking Councils approval to award the tender and deliver the project.

**Tender Information**

Expenditure on this contract is to exceed $150,000. Therefore, to comply with legislative requirements outlined in the Local Government Act 1995 and ensure the best value for money for the City, this project must be tendered.

Tender RFT 2017-18.15 was advertised on 25th June 2018 in the West Australian Newspaper and on www.tenderlink.com/nedlands. The tender period ended on 9 July 2018 and submitted tenders were opened by officers of the City at 10:00 am. Five (5) submissions were received by the City. Compliant tenders were received from the following companies:

1. Budo Group Pty Ltd;
2. Landmark Engineering & Design Pty Ltd ta Modus Australia;
3. Landmark Products Pty Ltd;
4. LKS Constructions WA Pty Ltd; and
5. Safeway Building Pty Ltd.

**Evaluation**

The tender was independently evaluated by three (3) City officers in accordance with the qualitative criteria specified in the tender documentation. Due to the exact technical requirement of the facility, the qualitative criteria was afforded a total of 90% of the total score.

Price criteria was evaluated on a schedule of rates basis, against prices based on the completed itemised price schedule included within the tender submissions. A price criteria score was allocated based on the best value being scored at 100% and other values scored proportionally against this price. A total of 10% weighting was allocated to the price criteria, noting that a firm budget had been set by resolution of Council based on a priced concept design.

A confidential evaluation and recommendation report was completed and approved by the evaluation panel, Manager Parks Services and Director Technical Services. References were sought from appropriate sources for quality assurance purposes which backed up the findings of the evaluation panel.

The final evaluation, including pricing and scoring, can be viewed in the confidential attachment – RFT 2017-18.07 Beaton Park – All Abilities Play Space – Toilet Block, Design and Construction Final Evaluation.

**Conclusion**

Landmark Products Pty Ltd finished comfortably as the best performer in the evaluation process. Landmark possess an experienced and well qualified team, also providing extensive details of previous projects of a similar size and nature to this project for other Local Government Authorities and to the private sector. Landmark Products demonstrated the ability to provide a high standard of work and an excellent understanding of the design requirements, providing concept designs and a thorough methodology. Landmark Products have manufactured and installed hundreds of facilities in Australia, many of which are compliant with Changing Places and other standards required for this project.

Referee reports backed up the claims made in the tender submission and the findings of the evaluation panel. In addition to the above, the price quoted by Landmark Products Pty Ltd came in well under the advertised budget for the project.

It is the City’s recommendation that Landmark Products Pty Ltd is awarded the tender.

**Key Relevant Previous Council Decisions:**

Ordinary Meeting of Council 22 May 2018, Item 13.7

*Council:*

1. *agrees to pre-fund the All Abilities Changing Places Ablution Facility included in phase 2 of the project at an estimated cost of $350,000 subject to the retention of the Changing Places grant of $100,000; and*
2. *acknowledges the reassurance from Rotary that they will raise the funds to refund the City.*

It is noted that the City has been advised by WALGA that the Changing Places Grant has been extended until 31 May 2019. Landmark Products have advised a 14-week construction period on award. Consequently, works will be completed well before the expiry of the grant.

**Consultation**

Nil.

**Budget/Financial Implications**

The 2018/19 Capital Works Program includes a sufficient allocation for the award of this tender and design and construction of a toilet block at the All Abilities Play Space.

## Waratah Avenue Place Making Strategy Community Consultation

|  |  |
| --- | --- |
| **Council** | 24 July 2018 |
| **Applicant** | City of Nedlands |
| **Director** | Martyn Glover - Director Technical Services |
| **Attachments** | 1. New Waratah Avenue Place Making Strategy Concept Plan 2. Community Engagement Plan |

**Executive Summary**

The original concept plan for the Waratah Avenue Place Making Strategy was adopted in November 2015. The project was transferred to Technical Services for implementation and the City’s design staff have since reviewed the concept plan (refer Attachment 1) in consideration of pedestrian facilities, road safety issues and amended the concept plan to suit.

Due to the altered design and both the demographic and ownership changes within the Strategy area, it is proposed to consult with the community a second time in accordance with the new community engagement plan (refer Attachment 2) to ensure that the proposal has retained support.

**Recommendation to Council**

**Council endorses the amended Waratah Avenue Place Making Strategy Concept Plan for the purposes of community engagement in accordance with the attached Community Engagement Plan.**

**Discussion/Overview**

**Background**

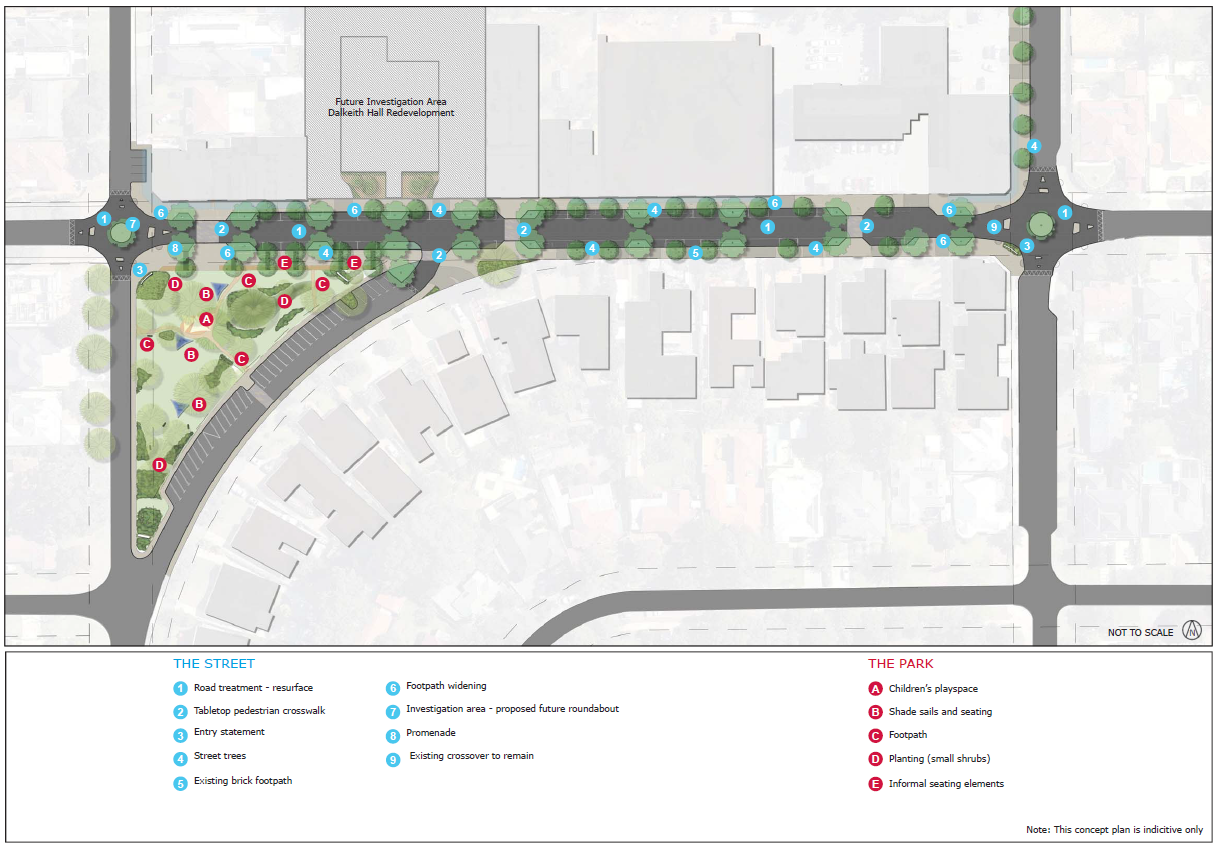
Council supported a Notice of Motion in March 2012 to prepare a placemaking strategy for Waratah Avenue between Adelma Road and Alexander Road including creation of a Steering Committee with representation by the Mayor, Councillors, CEO and members of the public.

In March 2013 the Steering Committee adopted a Project Plan including a scope of work to develop the strategy and a notional budget of $40k. The project leader was the Manager Strategic Planning and the team was predominantly Planning and Development staff with other Department staff resources as required.

The scope of the project was the preparation of a Placemaking Strategy for the portion of Waratah Avenue between Adelma Road and Alexander Road including but not limited to the following components:

* Genesta Park
* Waratah Avenue Road Reserve including the footpath

A concept plan (refer figure 1 below) was developed for the purposes of a community consultation.



**Figure 1:** Waratah Avenue Place Making Strategy Concept Plan 2015

Community consultation on the Concept Plan took place in September 2015 and five (5) submissions mostly supporting the project were received. Council adopted the strategy and concept plan in November 2015 and transferred the project to Technical Services in December 2015 to prepare detail design and prepare for delivery of the project.

**Revised Concept Plan**

Consultants were engaged to develop the detail design in 2016 providing 85% design review drawings in October of that year. The City, recognising the dependence on design consultants, at the same time was building its own in-house design resource.

Consultant fees had expended the available budget, so the decision was made to bring the project in-house to be finalised by the City’s design team.

The City’s new design team reviewed the design and in recognition that the Strategy was converting the area to a more pedestrian dominant precinct with a high proportion of aged clientele expressed concerns with safety issues for pedestrians crossing Waratah plus intersection configurations with Genesta Crescent that did not meet the required Australian Standards.

The City’s Design Team identified five specific issues that would need review:

* Consideration of aged persons attending NCC because two lane crossings are a risk.
* The potential for traffic to turn into Genesta Crescent should be discouraged.
* The retention of the intersection geometry at Genesta and Alexander is non-compliant with contemporary standards.
* Loss of angle parking adjacent to Genesta Park in Waratah Avenue and realigning non-standard parking in Genesta Crescent.
* The Genesta Park design needed to be reconsidered using the Enviro-scape Master Planning (EMP) principles.

The City’s Design Team prepared a plan which responded to the specific issues, and the new concept plan was presented to Councillors at a briefing on 3 April 2018 and the Ordinary Council Meeting of 22 May 2018.

The Council did not support the amended plan and provided feedback on what they would prefer to see within the Placemaking Strategy.

The City’s Design Team have now prepared a concept plan which reflects the advice provided by Councillors (see Attachment 1).

**Construction Program**

Subject to the outcome of the consultation commencing August 2018, the proposed construction program is as follows:

* Commence construction in January 2019 including road and pedestrian facilities.
* Commence construction of roundabout in July 2019 with or without grant success.
* Commence EMP process for Genesta Park in late 2018 with construction of stage 3 in July 2020.

**Key Relevant Previous Council Decisions:**

Ordinary Meeting of Council 22 May 2018, Item 13.8

*Regulation 11(da) – Council decided not to proceed with consultation to enable further consideration and discussion on design issues.*

Ordinary Meeting of Council 24 November 2015, Item PD48.15

*Council:*

1. *Adopts the Waratah Avenue Placemaking Strategy Concept Plan and Report (Attachment 1 and 2)*
2. *Refers the adopted Concept Plan and Report to Technical Services for implementation.*

**Consultation**

Community consultation on the original Concept Plan took place in September 2015 with 338 letters to households, plus newsletters to over 900 people who subscribed and the concept was displayed at sites throughout the City. There were only five (5) submissions mostly supporting the project.

Council adopted the strategy and concept plan in November 2015.

Due to the changes in the concept design as well as the changes in the local demographic and ownership, it is now proposed that a second consultation take place in accordance with the attached Community Engagement Plan.

**Budget/Financial Implications**

The project is planned to be delivered in stages as follows:

1. Waratah Avenue paving and footpath upgrade in 2018/19 at total $453k with $137k MRRG grant.
2. Waratah and Alexander roundabout in 2019/20 including parking at west end Waratah Avenue at $270k with $180k RSA Black spot grant.
3. Genesta Park and Genesta/Alexander intersection upgrade at $248k.

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

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

## Councillor Wetherall – Recision Motion - Minister Notice to Comply with Order – Scheme Amendment No. 209 Philip Road

On 13 July 2018 the following Councillors gave notice to rescind a previous Council decision in accordance with *Standing Orders Local Law 200*9, Part 14 at the Council Meeting of City of Nedlands to be held on Tuesday, 24 July 2018.

1. Councillor Wetherall
2. Councillor Shaw
3. Councillor McManus
4. Councillor Hodsdon
5. Councillor de Lacy

**That Council rescind its decision of 26 June 2018 relating to Item** **13.8 Minister Notice to Comply with Order – Scheme Amendment No. 209 Philip Road which reads as follows:**

***Council Resolution***

***That this item be deferred pending proposed modifications to draft Local Planning Scheme No. 3 as advised to the Western Australian Planning Commission.***

Reasons for Recision

Following Council’s previous decision to ignore the Minister’s written notice under section 76 of the Act, the Minister has now served a further written notice under section 212 of the Act, as the Minister is satisfied that the local government has failed to comply with an order under section 76.

The following reasons justify why it is necessary and prudent to rescind the previous Resolution of Council and replace it with the original recommendation from Administration.

1. The resolution passed may be in conflict with the City of Nedlands legal requirements under the *Local Government Act*.
2. The resolution disadvantages unnecessarily the City of Nedlands in its forthcoming dealings with the Minister, who has the power to accept, reject, or modify recommendations from the WAPC in respect to the forthcoming LPS3.
3. There will be an overlapping of timing in responding to the Minister’s direction and the forthcoming completion and submission of revised LPS3 which is imminent.
4. regardless of any potential conflict between LPS 3 and the Minister's Order, all areas subject to zoning/density changes must have Detailed Area Plans produced for Council approval.

## Councillor Wetherall – Minister Notice to Comply with Order – Scheme Amendment No. 209 Philip Road

Should Council agree to rescind its resolution of 26 June 2018 in relation to item 13.8 Minister Notice to Comply with Order – Scheme Amendment No. 209 Philip Road Councillor Wetherall gave notice of his intention to move the following motion at the Council Meeting 24 July 2018:

**Council:**

1. **Adopts proposed Scheme Amendment No. 209 to:** 
   1. **Rezone lot 50 Adelma Road; and lots 367-368 and 371-378 Philip Road, Dalkeith from Residential R10 to Residential R80; and**
   2. **Include an Additional Use ‘Dwelling House – Multiple’ with condition “Prior to the application and commencement of development, a Local Development Plan being prepared and approved by the City of Nedlands pursuant to Part 6 – *Local Development Plans* of the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015”*.**
2. **In accordance with *Planning and Development (Local Planning Schemes) Regulations 2015* s.35(2) Council is of the opinion that the Amendment is a Complex Amendment because it is “(d) an amendment to comply with an order made by the Minister under section 76 or 77 of the Act”.**
3. **In accordance with *Planning and Development (Local Planning Schemes) Regulations* 2015 s.37(1) Council resolves to proceed to advertise the complex amendment.**

Administration Comment

This Notice of Motion is the same as the original Administration report and recommendation presented to Council at its Ordinary Meeting of 26 June 2018.

## Councillor Mangano – 40 Beatrice Road, Dalkeith - Motion

On the 13 July 2018 Councillor Mangano gave notice of his intention to move the following at this meeting.

**That Council approves the pruning of the two Lemon Scented Gum street trees on the nature strip adjacent to 40 Beatrice Road, Dalkeith as requested by the property owner, subject to the following conditions:**

1. **The pruning to be undertaken in accordance with the arborist report dated 24 May 2018, commissioned by the owner of 40 Beatrice Road, and to their satisfaction;**
2. **The works are to be completed by the end of August 2018, subject to the availability of the City’s contractors; and**
3. **All costs associated with the pruning works are to be borne by the City.**

**Justification**

There are two large mature Lemon Scented Gum street trees on the nature strip adjacent to 40 Beatrice Road, Dalkeith. Both trees extend significantly over Beatrice Road and have branches that are very low and can be reached form ground level. The owner of 40 Beatrice Road has advised they have a high level of concern regarding falling branches from both these trees that may result in damage to property or injury to persons. There are also concerns about damage to the road surface, road kerbing and to the adjacent crossover. The road kerbing in this location has been previously repaired but is showing signs of failure due to the roots of the trees. The adjacent crossover to 40 Beatrice Road has also been impacted by the roots of the eastern-most tree, however the owner is only seeking to have the trees pruned to reduce the risk of sudden or other limb failure.

**Administration Comment**

With reference to the two Lemon Scented Gum (*Corymbia citriodora*) street trees at 40 Beatrice Road, the City’s Parks Services department has concerns with the appropriateness of the recommendations contained within the arborist report commissioned by the adjacent owner (see attached). Consequentially, the City has engaged an arboricultural consultant to inspect, assess and provide written recommendations for current and future management of the trees (see attached report). In appointing arboricultural consultants to manage the risks and potential liabilities associated with its public trees, the City ensures we appoint appropriately qualified and experienced professionals. There are a limited number of consultant arborists that the City, and local government authorities generally, consider have the demonstrated competency to assess risks associated with public trees and have the ability to apply the relevant standards and techniques to effectively manage these risks. Prerequisite qualifications that are considered required in order to be appointed as a consultant arborist to assess public trees include:

* A minimum Diploma level qualification in arboriculture;
* International Society of Arboriculture ‘ISA Certified Arborist’ accredited; and
* A registered user of the ’Quantified Tree Risk Assessment (QTRA)’ system

-or-

‘ISA Tree Risk Assessment Qualification (TRAQ)’ qualified.

The Administration considers the arborist report commissioned by the owner of the adjacent property is deficient in a number of elements. The qualifications of the person who has compiled the report are not provided. It is thought they may have acquired Certificate III level qualifications in arboriculture which would not qualify them as having the requisite skills or experience to understand and apply complex tree risk assessment methodologies. The report writers potential lack of qualification in this area is supported by the omitting of a suitable assessment and methodology for quantifying the risk the trees pose in context of the surrounding environment and to determine if the risk is acceptable with regard to the amenity value of the trees and the likelihood of harm in the event a tree branch failure was to occur. It is also lacking in regard to any statement or understanding of the impact the pruning will have on the physiological condition of the trees and how this may manifest at a later time. This is again highlighted by the extent of the pruning recommended, which significantly diverges from best practice as outlined by Australian Standard AS 4373-2007 Pruning of Amenity Trees. Council’s Street Trees policy mandates AS 4373 as the standard for pruning street trees as indicated in the below excerpt:

*In the interests of public safety, of the health of street trees and of managing the City’s exposure to liability the following requirements and tree management standards apply to the pruning of street trees:*

* *All pruning of street trees will be in accordance with Australian Standard AS 4373 Pruning of Amenity Trees or as otherwise instructed by a suitably competent and qualified arborist approved by the City.*

The City has identified 135 public trees that are considered to have a potentially higher associated risk and have placed these in an ‘Annual Visual Tree Assessment’ register (AVTA). The majority of trees included in the AVTA are street trees that are located adjacent to residential properties and public roads. Consequentially, these trees are managed more intensively as there is a high probability the daily activities of people will be in close proximity to them. The two Lemon Scented Gums on the nature strip adjacent to 40 Beatrice Road, Dalkeith have both been included on the AVTA since its inception more than 15 years ago. Each tree included in the register is inspected and assessed annually by an expert consultant arborist, appointed by the City, after which a report is provided containing recommendations for each tree. Review of the five most recent inspections of these two trees conducted during the AVTA indicates the City’s consultant has not identified any potential risk associated with the trees that requires significant or immediate remedial action. This expert opinion is supported by the current arboricultural consultant’s report that recommends no works are carried out on the trees and does not support the works recommended in the report commissioned by the adjacent property owner.

Administration is amenable to undertaking some minor works to lift the height of vegetation over the road and will consult with the adjacent owner in respect to repairing the adjacent crossover. The Administration relies upon the expert advice of its consultant arborists and understands that pruning of the two trees as proposed by the Notice of Motion will be detrimental to their health. The City also understands that pruning of the trees as proposed has a high probability of giving rise to the unintended consequence of increasing the risk they pose to persons and property.

If Council were of the inclination to approve the pruning, in rejection of the advice of the City’s expert consultant arborists, it may be prudent to seek advice as to future potential liabilities in the event a branch failure associated with the trees were to give rise to a claim for damages. If Council were to approve the pruning, it would also be prudent to stage this over a period of several years to mitigate the detrimental effects this will have on the trees. Council may also wish to consider the provisions of its Street Trees policy in determining who should pay for the cost of pruning if approved. Council’s Street Trees policy states “*if a resident requests pruning of a street tree abutting their property, and in the opinion of the CEO the pruning is not associated with matters of safety, tree health or boundary encroachment, the ratepayer shall bear 100% of the cost to prune the tree if approved*”.

The Administration recommends that Council does not approve the pruning of the two street trees on the nature strip adjacent to 40 Beatrice Road as proposed in the arborist report commissioned by the adjacent property owner. It is also recommended that, in respect to managing complex arboricultural risk management concepts and the City’s associated liabilities, Council authorise the Administration to manage the two street trees in accordance with the recommendations provided by its expert arboricultural consultants. It is the Administration’s understanding that, if Council were to approve the pruning as proposed in the Notice of Motion, this would have the effect of exposing Council and/or individual Councillors to potential legal liability in the event a claim for damages arose out of an incident involving either tree.

# Elected members notices of motion given at the meeting for consideration at the following ordinary meeting on 28 August 2018

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

Notices of motion for consideration at the Council Meeting to be held on 28 August 2018 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

## Minister Notice to Comply with Order – Scheme Amendment No. 212 – 80 Stirling Highway, Nedlands

|  |  |
| --- | --- |
| **Council** | 24 July 2018 |
| **Applicant** | Urbis |
| **Owner** | Various |
| **Director** | Peter Mickleson – Director Planning & Development |
| **Previous Item** | PD46.17 Council Resolution 24 October 2017 |
| **Delegation** | Order to the City of Nedlands under section 76(1) of the Act |
| **Attachments** | 1. Council Meeting Minutes and Report 24 October 2017 |
| **Confidential Attachment** | 1. Order Under Section 76 of the *Planning and Development Act 2005* – 22 May 2018 |

**1.0 Executive Summary**

The purpose of this report is to inform Council of an order issued by the Minister for Planning under s.76 of the *Planning and Development Act 2005*. The Order covers a number of lots at 80 Stirling Highway adjacent to the Captain Stirling Hotel and is the site of a proposed Woolworths supermarket. This report provides a brief overview as to the procedural processes which are required to be undertaken to comply with this order.

**2.0 Recommendation to Council**

**Council**

1. **Adopts proposed Scheme Amendment No. 212 to:**
2. **Rezone and reclassify the land bound by Stirling Highway to the north, Lot 24 Florence Road and Lot 31 Stanley Street to the south, Stanley Street to the east and Florence Road to the west from a Hotel and Residential R10 zone to a Special Use zone;**
3. **Amend Schedule V – Special Use zone to include permitted uses and provisions as contained in Attachment 2; and**
4. **Amend the Scheme Map accordingly.**
5. **In accordance with *Planning and Development (Local Planning Schemes) Regulations 2015* s.35(2) Council is of the opinion that the Amendment is a Complex Amendment because it is “(d) an amendment to comply with an order made by the Minister under section 76 or 77 of the Act”.**
6. **In accordance with Planning and Development (Local Planning Schemes) Regulations 2015 s.37(1) Council resolves to proceed to advertise the complex amendment.**

**3.0 Background**

July 2017

The City received Scheme Amendment No. 212 to Town Planning Scheme No. 2 (TPS2) proposing to rezone and reclassify the land bound by Stirling Highway to the north, Lot 24 Florence Road and Lot 31 Stanley Street to the south, Stanley Street to the east and Florence Road to the west from a Hotel and Residential R10 zone to a Special Use zone, amend Schedule V – Special Use zone to include permitted uses and provisions as contained in the applicant’s submission, and amend the Scheme Map accordingly.

October 2017

A report was made to Council with the following recommendation:

1. Considers the amendment is a Complex Amendment for the following reason:
2. The amendment is not consistent with a local planning strategy for the scheme that has been endorsed by the Commission.
3. Refuses to adopt Scheme Amendment No. 212 to Town Planning Scheme No. 2 for the following reasons:
4. The amendment request does not adequately address traffic and access issues.
5. The amendment is considered ad hoc as it does not allow for the development of the activity centre as a whole.
6. The amendment does not adequately address the residential transition concept as required by the Local Planning Strategy.
7. Does not proceed to advertise Scheme Amendment No. 212 to Town Planning Scheme No. 2
8. Notes the following aspects of the amendment would also need to be further addressed to ensure the centre develops in a manner consistent with the Local Planning Strategy:
9. Peer review of Retail Sustainability Assessment (once other issues are adequately addressed, i.e. traffic).
10. Stepping of building bulk to adjacent residences.
11. Treatment and urban design of Stanley Street interface.
12. Boundary setbacks.
13. Residential density provisions (including minimums and/or maximums).
14. Building massing controls and solar access.
15. Appropriate controls for the Captain Stirling Hotel curtilage and eastern landmark building.

October 2017

Council at 24 October 2017 Meeting resolved to instruct the Chief Executive Officer to prepare an amendment to TPS 2 for incorporation in Local Planning Scheme No. 3 to create a Town Centre Zone for land including that controlled by Woolworths and Aldi, comprising residential, retail and other non-residential uses on the south side of Stirling Highway.

November 2017

The applicant lodged an appeal to the Minister, for review of Council’s decision under s.76 of the *Planning and Development Act 2005* (the Act).

March 2018

The City received correspondence from the Department of Planning, requesting comment be provided regarding its reasons for not adopting proposed Scheme Amendment No. 212, in which the City responded with further planning justification.

May 2018

In response to the Mayor’s Notice of Motion, Council resolved that, in the interest of providing:

1. Progressive feedback to Administration;
2. Guidance towards achieving a successful outcome expeditiously; and
3. Simplifying last minute deliberations, Council gives direction to the CEO with respect to Local Planning Scheme No. 3 (LPS3) as follows:

In accordance with submissions:

1. The Activity Centre on the north side of Waratah Avenue between Adelma and Alexander Roads shall be renamed Local Centre;
2. Neighbourhood Centre Zones, other than those renamed in a) and b) above, shall be renamed as Mixed Use Zones or, in the case of the west side of Hampden Road, Local Centre; and
3. The Light Industry Zone shall be deleted and the area concerned become a Service Commercial Zone;

June 2018

Upon consideration of both the applicant and the City’s submission, the Minister has given an order under s.76 of the Act, directing Council to adopt Scheme Amendment No. 212 to TPS2. A copy of the order is provided as an attachment (refer Attachment 2).

**4.0 Discussion**

An Order by the Minister made under s.76 of the Act enables the Minister to direct a local government, to prepare and submit an amendment to a local planning scheme for the approval of the Minister.

The Order issued by the Minister maintains the scheme amendment in the same form as was originally submitted by the applicant and considered at the October 2017 Council meeting.

The Minister considers that Amendment No. 212 should be initiated as it is in keeping with the principle of providing for intensification of development in, and adjoining activity centres consistent with, *Perth and Peel@3.5million* and *State Planning Policy 4.2 - Activity Centres for Perth and Peel.* Accordingly, it is appropriate for proposed Amendment No. 212 to be advertised for public submissions and for further detailed assessment to be undertaken through the local planning scheme amendment process.

The order issued requires the City to resolve to adopt and proceed to advertise the scheme amendment within 60 days of the order, this being 21 July 2018. After Council has made a resolution the City must refer the scheme amendment to the Environmental Protection Authority and the Western Australian Planning Commission before it commences public consultation.

Following the consultation, a report on the outcome of consultation will be submitted for Council’s final consideration. Council will need to consider all the submissions in relation to the proposed amendment and pass a resolution –

1. to support the amendment to the local planning scheme without modification;

or

1. to support the amendment to the local planning scheme with proposed modifications to address issues raised in the submissions; or
2. not support the amendment to the local planning scheme.

After passing a resolution the City must inform the Commission of its reasons for the decision together with a copy of submissions. The Commission will then report to the Minister who will consider the proposal and make a final decision.

The Minister has advised that the order does not represent formal support for the proposed amendment, rather it reflects the Minister’s view that it is worthy of consideration through the local planning scheme amendment process. In this regard, it is still open for Council to support the amendment with or without modifications, or not support the amendment once the amendment reaches the point of final consideration.

In accordance with the decision made by Council at its 24 October 2017 Meeting, Administration has created a ‘Neighbourhood Centre’ zone along Stirling Highway in LPS3 to give identification to the City’s designated ‘Town Centre’. This Neighbourhood Centre zone precinct includes the Woolworths and Aldi sites. The boundaries of the Amendment No. 212 area fall within a portion of the Neighbourhood Centre zone precinct.

During the community consultation period for LPS3, the applicant made a submission which indicated that it was generally supportive of the proposed Neighbourhood Centre zone. It should be noted that the proposed Neighbourhood Centre zone in draft LPS3 would allow the applicant to develop the site for a Supermarket and associated retail shops.

**5.0 Budget / Financial Implications**

The applicant is responsible for meeting the costs associated with the processing and advertising of this application. If the City however does not comply with the order, the City may be required to pay all costs, as discussed below in section 6.0 of this report.

**6.0 Risk Management**

Failure to comply with the order from the Minister may result in further enforcement action being commenced, most likely pursuant to section 212 of the *Planning and Development Act 2005*. Section 212 of the Act also allows the Minister to undertake any action necessary to comply with the order and in doing so charge the City the associated costs. As stated in the order letter, there is no right of appeal against a decision made by the Minister.

**7.0 Conclusion**

The Order requires the City to undertake the procedural processes under Part 5 of the Act by 21 July 2018. Administration therefore recommends that Council adopt the proposed scheme amendment and proceed to advertise so that public consultation can commence.

# 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.