**MINUTES**

**Council Meeting**

**27 September 2022**

**Attention**

**These Minutes are subject to confirmation.**

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

**Information**

Council Meetings are run in accordance with the City of Nedlands Standing Orders Local Law. If you have any questions in relation to items on the agenda, procedural matters, public question time, addressing Council or attending meetings please contact the Executive Officer on 9273 3500 or [council@nedlands.wa.gov.au](mailto:council@nedlands.wa.gov.au)

**Public Question Time**

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

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

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

**Addresses by Members of the Public**

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

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

**Disclaimer**

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

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# Declaration of Opening

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

* 1. **Councillor Combes – Online Participation**

Councillor Combes requested to participate in this Special Council Meeting online.

In order for Councillor Combes to participate, three conditions must be met in accordance with regulation 14A(1) of the Local Government (Administration) Regulations 1996.

a) the person is simultaneously in audio contact, by telephone or other means of instantaneous communication, with each other person present at the meeting; and

b) the person is in a suitable place; and

c) the council has approved of the arrangement.

Councillor Combes has advised that he will be situated in a private room at 48 Adderley Street, Mt Claremont for the duration of the meeting.

To fulfil this request, Council consideration is required as follows:

Moved – Councillor Amiry

Seconded – Councillor Youngman

**That Council:**

1. **approves a private room at The Sebel Melbourne Moonee Ponds, 41 Homer Street, Moonee Ponds, Victoria as a suitable place for the purposes of Regulations 14A(l)(b) and 14A(4); and**

**2. approves the participation of Councillor Combes at the Ordinary Council Meeting held 27 September 2022 online via teams pursuant to Regulation 14A(l)(c).**

**CARRIED UNANIMOUSLY 10/-**

**Councillor Combes and Councillor Hodsdon tried to join the meeting online however due to technical difficulties were unable to join and therefore are listed as apologies and approved leave of absence.**

Councillor McManus joined the meeting at 6.03 pm.

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

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

Councillor B Brackenridge Melvista Ward

Councillor R A Coghlan Melvista Ward

Councillor R Senathirajah Melvista Ward

Councillor H Amiry Coastal Districts Ward

Councillor L J McManus (from 6.03pm) Coastal Districts Ward

Councillor K A Smyth Coastal Districts Ward

Councillor F J O Bennett Dalkeith Ward

Councillor A W Mangano Dalkeith Ward

Councillor N R Youngman Dalkeith Ward

Councillor O J Basson Hollywood Ward

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

Mr M R Cole Director Corporate Services

Mr T G Free Director Planning & Development

Mr A D Melville Acting Director Technical Services

Mrs N M Ceric Executive Officer

**Public** There were 20 members of the public present and 6 online.

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

**(Previously Approved)**

**Apologies** Councillor O Combes Hollywood Ward

# Public Question Time

Questions received from members of the public will be read at this point.

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

* 1. **Mr Brendan O’Toole**

On the 23rd of February last year, 19 months ago, the City's new street tree policy first came before Council.  After a lengthy process it was enacted and went live approximately 7 months ago.

Question 1

Since enactment of the new street tree policy how many of the new default species (marri, jarrah, tuart and modong) have been planted?

Answer 1

The following tree species have been planted in streetscapes and bushland between 22 February and 8 September 2022, Marri – 25, Jarrah – 50, Tuart – 59, Modong – 0.

Question 2

How many verges have been planted out to meet the minimum criteria of 150% of verge area after 20 years of moderate growth?

Answer 2

This data has not been tracked and is not available.

Question 3

Which areas have been planted out on the City's initiative, rather than being prompted by a request from the adjacent property owner?

Answer 3

Planting under the City’s initiative has been undertaken in all Wards throughout the District.

Question 4

Which areas will have their verges planted out in this remaining season and which areas will be targeted next planting season?

Answer 4

All scheduled tree planting for the season has now been completed.  The City is now investigating additional tree planting opportunities that will be dependent on seasonal variability and the City’s remaining tree stock Areas being targeted for next season are yet to be determined.

# Addresses by Members of the Public

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

Mr Corey Stott, spoke in opposition to the recommendation for item 16.1 - PD58.09.22 Consideration of Development Application – Partial change of use to “Small bar” and additions to an existing commercial tenancy (patio) – 161 Broadway, Nedlands.

Mr Glen Parsons, spoke in support of the recommendation for item 16.1 - PD58.09.22 Consideration of Development Application – Partial change of use to “Small bar” and additions to an existing commercial tenancy (patio) – 161 Broadway, Nedlands.

Mr Bradley Forbes, spoke in support of the recommendation for item 18.1 - CSD06.09.22 Cricket Turf Wicket Maintenance Agreements.

Mr Gavin Taylor, Nedlands Yacht Club spoke in support of the recommendation for item 18.2 - CSD06.09.22 CRSFF Application Nedlands Yacht Club Sail Training Centre Redevelopment.

Ms Lucy Hood, Nedlands Yacht Club spoke in support of the recommendation for item 18.2 - CSD06.09.22 CRSFF Application Nedlands Yacht Club Sail Training Centre Redevelopment.

Suspension of Standing Orders

Moved - Councillor Amiry

Seconded - Councillor Youngman

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

**CARRIED UNANIMOUSLY 11/-**

Ms Lesley Shaw, spoke in support of the recommendation for item 19.4 - CPS42.09.22 Reclassification of Crown Reserve – Swanbourne.

Dr Robin Colin spoke in relation to the following items:

Item 16.4 - PD61.09.22 Western Suburbs Greening Plan 2020-2025

Item 19.3 - CPS41.09.22 Tawarri Hot Springs Pty Ltd – Request licence to occupy portion of Reserve 17391 Esplanade Dalkeith

Item 19.4 - CPS42.09.22 Reclassification of Crown Reserve – Swanbourne

Miss Anjali Suresh, spoke in support of item 20.2 CEO11.09.22 United Nations Sustainable Development Goals.

Miss Emily Fan, spoke in support of item 20.2 CEO11.09.22 United Nations Sustainable Development Goals.

Suspension of Standing Orders

Moved - Councillor Coghlan

Seconded - Councillor Mangano

**That Standing Order No. 9.5 be suspended for the purpose of allowing additional speakers for item 20.2**

**CARRIED UNANIMOUSLY 11/-**

Dr Sandy Chong, WA President United Nations spoke in support of item 20.2 CEO11.09.22 United Nations Sustainable Development Goals.

Mr Arif Valibhoy, spoke in support of the recommendation for item 22.2 - Councillor Mangano – Leveling of Verge – 52 Jutland Parade, Dalkeith.

Mr David Hillman, spoke in opposition to Amendment Application - Residential Aged Care Facility - Nedlands (Oryx application to WAPC to extend commencement date of Betty Street / Doonan Road development beyond original limit of 11 Sept. 2022).

Mr Matthew McNeilly, spoke in opposition to Amendment Application - Residential Aged Care Facility - Nedlands (Oryx application to WAPC to extend commencement date of Betty Street / Doonan Road development beyond original limit of 11 Sept. 2022).

# Requests for Leave of Absence

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

Moved – Councillor Coghlan

Seconded – Mayor Argyle

**Councillor Youngman be granted leave of absence from 13-31 October 2022.**

**CARRIED UNANIMOUSLY 11/-**

# Petitions

Petitions to be tabled at this point.

* 1. **Petition in Opposition to Proposed Development 37 - 43 Stirling Highway, Nedlands**

Councillor Youngman tabled a petition on behalf of Mr Corey Stott, Little Way and 137 others in support of the Development Application – partial change of use to Small Bar and additions to an existing commercial tenancy (patio) at 161 Broadway, Nedlands.

Moved – Councillor Youngman

Seconded – Councillor Amiry

**That Council receive the petition.**

**CARRIED UNANIMOUSLY 11/-**

# Disclosures of Financial / Proximity Interest

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

There were no disclosures of financial interest.

# Disclosures of Interests Affecting Impartiality

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

3. 1. **Councillor Smyth – 18.2 - CSD06.09.22 CRSFF Application Nedlands Yacht Club Sail Training Centre Redevelopment**

Councillor Smyth disclosed an impartiality interest in Item 18.2 - CSD06.09.22 CRSFF Application Nedlands Yacht Club Sail Training Centre Redevelopment. Councillor Smyth disclosed that her husband is a member of the club, and as a consequence, there may be a perception that her impartiality on the matter may be affected. Councillor Smyth declared that she would consider this matter on its merits and vote accordingly.

1. 1. **Councillor McManus – 18.1 - CSD06.09.22 Cricket Turf Wicket Maintenance Agreements**

Councillor McManus disclosed an impartiality interest in Item 18.1 - CSD06.09.22 Cricket Turf Wicket Maintenance Agreements . Councillor McManus disclosed that he is life member of the Claremont Cricket Club, and as a consequence, there may be a perception that his impartiality on the matter may be affected. Councillor McManus declared that he would consider this matter on its merits and vote accordingly.

* 1. **Councillor McManus – 19.4 - CPS42.09.22 Reclassification of Crown Reserve – Swanbourne**

Councillor McManus disclosed an impartiality interest in Item 19.4 - CPS42.09.22 Reclassification of Crown Reserve – Swanbourne . Councillor McManus disclosed that he is a financial member / donor of the Friends of Melon Hill Bushland , and as a consequence, there may be a perception that his impartiality on the matter may be affected. Councillor McManus declared that he would consider this matter on its merits and vote accordingly.

* 1. **Mayor Argyle – 18.2 - CSD06.09.22 CRSFF Application Nedlands Yacht Club Sail Training Centre Redevelopment**

Mayor Argyle disclosed an impartiality interest in Item 18.2 - CSD06.09.22 CRSFF Application Nedlands Yacht Club Sail Training Centre Redevelopment. Mayor Argyle disclosed that 2 of her children are members, and as a consequence, there may be a perception that her impartiality on the matter may be affected. Mayor Argyle declared that she would consider this matter on its merits and vote accordingly.

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

Nil.

# Confirmation of Minutes

2. 1. **Ordinary Council Meeting Minutes – 23 August 2022**

Moved – Councillor Youngman

Seconded – Councillor McManus

**The minutes of the Ordinary Council Meeting held 23 August 2022 be confirmed.**

**CARRIED UNANIMOUSLY 11/-**

* 1. **Special Council Meeting Minutes – 6 September 2022**

Moved – Councillor Youngman

Seconded – Councillor Senathirajah

**The minutes of the Special Council Meeting held 6 September 2022 be confirmed.**

**CARRIED UNANIMOUSLY 11/-**

# Announcements of the Presiding Member without discussion.

The Presiding Member gave the following speech.

Good evening, Ladies and Gentlemen,

This evening, I would like to make my speech about Her Late Majesty, Queen Elizabeth the Second, following her death on 8 September 2022.

At the end of each month, I usually do a summary of local events, however in this month, I believe it’s appropriate to speak about the Late Queen and her achievements.

To my right, is her portrait, which pales in size, to the paintings of our previous City of Nedlands’ mayors.

The age of Queen Elizabeth the Second, spanned seven decades and 214 days, in this time, everything seemed to change except for the Queen’s commitment to duty.

Her late Majesty was a person who inspired the world, and me.

Born in 1926 in Mayfair, London. Her Late Majesty was Queen of the United Kingdom, and head of the commonwealth, from 6 February 1952 to her death, this month.

This reign was the longest of any British Monarch and the lengthiest reign of a female monarch in history. Her actions embodied a steadfast spirit, which she encouraged in all of us.

While hundreds and thousands of words have been written about the Late Queen, what did her life mean to you?

In a special service, held at St Georges Cathedral in Perth, which I attended, The most Reverend, Kay Goldsworthy, Archbishop of Perth spoke of her as an example of Anglican faith in action and her strong belief in God.

The late Majesty held a number of titles, one of which was the Defender of the faith…

“Although she never devolved her favorite hymn for fear it would be played at every public occasion.”

The Archbishop of Perth, also spoke of the pilgrimage hundreds of thousands of people in London, took to see the late Queen lying in state. One such gentleman, who waited tens of hours to do so, was asked by a journalist after he has paid his last respects “What will you do now? Do you plan to go home and have a hot shower?” “No”, he said “I will leave here, and I am going to out to make a difference.”

The Queen was quoted as saying “I often draw strength from meeting ordinary people doing extraordinary things”

In a rare interview, Her late Majesty, quoted Mother Teresa… “Not all of us, can do great things. But we can do small things with great love.”

Despite her titles and wealth, what resonates most for me is her late Majesty never stopped working, a mother of four children, her late majesty worked until two days before her death.

Every day, of the year, weekends, and public holidays, except for Christmas. A large red box would arrive with letters from around the world. It is my understanding the Queen would read them personally.

Time magazine made her woman of the year in 1952, and at the time of her death, claimed her late Majesty was a force for good.

“The Queen did not lead an ordinary life, yet it was filled with awe inspiring acts of duty both public and private.”

Her late Majesty was devoted to the Commonwealth, which I believe was probably her greatest work. At the time of her accession, it was an organisation of just 8 countries, under her direction it now has 56 nations. The Late Queen, ‘transformed a monochrome society, into a family of nations, with a mission of good. Her aim was to promote the rule of law, and democracy, not as a boss but as a dear friend.’

When Nelson Mandela became president in 1994, of South Africa, one of his first decisions was to join the Commonwealth. Just this year in June 2022, Gabon and Togo became new recruits.

The Commonwealth to the Queen was not about ‘manicured lawns, and dancing troops’ it was about turning an outdated imperial structure into a network of nations, aside from extreme differences, these countries could work together to find common ground through similar objectives, the English language and steely support.

For all her traditional, The Late Queen was a person of contemporary times. In an address to the United Nations Climate Change conference, only ten months ago, she called on leaders to act now.

“It is hoped the legacy of this summit, written in history books yet to be written, will describe you as the leaders, who did not pass up an opportunity, and that you answered the call of those future generations”

Tonight, it is my wish, the City of Nedlands will be the first local government in Western Australia, to officially sign the UN SDG goals, and it is my hope other local governments will follow our lead.

The Queen leaves the city the opportunity to plant hundreds of trees, as part of her platinum jubilee, to celebrate her exemplary service. The City of Nedlands received a grant from the Federal Government of $20, 000 for community-based tree funding events. The first will be held at Masons’ Gardens on November 4. Planting will be extended to end of March 2023 in commemoration of the Queens life.

Simply put, The Queen, was the most outstanding example of friendship, faith, duty and hard work, who kept her head above the tides of change.

On behalf of the City of Nedlands, we would like to send our condolences and sincere gratitude for a live well lived to the Royal Family, the people in the UK, and the commonwealth of nations.

The fine example set by Her Late Majesty, Queen Elizabeth the Second, will be forever remembered, and my plan is to keep the Queen’s small portrait on my right in the chamber.

Thank you.

# Members Announcements without discussion.

Written announcements by Council Members were tabled at this point. Council Members may wish to make verbal announcements at their discretion.

2. 1. **Councillor Bennett**

Councillor Bennett advised that he also wished to pay his respects to Her Majesty Queen Elizabeth II and thanked the Mayor for speaking so well about her.

# Matters for Which the Meeting May Be Closed

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

**Item 24.1 - CEO12.09.22 Appointment of Designated Employee – Director Technical Services**

# En Bloc Items

Moved – Councillor Amiry

Seconded – Councillor McManus

**That the officer recommendations for Items 15.1, 16.3, 16.4, 16.6, 17.1, 19.3, 19.6, 21.1 be adopted en bloc and the remaining items 16.1, 16.2, 16.5, 18.1, 18.2, 19.1, 19.2, 19.4, 19.5, 19.7, 20.1, 20.2, 23.1, 23.2, and 24.1 will be dealt with separately.**

**CARRIED UNANIMOUSLY 11/-**

# Minutes of Council Committees and Administrative Liaison Working Groups



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

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

Moved – Councillor Amiry

Seconded – Councillor McManus

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

**Foreshore Management Steering Committee Meeting 22 August 2022**

Unconfirmed, circulated to Councillors on 5 September 2022

**Audit & Risk Committee Meeting** **29 August 2022**

Unconfirmed, circulated to Councillors on 2 September 2022

**CEO Performance Review Committee Meeting**  **6 September 2022**

Unconfirmed, circulated to Councillors on 19 September 2022

**CEO Performance Review Committee Meeting**  **19 September 2022**

Confirmed, circulated to Councillors on 20 September 2022

**CEO Performance Review Committee Meeting**  **20 September 2022**

Unconfirmed, circulated to Councillors on 21 September 2022

**CARRIED UNANIMOUSLY EN BLOC 11/-**

# Divisional Reports - Planning & Development Report No’s PD58.09.22 to PD63.09.22

# PD58.09.22 Consideration of Development Application – Partial change of use to “Small bar” and additions to an existing commercial tenancy (patio) – 161 Broadway, Nedlands

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting – 27 September 2022 |
| **Applicant** | Peter Webb & Associates |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | The author, reviewers and authoriser of this report declare they have no financial or impartiality interest with this matter.  There is no financial or personal relationship between City staff involved in the preparation of this report and the proponents or their consultants. |
| **Report Author** | Roy Winslow – Manager Urban Planning |
| **Director** | Tony Free – Director Planning and Development |
| **Attachments** | 1. Aerial Image and Zoning Map 2. Development Plans and Planning Report 3. CONFIDENTIAL ATTACHMENT - Submissions |

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

Moved – Councillor Bennett

Seconded – Councillor Mangano

**That the Recommendation be adopted.**

(Printed below for ease of reference)

**CARRIED 7/4**

**(Against: Crs. Amiry McManus Youngman & Basson)**

**Council Resolution / Recommendation**

**In accordance with Clause 68(2)(c) of the Deemed Provisions of the Planning and Development (Local Planning Schemes) Regulations 2015, Council refuses the development application in accordance with the plans date stamped 20 June 2022 for a partial change of use to “Small bar” and additions to an existing commercial tenancy (patio) at 161 (Lot 735) Broadway, Nedlands, for the following reasons:**

1. **The proposed partial change of use to “Small bar” does not meet the objectives of the Local Planning Scheme No. 3 Mixed Use zone in that it is likely to generate parking and noise nuisances detrimental to the amenity of the locality and adjoining residents.**
2. **The proposal is inconsistent with the City’s Parking Local Planning Policy and has the potential to exacerbate existing parking problems within the locality. The proposed patio addition will limit the future ability for the property to provide parking within the rear of the site.**
3. **The proposal provides inadequate access to the site, and no arrangement for loading, unloading, manoeuvring, and parking of vehicles.**
4. **The application has not adequality demonstrated that noise from the premises will achieve compliance with the Environmental Protection (Noise) Regulations 1997.**

**Purpose**

The purpose of this report is for Council to consider a development application for a partial change of use to “Small bar” and additions to an existing commercial tenancy (patio) at 161 Broadway, Nedlands (“The Little Way”).

**Voting Requirement**

Simple Majority.

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

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

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

**Background**

**Deferral**

This application was previously presented to Council for determination at the 23 August 2022 Ordinary Council Meeting. The application was deferred to the 27 September Council Meeting to allow for additional noise management measures to be presented to Council for consideration.

**Land Details**

|  |  |
| --- | --- |
| **Metropolitan Region Scheme Zone** | Urban |
| **Local Planning Scheme Zone** | Mixed Use |
| **R-Code** | R-AC3 |
| **Land area** | 769m2 |
| **Existing Land Use** | Restaurant/café |
| **Proposed Land Use** | Restaurant/café and Small bar |
| **Use Class** | ‘A’ Use |

The site is located towards the south end of Broadway within the street block bounded by Hillway to the north and The Avenue to the south. The site is zoned Mixed Use R-AC3. The lots directly abutting the site to the west are zoned Residential R60. On the eastern side of Broadway is the City of Perth Local Government Area and are zoned Residential R80.

The site currently operates as a “restaurant/café” known as “The Little Way”.

**History**

1985 – 1991

The City’s records of the subject site begin circa 1985, and the property had a complex history between 1985-1991. During this time, the premises was operating as “Caffe Greco”. The City’s records contain various correspondence detailing approved seating numbers and car parking arrangements.

1991 Approval

On 7 March 1991, a Change of Use approval for ‘restaurant’ was granted, subject to a condition of a maximum of 142 seats and minimum 16 car bays on site.

This application required 23 car parking bays, however a reduction to 16 was approved. The 16 parking bays were accommodated at the rear of the lot, with access via 165 (Lot 736) Broadway (**Figure 1**). The City’s records show that there was an informal License Agreement in place dated 1992, between the owners of 165 Broadway and 161 Broadway to allow for access over a portion of 165 Broadway to access the parking.

Diagram

Description automatically generated

**Figure 1:** 1991 approval - 16 car bays at the rear of 161 Broadway accessed via a License Agreement over the red shaded portion of 165 Broadway. 1993 approval - maximum of 15 car bays shared between Services Station (165 Broadway) and 161 Broadway.

A further application was approved on 29 July 1993 to “extend the car parking for Cafe Greco at 161 Broadway onto the adjoining Shell Service Station property at 169 Broadway” (**Figure 1**). This approval was subject to a satisfactory agreement being negotiated between the two landowners and a maximum of 15 car bays being provided for within 169 Broadway.

2015/16 Approvals

On 25 January 2000 the Council approved a Mixed Use development at 169 Broadway (now 29 The Avenue), the old Service Station site. It is assumed that the redevelopment of this site in effect removed the previous reciprocal parking arrangements with the landowner of 161 Broadway. In August 2000, the informal License Agreement with 165 Broadway was terminated due to a “breach”. The combination of these two factors effectively removed all onsite and offsite parking from 161 Broadway.

In 2015, to address this, the City requested that the applicant lodge a retrospective development application to consider the continuation of the restaurant land use without any onsite parking. At the 27 October 2015 Ordinary Council Meeting, Council resolved to approve the development application for the continuation of the restaurant land use. The approval contained conditions which limited the capacity to 120 seats in total, and restricted opening hours from Monday to Sunday 7:30am - midnight. The approval of this application effectively revoked the 1991 condition for 16 bays to be provided on site. At the Council meeting, it was moved that the following advice note be included on the determination notice:

1. The landowner/applicants are advised that in the event of any future change to the premise being proposed it is unlikely that the approval will be granted unless access to the rear of the property is restored and parking provided in the rear open area.

A second development application was approved at the 27 September 2016 Ordinary Council Meeting for a new 65m2 outdoor seating area (**Figure 2**). This approval also conditioned the operating hours and 120 seating capacity consistent with the 2015 approval. The application resulted in an increase in the existing car parking shortfall from 60 to 83 bays. A further advice note was placed on the determination notice stating:

1. The landowners/applicants are advised that should any further seats or seating be proposed to the restaurant, there will be a requirement for on-site car bays to be provided.

Diagram

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**Figure 2:** 2016 approval – 65m2 new outdoor seating area highlighted in yellow

**Current Application**

161 Broadway currently holds a Small bar liquor license for part of the premises. On 23 October 2021, the Little Way applied for a Section 40 Certificate to extend the Small bar liquor license into a new 168m2 outdoor area called “The Park” (**Figure 3**). Upon lodgement of the Section 40 the City became aware that unauthorised works had been undertaken within “The Park” area. A retrospective development application was approved on 14 January 2022 for the following works:

* 1.5m high breezeblock wall;
* 0.8m high limestone planter;
* two x 0.42m high limestone planters; and
* various paving and landscaping works.

Note that car parking was not assessed as part of this application as there was no proposed change to the land use. The land use approval of “Restaurant/café” granted in 2015 currently applies to the whole of the lot.

On 18 November 2021 the City advised that it was not in a position to support the Section 40 application for a “Small bar” as it was inconsistent with the approved ‘Restaurant/café’ land use. The applicant was advised that for the City to issue a Section 40 for The Park area, a development application for a change of use, or partial change of use, to “Small bar” would have to be applied for and approved by the City.

Diagram

Description automatically generated

**Figure 3:** Boundary of existing “Small bar” liquor license and proposed area “The Park”

**Application Details**

This development application seeks approval for a partial change of use to “Small bar” and a patio addition to the existing “restaurant/café” at 161 Broadway, Nedlands (“The Little Way”), as detailed below.

**Works**

The application proposes a skillion roof patio in the rear of the lot in the new outdoor area known as “The Park” (**Figure 4**). The patio measures 6.5m x 6.4m and is a maximum height 3.2m.

Chart

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**Figure 4:** Patio as proposed by current application.

**Land Use**

The application seeks to add a “Small bar” land use to the existing approved land use of “Restaurant/café”. “Small bar” is defined in Local Planning Scheme No. 3 (LPS 3) as being a premises subject of a small bar license granted under the *Liquor Control Act 1988.* The small bar license limits the number of persons who may be on the licensed premises to 120. Should the application be approved, both land uses would apply to the entirety of the lot.

The trading hours approved via the 2015 approval are Monday to Sunday 7.30am – midnight. The application states that there are no proposed changes to the current operating hours which are as follows:

* Monday – Saturday: 7.30am – 10pm.
* Sunday: 7.30am – 3.30pm.

The application proposes a maximum occupancy of 120 people. This is consistent with the 2015 approval (“120 seats”), and the definitions of the “Small bar” land use. There is no proposed increase to the maximum patronage as part of this application.

**Discussion**

**Local Planning Scheme No. 3**

A “Small bar” is an ‘A’ use within the Mixed Use zone in accordance with LPS 3 Clause 17 Zoning Table. This means that the use is not permitted unless the Local Government has exercised its discretion by granting approval and after conducting public consultation. In considering approving a discretionary land use, the proposal must be consistent with the objectives of the zone.

The proposed partial change of use to “Small bar” in this case is not considered to meet the following objective of the Mixed-Use zone:

To allow for the development of a mix of varied but compatible land uses such as housing, offices, showrooms, amusement centres and eating establishments which do not generate nuisances detrimental to the amenity of the district or to the health, welfare and safety of its residents.

The proposed “Small bar” land use is not considered appropriate given the proximity of the site to residential properties and potential noise concerns, and the lack of parking on site, as further detailed in this report.

**Noise**

The applicant has provided an Acoustic Assessment to consider the potential noise impact of the “Small bar” land use on adjacent areas. Of particular concern is the impact on the immediately adjoining Residential R60 properties. The site has a history of receiving noise complaints, mostly in relation to live music and private functions. It is acknowledged that the City has not received any noise complaints regarding the venue since 2019. However, adding a patio into the rear of the lot is likely to extend potential noise generating activities closer to the residential lots to the rear.

The premises must comply with *Environmental Protection (Noise) Regulations 1997* (Noise Regulations). To adequately address and control noise emissions from a development, an approach based on the hierarchy of control method should be used, this being:

* Elimination – remove the noise source
* Substitution – use quieter alternatives
* Isolation/Engineering Control - solutions that do not require human interference e.g., permanent barriers, enclosures etc
* Administration – operational measures/noise management plan

Best practice is the use of a combination of control methods. However, the applicant’s Acoustic assessment relies solely on management measures to control noise from the premises, including the proposed rear outdoor area, rather than any engineering solutions. Officers are not supportive of relying solely on management to actively mitigate noise impacts, and an engineering solution should be implemented should the application be considered for approval.

The applicant’s acoustic report notes “there is reasonable risk of exceeding Assigned Noise Levels, particularly in the context of the rear outdoor area and residences to the immediate southwest”, and that “the outdoor garden areas would further benefit from sound absorptive panels”. Despite this advice from the applicant’s Acoustic consultants, no acoustic absorptive panels or similar have been proposed as part of this application.

The acoustic report notes that a 3.2m high wall with sound absorptive material facings would be effective towards achieving compliance with the Noise Regulations assigned noise limits. Should the application be considered for approval, the City would recommend that the application be deferred to facilitate further discussions with the applicant in relation to noise management. The provision of a sound absorptive wall is considered a sub-optimal measure.

Further, the sound modelling of the proposed wall is based only on the existing surrounding development. The abutting R60 coded properties may accommodate residential development up to three storeys. Should these properties choose to redevelop to this extent, the 3.2m high sound absorptive wall would likely be inadequate to ensure the top floors are protected from noise.

Wholistically it is not appropriate to entertain a “Small bar” land use in an unenclosed space which abuts residential properties.

**Parking Local Planning Policy**

Car parking requirements for commercial development are defined within the City’s Parking Local Planning Policy (Parking LPP). The Parking LPP is not clearly applied where a single tenancy contains multiple land uses. For the purposes of this assessment, only the additional 168m2 of seating/public area proposed as ‘The Park’ has been considered, and an average of the ‘Restaurant/café’ and ‘Small bar’ land uses has been regarded, as detailed in **Table 1**.

|  |  |  |  |
| --- | --- | --- | --- |
| **Table 1: Parking LPP Assessment** | | | |
| Land Use | LPP provisions | Required | Available on Site |
| Restaurant/Cafe | 1 per 2.6m2 of restaurant seating area or 1 per 2 persons (whichever is greater) | 65 bays | Nil |
| Small Bar | 1 per 1.3m2 of bar and public areas (excluding toilets); and 1 per employee. | 129 bays |
| Average | | 1. **bays** |

It is important to note that the 2016 approval, approved a shortfall of 83 car bays. In considering the entire site, this application seeks to increase the overall parking shortfall to 180 bays.

It is acknowledged that it would not be feasible to provide 180 car bays on the site. Given the planning approval limits the patrons to 120, it may be appropriate, given the limitations of the Parking LPP to consider that maximum parking shortfall as 120 bays.

Along Broadway there is one hour street parking available, time limited between 8am-5pm weekdays. Whilst this can be used by customers of the Little Way, the street parking is not plentiful, having only 7 bays available on the western side of Broadway between Hillway and The Avenue. Further, the street parking does not cater to staff, who require parking for extended periods of time.

The City’s records show that staff and owners of the subject site have previously contacted the City with complaints about the lack of street parking available and requesting parking permits. The City does not offer parking permits for business proprietors. Other businesses in the area utilise a combination of both on-site parking and street parking.

There are some public transport options available including the No. 24 Bus to Claremont station with a stop approximately 130m from the site and the Purple CAT bus with a stop 210m from the site.

It is acknowledged that there is no proposed increase in the patron numbers as a result of this application. Thus, the proposed use of The Park as part of the “Small bar” use, may have little, if any additional impact on parking demand within the area. The proposal is contrary to the Council’s advice of 2015 and 2016, being that any change to the premise would require the provision of car parking on site. Practically parking being provided on site will require, the formal agreement of adjacent landowner, with No. 153 Broadway providing the most practical access, to facilitate the provision of 4 bays on No. 161 Broadway, the loss of bays on No. 153 and the inability of the proposed patio to go ahead. Further modifications at No. 161 could facilitate up to 12 car parking spaces on site. Other access options would require further modifications at No.161 and/or agreement with other landowners.

**Cash in Lieu**

The City does not currently have a Payment in Lieu of Parking Plan and the imposition of cash in lieu for the shortfall in parking is not an option in consideration of this development application.

**Consultation**

The development application was advertised in accordance with the City’s Local Planning Policy - Consultation of Planning Proposals to owners and occupiers within a 100m radius of the site. The application was advertised for a period of 14 days from 10 May to 24 May 2022. At the close of the advertising period, four objections and three submissions of support were received.

**Table 2** provides a summary of the objections raised and the Administration’s responses.

|  |  |
| --- | --- |
| **Table 2: Summary of Submissions** | |
| Concern | Response |
| Noise   * Noted history of the premises receiving noise complaints. * Concerns with the open-air area resulting in excessive noise. | This concern is upheld and is one of the reasons refusal is recommended. Should Council approve the application it is recommended that a 3.2m high sound absorptive panels be installed to partially mitigate potential noise issues. |
| Parking   * Oppose no on-site parking. * Existing customers parking on private property of neighbouring businesses. | This concern is upheld and is one of the reasons refusal is recommended. It is considered that the applicant should provide evidence demonstrating that the possibility of rear access, or alternate parking arrangements, have been thoroughly investigated prior to any further parking shortfall being granted. |
| Land Use   * Concerns regarding the potential use as a function centre. | The application is for a partial change of use to “Small bar” and does not seek any “Reception Centre” land use. A “Reception Centre” is an ‘X’ use in the Mixed Use Zone.  It is acknowledged that the City has previously provided advice to The Little Way in 2019 that informal functions can occur ancillary to the existing ‘Restaurant/café’ land use subject to the following:   * Maximum 50 persons (within the total 120 person seating limit); and * May include sectioning off an area from the general public, but not the entire restaurant.   This advice remains unchanged. |

**Strategic Implications**

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

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

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

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

**Priority Area**

* Urban form - protecting our quality living environment

**Budget/Financial Implications**

N/A

**Legislative and Policy Implications**

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

**Decision Implications**

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

In the event of a refusal, the applicant will have a right of review to the State Administrative Tribunal. The Tribunal will give regard to the City of Nedlands Local Planning Scheme No. 3 and the *Deemed Provisions*. Similarly, should an applicant be aggrieved by one or more conditions of approval, this can be reviewed by the Tribunal

**Response to Deferral Request**

Officers have met with the applicant and the operator of the café and discussed the noise management issues, with the intent of arriving at an agreed position on the management of noise for the purpose of achieving the best possible outcome in the event that Council was of a mind at approve the application.

At the time of writing, an agreed position has not been finalised. Prior to the Council meeting agenda being circulated officers will be in a position to provide Council with a clear picture of the situation in relation to noise management.

**Conclusion**

The application for a development description has been presented for Council consideration due to being an ‘A’ use class permissibility and objections being received. The proposal is not considered to achieve the objectives of the Mixed Use zone and may result in adverse impact to the amenity of the area and neighbouring properties in relation to noise and parking.

Though the total number of 120 patrons is not proposed to increase, the addition of a covered structure to the rear of the site will increase the use of this area. This brings sustained noise generating activities closer to the residential zones to the rear, which will impact residential amenity. Further, the extended use of the rear of the site and the patio will preclude any potential for future care parking and vehicle access. Accordingly, it is recommended that the application be refused by Council.

**Further Information**

**Request**

Councillor Amiry – Could we have a condition that allows closure at 12am for 12 times a year but all other times closure to be 10pm?

**Officer Response**

The venue is currently able to open until 12pm. This is not proposed to change. The time restrictions being considered as part of this application relate to outdoor areas only.

It would not be recommended to allow the operating times of the outdoor areas until 12pm, as the venue would not be able to comply with the assigned levels stipulated in the Noise Regulations 1997 (the assigned levels drop considerably after 10pm).

**Additional Information**

Officers have met with the applicant and the operator of the café and discussed the noise management issues, with the intent of arriving at an agreed position on the management of noise for the purpose of achieving the best possible outcome if Council was of a mind at approve the application. At the time of writing there remains two items of contention, the acoustic treatment of the perimeter wall, and the hours of operations and number of patrons for sections of the premises.

**Perimeter wall**

In the event of approval, **City officers recommend that the perimeter fence**, to the extent as outlined in red in the image below**, must be upgraded to be 2.8 meters high with sound absorptive panels.** A suitably qualified consultant is to provide specifications on the panels prior to issue of building permit. This recommendation is based on page 11 of the applicants updated Acoustic Report dated 17 June 2022 which indicates that this treatment is required to comply with the Environmental Protection (Noise) Regulations 1997 assigned levels at 2 Hillway and 31A The Avenue in the evening from 7pm -10pm.

The applicant has stated that no treatments are required to the existing fencing. However, have indicated that **they are agreeable to a condition being included for a spray on damping compound to be applied to the existing 2.1m high Colorbond fence.** This damping compound is proposed to be applied and painted, for the extent of the fencing as outlined in red in the image below.

Diagram, map

Description automatically generated

**Hours of operations and number of patrons**

In the event of approval, **City officers recommend that restrictions be placed** on the number of patrons, days and times of **use for each of the rear courtyard, ‘The Park’ and northern ‘laneway’ courtyard spaces (i.e.: all outdoor spaces).** Notwithstanding that the rear and ‘laneway’ courtyard are already approved for use, in assessing noise impacts, the cumulative impact of additional spaces being used in conjunction with existing spaces must be considered. The City recommends that the rear courtyard and ‘The Park’ be restricted as these are considered as one space within the noise modelling in the applicants Acoustic Report (Page 11). The City recommends that the “Laneway” courtyard be restricted as page 9 of the applicants updated Acoustic Report indicates a possibility of this space exceeding the assigned levels during the evening (7-10 pm) and night period (10pm-7am). (**Tables 1 and 2 in the Notes below are relevant.**

The applicant has stated that the rear courtyard and northern ‘laneway courtyard’ are not required to be restricted in anyway given that they are operating under the existing approvals.

**The applicant has requested that restrictions be placed** on the number of patrons, days and times of use for ‘**The Park’ only.**

**Officers Recommendation**

Officers remain of the view that the application should be refused principally based on the concerns outlined in the Officer report within the **Discussion – Noise** section of the officer’s report.

**Approval Option 1**

Should **Council be of mind to approve** the application **as per the City’s advice and best practice,** recommended wording is provided 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 in accordance with the plans date stamped 20 June 2022 for a partial change of use to “Small bar” and additions to an existing commercial tenancy (patio) at 161 (Lot 735) Broadway, Nedlands, subject to the following conditions:

1. This approval relates only to the development as indicated on the approved plans dated 20 June 2022. It does not relate to any other development on this lot and must substantially commence within 2 years from the date of the decision letter.
2. The occupancy is limited to 120 persons maximum, excluding staff, with no more than 24 being in the verge area adjacent to the subject property.
3. Prior to issue of building permit, the applicant is to submit amended plans **inclusive of a 2.8m high perimeter wall** with sound absorptive panels to reduce noise impacts to the neighbouring properties, to the satisfaction of the City of Nedlands. Specifications of the sound absorptive treatment are to be provided by a suitably qualified consultant. The wall is to be installed prior to occupation of the development.
4. Prior to the issue of a building permit, **an updated Noise Management Plan** is to be submitted and approved by the City of Nedlands detailing measures that will be undertaken to ensure noise levels during operation of the development are kept within levels prescribed in the Environmental Protection (Noise) Regulations 1997 to the specifications and satisfaction of the City of Nedlands. The Noise Management Plan shall be adhered to at all times for the life of the development **(see Notes below).**
5. All stormwater discharge from the development shall be contained and disposed of on-site unless otherwise approved by the City of Nedlands.

**Notes**

The updated Noise Management Plan is to include the following:

**Hours of operations and number of patrons**

**Table 1: Times that ‘The Park’ and rear courtyard can be occupied.**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Number of patrons at any one time** | **Start time** | **Finishing time** | **Days** | **Reason** |
| 60 (12 simultaneous conversations\*) | 7am | 7pm | Monday to Saturday, except public holiday | Assigned levels at 47dB | anticipated level 44 - 47dB as per table 6 of acoustic report |
| 30 (6 simultaneous conversations\*) | 7pm | 10pm | Monday to Saturday, except public holiday | Assigned levels at 42dB | anticipated level 41 - 44dB as per table 6 of acoustic report |
| 30 (6 simultaneous conversations\*) | 9am | 10pm | Sunday and public holiday |

\* 5 patrons per conversation as per section 3.2.4 of the acoustic report

**Table 2: Times that the northern ‘laneway’ courtyard can be occupied.**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Number of patrons at any one time** | **Start time** | **Finishing time** | **Days** | **Reason** |
| 48 (8 simultaneous conversations^) | 7am | 7pm | Monday to Saturday, except public holiday | Assigned levels at 47dB | anticipated overall level 45 – 46 dB as per table 5 of acoustic report |
| 30 (5 simultaneous conversations^) | 7pm | 10pm | Monday to Saturday, except public holiday | Assigned levels at 42dB |
| 30 (5 simultaneous conversations^) | 9am | 10pm | Sunday and public holiday |

^ 6 patrons per conversation as per section 3.2.3 of the acoustic report

‘The Park’, rear courtyard and northern ‘laneway’ courtyard areas are not to be occupied by patrons outside of the hours stated in Tables 1 and 2 above.

**Speakers**

* From 10pm each day of operation speakers, if any, external to the building are not to be used.
* Speakers external to the building, if any, are to be operated at background levels only where a normal conversation in these areas can take place without people (including patrons and staff) having to raise their voices.

**Glass bottle disposal and goods deliveries**

* Glass bottles shall only be emptied into the outside bins between:
  + 7am and 7pm between Monday and Saturday, except public holiday and
  + 9am and 7pm on Sunday and public holiday.
* Goods deliveries and waste collections are to occur between Monday and Saturday from 7am to 7pm, excluding public holiday.

**Functions**

* “Small” informal functions are permitted subject to:
  + Maximum 60 persons (Within the total 120 person limit).
* May include sectioning off an area to the general public, but not the entire restaurant/small bar. The restaurant/small bar must remain open to the public during small functions.
* “Large” functions are permitted subject to:
  + A maximum of 12 large functions in any given calendar year.
  + A logbook shall be maintained for the purpose of recording large functions bookings which can be viewed on request by the City of Nedlands.

**Miscellaneous**

* Use signage in key locations throughout the venue, including the green and orange areas, to raise patron awareness of nearby noise-sensitive premises.
* No live music is permitted throughout the venue unless approved by the City.
* Designated smoking area is to be positioned away from rear or side of the premises.
* A logbook shall be maintained for the purpose of recording noise complaints received and action taken to resolved such complaints.
* Keeping neighbours informed of any major planned venue improvements. Details of required construction works, duration and the reasons for the activity.
* Implement all measures outlined in Appendix B of the Little Way Operations Acoustic Report dated 17 June 2022.
* Following the noise management plan is implemented, the proprietor is to review timely the plan if requested by the City.

**Approval Option 2**

Should Council be of mind **to approve the application as per the applicants’ requests**, recommended wording is provided 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 in accordance with the plans date stamped 20 June 2022 for a partial change of use to “Small bar” and additions to an existing commercial tenancy (patio) at 161 (Lot 735) Broadway, Nedlands, subject to the following conditions:

1. This approval relates only to the development as indicated on the approved plans dated 20 June 2022. It does not relate to any other development on this lot and must substantially commence within 2 years from the date of the decision letter.
2. The occupancy is limited to 120 persons maximum, excluding staff, with no more than 24 being in the verge area adjacent to the subject property.
3. Prior to issue of occupation, a spray on dampening compound is to be applied to the existing 2.1m high perimeter fence to reduce noise impacts to the neighbouring properties, to the satisfaction of the City of Nedlands.
4. Prior to the issue of a building permit, an updated Noise Management Plan is to be submitted and approved by the City of Nedlands detailing measures that will be undertaken to ensure noise levels during operation of the development are kept within levels prescribed in the Environmental Protection (Noise) Regulations 1997 to the specifications and satisfaction of the City of Nedlands. The Noise Management Plan shall be adhered to at all times for the life of the development.

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

**Notes**

The Noise Management Plan is to include the following:

**Hours of operations and number of patrons**

**Table 1: Times that ‘The Park’ can be occupied.**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Number of patrons at any one time** | **Start time** | **Finishing time** | **Days** | **Reason** |
| 60 (12 simultaneous conversations\*) | 7am | 7pm | Monday to Saturday, except public holiday | Assigned levels at 47dB | anticipated level 44 - 47dB as per table 6 of acoustic report |
| 30 (6 simultaneous conversations\*) | 7pm | 10pm | Monday to Saturday, except public holiday | Assigned levels at 42dB | anticipated level 41 - 44dB as per table 6 of acoustic report |
| 30 (6 simultaneous conversations\*) | 9am | 10pm | Sunday and public holiday |

\* 5 patrons per conversation as per section 3.2.4 of the acoustic report

‘The Park’ area is not to be occupied by patrons outside of the hours stated in Table 1 above.

**Speakers**

* From 10pm each day of operation speakers, if any, external to the building are not to be used.
* Speakers external to the building, if any, are to be operated at background levels only where a normal conversation in these areas can take place without people (including patrons and staff) having to raise their voices.

**Glass bottle disposal and goods deliveries**

* Glass bottles shall only be emptied into the outside bins between:
  + 7am and 7pm between Monday and Saturday, except public holiday and
  + 9am and 7pm on Sunday and public holiday.
* Goods deliveries and waste collections are to occur between Monday and Saturday from 7am to 7pm, excluding public holiday.

**Functions**

* “Small” informal functions are permitted subject to:
  + Maximum 60 persons (Within the total 120 person limit).
* May include sectioning off an area to the general public, but not the entire restaurant/small bar. The restaurant/small bar must remain open to the public during small functions.
* “Large” functions are permitted subject to:
  + A maximum of 12 large functions in any given calendar year.
  + A logbook shall be maintained for the purpose of recording large functions bookings which can be viewed on request by the City of Nedlands.

**Miscellaneous**

* Use signage in key locations throughout the venue, including the green and orange areas, to raise patron awareness of nearby noise-sensitive premises.
* No live music is permitted throughout the venue unless approved by the City.
* Designated smoking area is to be positioned away from rear or side of the premises.
* A logbook shall be maintained for the purpose of recording noise complaints received and action taken to resolved such complaints.
* Keeping neighbours informed of any major planned venue improvements. Details of required construction works, duration and the reasons for the activity.
* Implement all measures outlined in Appendix B of the Little Way Operations Acoustic Report dated 17 June 2022.
* Following the noise management plan is implemented, the proprietor is to review timely the plan if requested by the City.

# PD59.09.22 Consideration of Adoption of Local Planning Policy for Advertising – Nedlands Stirling Highway Activity Corridor - Residential Precinct Design Response

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting – 27 September 2022 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | The author, reviewers and authoriser of this report declare they have no financial or impartiality interest with this matter.  There is no financial or personal relationship between City staff involved in the preparation of this report and the proponents or their consultants. |
| **Report Author** | Roy Winslow – Manager Urban Planning |
| **Director** | Tony Free – Director Planning & Development/ Bill Parker - CEO |
| **Attachments** | 1. Draft NSHAC-R Precinct Design Response Local Planning Policy 2. Summary of changes – NSHAC-R Precinct Design Response LPP Relationship to SPP 7.3 R-Codes 3. Stakeholder Reference Group – Outcomes Snapshot |

Moved – Councillor Mangano

Seconded – Councillor Coghlan

That Council:

1. adopts the draft Nedlands Stirling Highway Activity Corridor - Residential Precinct Design Response Local Planning Policy for advertising in accordance with Clause 4 of the Deemed Provisions of Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015 subject to clause DC2.1, R160 single and group dwellings being modified from 3 storeys and 12 metres to 3 storeys and 10 metres;
2. notes that the advertising period will be for a minimum of 28 days;
3. requests the CEO to prepare a Discussion Paper to consider the merits and implications of the Policy’s proposed star rating for building sustainability, which is to be discussed at a Concept Forum prior to the Policy being considered for final approval; and
4. requests the Chief Executive Officer prepare a Discussion Paper to consider appropriate residential building heights, including possible amendments to the City’s Residential Development LPP, which is to be discussed at a Concept Forum prior to the Policy being considered for final approval.

Lost 5/6

(Against: Mayor Argyle Crs. Senathirjah

Amiry McManus Smyth Basson)

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

Moved – Councillor McManus

Seconded – Councillor Smyth

**That the Recommendation be adopted.**

(Printed below for ease of reference)

**CARRIED 8/3**

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

**Council Resolution / Recommendation**

**That Council:**

1. **adopts the draft Nedlands Stirling Highway Activity Corridor - Residential Precinct Design Response Local Planning Policy for advertising in accordance with Clause 4 of the Deemed Provisions of Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015;**
2. **notes that the advertising period will be for a minimum of 28 days;**
3. **requests the CEO to prepare a Discussion Paper to consider the merits and implications of the Policy’s proposed star rating for building sustainability, which is to be discussed at a Concept Forum prior to the Policy being considered for final approval; and**
4. **requests the Chief Executive Officer prepare a Discussion Paper to consider appropriate residential building heights, including possible amendments to the City’s Residential Development LPP, which is to be discussed at a Concept Forum prior to the Policy being considered for final approval.**

**Purpose**

The purpose of this report is for Council to adopt for advertising the draft Nedlands Stirling Highway Activity Corridor - Residential Precinct (NSHAC-R) Design Response Local Planning Policy (the Policy), found in **Attachment 1.**

**Voting Requirement**

Simple Majority.

**Background**

**Policy Context**

The Policy seeks to nuance the built form guidance of State Planning Policy 7.3 - Residential Design Codes (R-Codes). The nuanced controls shall provide localised and contextually appropriate built form controls and design guidance for the NSHAC Residential (NSHAC-R) Precinct, located directly north and south of Stirling Highway. This report provides an overview of the process the City undertook to create the Policy, a breakdown of the Policy structure and its strategic intent.

The NSHAC Precinct originally included all lots with a density code of RAC1, R160 and R60 on and adjacent to Stirling Highway. During the preparation of the Policy, the NSHAC Precinct has been separated into two separate Precincts. One is the NSHAC Mixed Use Precinct, which specifically focusses on the Mixed-Use R-AC1 sites on the Highway. The other is the NSHAC-R Precinct Policy, the subject of this report, which focusses on the R60 and R160 lots north and south of the Highway.

The policy process began with research into the context and character of the Precinct and built form modelling for future development provisions. Key character drivers for the NSHAC-R Precinct were identified as generous front and rear setbacks to dwellings, large areas of mature landscaping in the private and public realm, and an open streetscape feel. The transition between different density codes within a few street blocks, and how the built form can respond to this, has also been identified as a key consideration of this Policy.

The research and modelling phase was followed by an extensive community engagement program and review of the policy provisions by industry experts. This report provides detail on the results of community engagement, and how the outcomes of this engagement have influenced the provisions of the Policy.

The Policy considers the entire NSHAC-R Precinct, north and south of Stirling Highway, and provides an existing and desired future character statement. The Precinct is detailed in a Precinct map included as **Figure 1** at the end of this report. This Precinct has provisions written specifically for it that are consistent with these character statements, as well as the lots density code, zoning and orientation. This report discusses the specific aspects of the character and context research, built form modelling and engagement outcomes that have influenced these provisions.

Each modification to the planning framework is justified and assessed against the provisions of the R-Codes. This report includes information on the state planning documentation, and how this Policy interrelates with these documents. This report also details the legislative requirements of creating and processing the Policy, which aspects of the Policy require approval from the WAPC, and guides Council on the next steps in the policy adoption process.

**Community Engagement and Built Form Modelling**

The City contracted specialist consultants to conduct the community engagement phase of the precinct planning work. These consultants used models of various built form scenarios and workshop activities to complete an extensive engagement program with the Stakeholder Reference Group (SRG). Broader community engagement was also carried out via an Open House (drop-in session) and a community survey. These methods allowed all residents within the City to comment on the desired future character of the NSHAC-R Precinct area. Further details of community engagement activities for this project are outlined below in the Consultation section.

The provisions within the Policy have been formulated by incorporating the outcomes of the built form modelling work and character study, community engagement outcomes, and technical input. Taking on board the community’s feedback, the provisions also align with the strategic intent of the R-Codes, SPP 7.2 and the State Government’s strategic plan for population growth, Perth and Peel@3.5 million. The Policy has been reviewed internally and externally, to ensure that the provisions translate effectively into quality-built form outcomes.

**State Planning Policy 7.2 – Precinct Design Guidelines**

SPP 7.2 sets out the criteria an area should meet to require precinct planning work, and the process a local government should follow to prepare the precinct plan or policy. Under SPP 7.2, the NSHAC-R Precinct is an example of a precinct in a well-established urban area that is in transition. The NSHAC-R Precinct is identified as a Residential/Mixed Use Precinct. The precinct plan or policy for a Residential/Mixed Use Precinct should focus on the following key objectives:

* Guide subdivisions, amalgamation, and development to increase density and high-quality outcomes;
* Enhance urban amenity by detailing lot/building orientation and access arrangements;
* Strengthening green networks through the enhancement of urban tree canopy and improved interfaces between the public and private realm; and
* Ensure the design supports safe access and encourages public transport, walking and cycling.

The City followed the process set out in SPP 7.2 to create the Policy, including identifying the Precinct area, engaging with the local community, creating a vision, ensuring the development proposal is feasible, and investigating how the precinct plans can result in benefit to the communities they are developed within.

**Local Planning Strategy**

The Strategy identifies the NSHAC-R Precinct as Nedlands North and Nedlands South. The Strategy states that future development in Nedlands North and South should retain and enhance the character and streetscape of the residential areas. The Strategy also envisions that this should be a transition area for density, ensuring that the height, scale and bulk of lots adjoining Stirling Highway smoothly integrate back to the established residential streets.

The Policy responds to the Strategy’s vision for the NSHAC-R Precinct by promoting the desired future character of the area through the retention of large setbacks and the provision of significant landscaping. The Policy also encourages the gradual transition from the R160 lots that abut the R-AC1 lots facing Stirling Highway, down to the R60 lots that transition gradually to the R10 and R12.5 traditional residential ‘hinterland’ of Nedlands North and South.

The City considered it appropriate to prepare a precinct policy for the area to ensure that development is guided in a contextually appropriate manner. In accordance with the Scheme and the Strategy, the Policy highlights the importance of quality urban design that interacts with the streetscape, protects the amenity of existing properties, and provides high quality living environments for the residents of the new developments.

The Policy identifies that the area’s character is defined by large setbacks, mature landscaping and an open streetscape feel. The Policy encourages the preservation of the NSHAC-R Precinct’s character through the maintenance of large setbacks and mature landscaping. This promotes new development that is respectful of the existing character of the area.

**Local Planning Scheme No. 3**

The City’s Local Planning Scheme No. 3 increased the density coding of the residential streets north and south of Stirling Highway. This increase in density is intended to increase the residential dwelling density directly to the north and south of the Highway, in a manner that transitions down to the traditional low density residential areas behind. The Policy has been prepared in accordance with clause 9 – Aims of the Scheme, in particular:

(a) Protects and enhances local character and amenity;

(b) Respect the community vision for the development of the district;

(c) Achieve quality residential outcomes for the growing population; and

(d) To develop and support a hierarchy of activity centres.

The Policy is consistent with the objectives of the Residential Zone:

* Encourages a range of housing types to meet the changing needs of the community;
* Encourages high quality design and streetscapes;
* Proposes preferred land uses that are complimentary to the surrounding residential development.

**Discussion**

**Draft NSHAC-R Precinct Design Response – Local Planning Policy**

**Informing Studies**

The drafting of the Policy is the culmination of the findings of the Context and Character and Built Form Modelling studies, which have provided a sound basis for the creation of the existing future character statements. The Built Form Modelling studies have provided examples of forms of development, detailing them in a manner that informs the choices made for appropriate setbacks and massing.

The outcomes of the Stakeholder Reference Group and broader community engagement undertaken as part of this project have directly influenced and guided the built form provisions included in the Policy. These provisions have then undergone thorough testing by internal and external stakeholders to ensure that they are able to be applied effectively in a real-world development scenario.

**Strategic Intent**

The intent of the Policy is to nuance the requirements of the R-Codes so that they are more contextually appropriate to the existing and desired future character of the NSHAC-R Precinct. The Policy seeks to:

* Define the future character of the area
* Facilitate high-quality design
* Promote key landscape and streetscape elements from the established character
* Maintain the amenity of the area, consistent with the relevant density code
* Manage density interfaces

**Character Statements**

An existing character statement has been provided for the Precinct within the Policy. Building on this existing character statement and community vision from the SRG engagement workshops, survey and Open House, the Policy also defines the desired future character statement for the Precinct. The Design WA policy suite refers to ‘desired future character’ as an important aspect of determining whether a development meets certain objectives and, therefore, whether a development should be approved. The Policy’s character statement outlines the strategic intent of the Policy, and the expectations for new development.

By combining the extensive background work noted previously, as well as lot size and key existing character elements (including setbacks, landscape character, building heights, density transition and typology), contextually appropriate provisions for individual streets have been developed.

**Policy Scope**

**Single Houses and Grouped Dwellings**

Pursuant to clause 7.3.1(a) of the R-Codes Volume 1, the Policy amends the Deemed to Comply provisions of:

* c5.1.2 – Street setbacks
* c5.1.3 – Lot boundary setback (C3.2-3.3)
* c5.1.6 – Building height

The City will also seek approval from the WAPC for amendments to the deemed to comply provisions for lot boundary setbacks, vehicle access and landscaping. The Policy provides further Design Guidance, which are intended to act as Housing Objectives, for developments within the NSHAC-R Precinct.

**Multiple Dwellings**

In accordance with clause 1.2.2 of the R-Codes Volume 2 the Policy amends the Acceptable Outcome provisions of:

* Element 2.3 - Street setback
* Element 2.4 – Side and rear setback

The City will also seek approval from the WAPC for amendments to the Acceptable Outcomes for Element 3.3 – Tree Canopy and Deep Soil Areas and Element 3.8 Vehicle Access. Design Guidance has been developed for each modified element.

**General Provisions**

**Development**

The Policy includes General Provisions to encourage development that uses high quality materials and promotes the use of a varied palate of natural materials. Blank or unarticulated imposing facades are discouraged. The use of traditional design elements that create interest such as eaves, balconies and verandahs are encouraged. These design elements serve an additional purpose, as they enhance the solar passive design of the building’s elevations. These General Provisions encourage developments to reflect the desired future character of the Precinct, as stipulated within the Policy.

**Subdivision**

The City has identified that the NSHAC-R Precinct is experiencing a number of subdivisions where a single parent lot is being subdivided into three or more survey strata lots. These lots require significant simultaneous planning and design work to ensure that a high level of amenity may be achieved for each dwelling. To ensure development is undertaken in a way that provides maximum amenity for each dwelling, a provision has been included in the Policy that requires a Local Development Plan to be prepared and approved as a condition of subdivision. These Local Development Plans shall specifically focus on boundary wall size and location, outdoor living area location and overshadowing, consolidating vehicle access, and the identification and retention of significant existing trees.

**Sustainability**

The outcomes of community engagement suggested that the community expects all built form policies to incorporate sustainability measures. This outcome relates directly to a motion of Council from the 28 September 2021, when Council endorsed a Notice of Motion relating to the instigation of planning instruments that can reduce the use of non-renewable energy sources through development approvals. The Policy is a planning instrument that can be utilised to reduce non-renewable energy use via development approvals. The Policy’s General Provisions include the requirement for all multiple, grouped and mixed-use developments to provide a sustainability report that exhibits water and energy efficiency measures. All developments must also demonstrate that they exceed the minimum NATHERS or Green Star requirements. The Policy also proposes to exceed the number of electric vehicle charging stations required by the R-Codes and provides incentives for the provision of electric vehicles for shared use. Design elements that encourage sustainability have also been included, such as discouraging dark roofs and encouraging elements including eaves and verandahs that contribute to passive cooling.

A second motion of Council was made on the 21 October 2021, where Council endorsed a Notice of Motion relating to the protection of existing and future solar panels. The R-Codes have existing provisions that protect solar panels. Under R-Codes Volume 1 (Single and Grouped dwellings), there is a maximum proportion of overshadowing that is permitted for each density code. The calculation is based on a worst-case scenario, being 12pm June 21st. Further, Design Principle P2.2 considers the impact of development on solar collectors. Under the R-Codes Volume 2 (Apartments), the form of development is constrained by its impact on adjoining properties’ solar panels via Element Objective 3.2.2. There is also a maximum proportion of overshadowing permitted for each density code, under Acceptable Outcome 3.2.3. Collectively, these provisions have been thoroughly tested by SAT cases, most recently involving the refusal of a four-storey multiple dwelling development at No. 6 Alexander Road, Dalkeith (2021/WASAT 41). Given this, the City has not identified a need, specific to the NSHAC-R Precinct, that would reasonably require provisions relating to solar panels, over and above those in the R-Codes.

**Consultation**

**Community Engagement Program**

The City has completed a comprehensive community pre-engagement program to inform the Policy. It is noted that this engagement program considered both the Residential area (R160 and R60 lots) and the Mixed-Use R-AC1 lots adjacent to Stirling Highway. The City established a Stakeholder Reference Group (SRG) after Expressions of Interest were sent to all properties within 400m of the original NSHAC Precinct. Thirty-one people were selected to participate in five workshops held between July 2021 and February 2022.

The SRG program was designed to provide participants with additional knowledge and skills relating to town planning, so that they could provide meaningful feedback on built form, landscaping and tree canopy, streetscape, land use and movement (laneway). The workshop structure is detailed below.

**Workshop 1: Inform**

To upskill and share knowledge to create a level playing field for subsequent Co-Design activities.

**Workshop 2: Collaborate**

To collaboratively explore the results and learnings of the place inquiry activities from the previous workshop and communicate the preliminary set of values. To explore the potential and implications of translating these values into spatial parameters.

**Workshop 3: Convey**

Present and review the results of the consultant’s analysis and document the process. Final presentation of two different potential built form outcomes for the NSHAC Precinct.

**Workshop 4: Built Form Modelling**

Discussion of the two scenarios that were presented at the end of Workshop 3. Discussion and workshopping of key built form character elements that will need to be considered in these scenarios, including setbacks, height, landscaping and vehicle access.

**Workshop 5: Built Form Modelling**

Refining of preferences on trees and landscaping, building height and setbacks, density transitions and heritage. Overview of preferred scenario.

**Survey and Open House**

To understand the wider community’s vison for the Precinct, residents within 400 metres of the precinct were invited to respond to a survey that was available between the 4-18 October 2021. In total, 53 surveys were completed by residents and business owners.

The community were also invited to attend a Community Open House on 11 October 2021 from 5.00pm – 7.00pm. Attendees were provided the opportunity to review feedback gathered from the SRG and provide their own input on key design considerations. In total, 43 community members and 6 Councillors attended the information session.

The following documents will be made publicly available during the advertising period, to support the Policy’s proposed provisions:

* Nedlands Stirling Highway Activity Corridor – Consolidated Built Form Report
* Nedlands Stirling Highway Activity Corridor – Character Analysis Report
* Nedlands Stirling Highway Activity Corridor Precinct – Engagement Outcomes Report
* Justification Table - providing detailed analysis of the changes that were made to the R-Codes provisions, and why.

**Community Consultation**

If Council resolve to advertise the Policy, it will be advertised in accordance with the City’s Consultation of Planning Proposals Local Planning Policy, which involves the following methods of consultation:

* 28 Day Advertising period
* Letters to notify owners and occupiers within the precinct of the draft Policy and to make a submission
* Notice in the local newspaper
* A notice on the City’s Notice board
* A notice on the City’s Your Voice engagement portal
* Social media
* Community engagement session

**Strategic Implications**

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

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

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

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

**Reflects Identities**

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

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

Encouraging sustainable building

**Budget/Financial Implications**

The remaining expenses for the Precinct Policy work relate to public advertising. No additional budget is required to complete the work for the Policy.

The Policy will facilitate infill development within the NSHAC-R Precinct. This is likely to result in a rating revenue increase.

**Legislative and Policy Implications**

Clause 3(1) of the Deemed Provisions of Schedule 2 of the [*Planning and Development (Local Planning Schemes) Regulations 2015*](https://www.wa.gov.au/government/document-collections/planning-and-development-local-planning-schemes-regulations-2015)allows the City to prepare a local planning policy in respect to any matter related to the planning and development of the Scheme area. Once Council resolves to prepare an LPP, in accordance with Clause 4 of the Deemed Provisions it must publish a notice of the proposed policy in a newspaper circulating the area for a period of not less than 21 days and seek submissions. Advertising will also include details being posted on the City’s website and Your Voice engagement portal. Following the advertising period, the policy will be presented back to Council to consider any submissions received and to:

1. Proceed with the policy without modification; or
2. Proceed with the policy with modification; or
3. Not to proceed with the policy.

**Decision Implications**

If Council resolves to prepare the Policy, it will be advertised in accordance with the process above.

If Council resolves not to endorse the recommendation, the Policy will not be advertised, or progressed. There will be no Policy in place with specific built form controls for the NSHAC-R Precinct.

**Conclusion**

As a result of extensive research and consultation, the NSHAC-R Precinct Design Response Local Planning Policy provides contextually appropriate built form outcomes for the NSHAC-R Precinct. The Policy is the most appropriate planning instrument for influencing the built form outcomes in the NSHAC-R Precinct. It is recommended that Council adopt the recommendation and formally advertise the Policy

**Further Information**

**Request**

Councillor Smyth – precinct map – can we add a map that shows the zoning on the adjoining areas?

**Officer response**

An updated Figure 1 is included in the agenda.

**Request**

Councillor Coghlan – have we tested the wording “acceptable requirement”

**Officer response**

The City engaged a Senior Counsel (Mr Pettit) to advise on whether there were any reasonable grounds to seek judicial review of the JDAP decision to approval the Chellingworth development in February 2021. Mr Pettit’s advice is dated 16 March 2021 and concluded that there was no reasonable grounds for judicial review with the possible exception of requiring more detailed reasons for the decision from the JDAP.

Mr Pettit considered the operation of clause 26(3) in his review of the Chellingworth decision. Whilst he has included the full provision in his advice, he has not identified that the words “acceptable development” are somehow inappropriate. He has accepted the intent of the clause to remove the acceptable outcome.

Given the instructions to Mr Pettit were to identify any judicial review argument, it is reasonable to conclude that he did not see any particular issue with the wording of clause 26(3). Had there been a legal irregularity at play, the City is confident that this comprehensive review of the decision would have identified it.

**Figure 1 – NSHAC-R Precinct**

Timeline

Description automatically generated with low confidence

# PD60.09.22 Consideration of Development Application – Large Format Digital Sign at Langoulant Road Overpass, Swanbourne

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting – 27 October 2022 |
| **Applicant** | Urbis |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | The author, reviewers and authoriser of this report declare they have no financial or impartiality interest with this matter.  There is no financial or personal relationship between City staff involved in the preparation of this report and the proponents or their consultants. |
| **Report Author** | Roy Winslow – Manager Urban Planning |
| **Director** | Tony Free – Director Planning and Development |
| **Attachments** | 1. Aerial Image and Zoning Map 2. Development Plans 3. CONFIDENTIAL ATTACHMENT - Submissions |

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

Moved – Councillor Amiry

Seconded – Councillor McManus

**That the Recommendation be adopted.**

(Printed below for ease of reference)

**CARRIED UNANIMOUSLY EN BLOC 13/-**

**Council Resolution / Recommendation**

1. **That Council, in accordance with Clause 13 of the Metropolitan Region Scheme, recommends that the Western Australian Planning Commission refuse the development application as shown on the plans date stamped 12 July 2022 for a Large Format Digital Sign at Langoulant Road Overpass, Swanbourne, for the following reasons:**
2. **The sign is inconsistent with the objectives of the City’s Local Planning Policy – Signs in that it contributes to the proliferation of advertising signs, and is detrimental to the amenity and character of the nearby residential neighbourhood; and**
3. **The sign is inconsistent with the aims of the City’s Local Planning Scheme No. 3 in the land use of third-party advertising does not enhance local character and amenity, nor respect the vision for the development of the district.**
4. **In the event that the Western Australian Planning Commission approves the digital roof sign, Council recommends the following conditions, without prejudice:**
5. **Luminance levels shall be in accordance with AS 4282-1997 - Control of the obtrusive effects of outdoor lighting.**
6. **Prior to the issue of a building permit, a Sign Management Plan for the sign is to be submitted to and approved by the City of Nedlands. The plan shall be adhered to for the life of the development and include the following:**
7. **Confirmation that the sign is not to contain discriminatory or offensive content.**
8. **Complaints and compliance procedure.**
9. **The sign shall be turned off between the hours of 10pm and 6am.**
10. **Confirmation that the signage will be in accordance with Main Roads conditions and the Main Roads Guide to Roadside advertising, including a lighting assessment, and annual lighting audit (at the applicant’s cost).**

**Purpose**

The purpose of this report is for Council to consider a development application for a Large Format Digital Sign (electronic billboard) which includes third party advertising at the Langoulant Road overpass in Swanbourne.

**Voting Requirement**

Simple Majority.

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

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

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

**Background**

**Land Details**

|  |  |
| --- | --- |
| **Metropolitan Region Scheme Zone** | Primary Regional Road Reserve |
| **Local Planning Scheme Zone** | Not zoned |
| **R-Code** | N/A |
| **Land Use** | Use not listed |
| **Use Class** | N/A |

The sign is to be located on the Langoulant Road overpass in Swanbourne, which sits over West Coast Highway, and connects Langoulant Road to Servetus Street. The site is located entirely within the Metropolitan Region Scheme ‘Primary Regional Road Reserve’. The land is not zoned under the City of Nedlands Local Planning Scheme No. 3.

**Application Details**

The application seeks development approval for a Large Format Digital Sign (electronic billboard) which includes third party advertising at the Langoulant Road overpass in Swanbourne. The proposed sign measures 12.5m in width and 3.4m in height (42.5m2). The sign is to be attached to the southern side of the overpass with the sign face addressing north-bound traffic. Detail of the sign specifications are provided at **Attachment 2.**

**Discussion**

**Assessment of Statutory Provisions**

The proposal has been assessed in accordance with the Scheme, the City’s Signs Local Planning Policy (Signs LPP), and the matters to be considered of clause 67(2) of the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations). Because the sign is located entirely within the Primary Regional Road reservation, the City’s regulatory framework does not hold much authority but has nonetheless been used as a guide.

**Local Planning Scheme No. 3**

City Officers consider that third party advertising signs (ie: signs advertising a business or service that does not directly relate to the lot on which the sign is located) constitute a distinct land use within the City’s scheme. As the land use is not listed in the zoning table, it is classified as a ‘Use not listed’ and has been treated in the same manner as an ‘A’ use. This means that the use is not permitted unless the application has been publicly advertised and the local government has assessed the proposal against relevant development provisions.

The sign is located wholly within the Road Reserve and is not zoned by the scheme. In lieu of any zone objective, the proposal has been assessed against the aims of the Scheme. The proposal is inconsistent with the following aims of the Scheme:

1. Protect and enhance local character and amenity.

In relation to local character and amenity, the sign location is surrounded by predominately low scale residential development. The digital sign will be clearly visible to some residential properties, particularly upper floors on the western side of the highway. Residents in a purely residential area should be somewhat shielded from development which is commercial in nature. The visual impact of the sign may present as a nuisance to surrounding residential development. In this regard the proposal is not considered to protect nor enhance local amenity.

**Signs Local Planning Policy (Signs LPP)**

The proposal is defined as a ‘hoarding sign’ in accordance with the City’s Signs LPP. The Signs LPP notes that hoarding signs are permitted, subject to development provisions, on all zoned land except the Residential zone. The proposed sign is located on land which is not zoned by the scheme, and therefore its location is not permitted.

Variations to the Signs LPP development criteria are to be assessed against the objectives of the policy. The digital sign does not meet the following objectives of the policy:

3.1 To ensure that signs do not adversely impact on the amenity of the surrounding area.

3.2 To avoid the proliferation of signs nor signage which are not relevant to the business.

In relation to 3.1, the sign is considered to adversely impact the amenity of the nearby residential area as discussed above. The sign is considered to result in in visual clutter that will be detrimental to the character of the area.

In relation to 3.2, the digital sign proposes a proliferation of signage (ie: third-party advertising) which is not relevant to the purpose of the road. There is concern that approval of the sign would set a precedent, which would result in further proliferation of signage and visual clutter.

**Consultation**

**Public Consultation**

The development application was advertised in accordance with the City’s Local Planning Policy - Consultation of Planning Proposals to adjoining landowners and occupiers within 100 metres of the site. The application was advertised for a period of 14 days from 18 July 2022 to 1 August 2022. At the close of the advertising period eight objections were received. The objections are summarized as follows:

* Potential traffic hazards due to the signage being a distraction to drivers.
* Illuminated signage would be visually intrusive and add to visual pollution and clutter.
* Concerns regarding light spill from the sign causing light pollution to local residential development.
* Impact of digital signage on the amenity and character of Heritage streets (Fraser Street/Shenton Road).
* Large signage is incompatible with residential areas and better suited to freeways through industrial areas.
* Concerns with the third-party commercial nature of the development and being inappropriate for public land.

**Main Roads WA (MRWA)**

The application was referred to MRWA in accordance with delegation DEL 2022/03. MRWA has provided the following comment:

Main Roads has no objections subject to the following conditions being imposed:

**Conditions**

1. In the event the site where the sign has been erected is needed for future roadworks, the applicant shall upon receipt of a notice from Main Roads, relocate or remove the sign at their own expense.
2. Any proposed illumination of the sign must not exceed 300cd/m2 (candela per square metre) between sunset and sunrise.
3. The sign must not flash, pulsate or chase.
4. The display content shall exclude colours and shapes that may be mistaken for a traffic signal, traffic signs or instruction signs during all hours.
5. The device must not contain fluorescent, reflective or retro reflective colours or materials.
6. No works are permitted within the West Coast Highway Reservation unless Main Roads has issued a Working on Roads permit

**Strategic Implications**

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

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

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

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

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

**Budget/Financial Implications**

N/A

**Legislative and Policy Implications**

Because the development is located entirely within a Primary Regional Road Reserve and on land that is not zoned under the City’s Local Planning Scheme No. 3, Council is requested to make a decision in accordance with Metropolitan Region Scheme (MRS) [delegation DEL2022/03](https://www.wa.gov.au/system/files/2022-01/WAPC_DEL-2022-03-Powers-of-Local-Governments_44082.pdf). Council may determine to approve the development without conditions, approve the development with conditions, or refuse the development.

Clause 4(b) of DEL2022/03 stipulates that the Western Australian Planning Commission (WAPC) has delegated decisions to local government only where a development is located within a Primary Regional Road Reserve and the local government’s decision is consistent with Main Roads advice. Otherwise, the application, along with the City’s recommendation, must be referred to the WAPC for a determination.

**Decision Implications**

Main Roads has provided conditional approval for the sign. Council may therefore do one of the following with this application:

1. Approve the electronic billboard including all conditions recommended by Main Roads along with any other conditions Council decide are necessary. If Council resolves to approve the proposal, development can proceed after receiving a Building Permit and necessary clearances; or
2. Refer the application to the WAPC with a recommendation for refusal (Council does not have ability to refuse the application and may only recommend that the WAPC do so). The WAPC may opt to approve the sign despite Council’s recommendation and without any further involvement from the City in the decision-making process. Development can then proceed after receiving a Building Permit and necessary clearances.

Should Council recommend the application be refused, the WAPC will be the determining body for the application. The WAPC may opt to approve the sign despite Council’s recommendation and without any further involvement from the City in the decision-making process. It is therefore recommended that the following condition (along with Main Roads conditions) be provided ‘without prejudice’ so that the City may have some input in the design and operation of the sign should it be approved. This condition is based on the City’s previous decisions on similar applications for digital signage.

1. Luminance levels shall be in accordance with AS 4282-1997 - Control of the obtrusive effects of outdoor lighting.
2. Prior to the issue of a building permit, a Sign Management Plan for the sign is to be submitted to and approved by the City of Nedlands. The plan shall be adhered to for the life of the development and include the following:
   1. Confirmation that the sign is not to contain discriminatory or offensive content.
   2. Complaints and compliance procedure.
   3. The sign shall be turned off between the hours of 10pm and 6am.
   4. Confirmation that the signage will be in accordance with Main Roads conditions and the Main Roads Guide to Roadside advertising, including a lighting assessment, and annual lighting audit (at the applicant’s cost).

**Conclusion**

The application for a large format digital sign has been presented for Council consideration due to being a ‘Use not listed’ land use. The proposal is inconsistent with the aims of the City’s Local Planning Scheme No. 3 and Signs LPP. It is recommended that Council refer the application to the WAPC with a recommendation for refusal.

**Further Information**

**Question**

Councillor Smyth & Councillor Amiry – could advice be given on how to add a condition to control / restrict content of the signage of what is advertised on the sign? i.e. no reference to alcohol and gambling etc – content of the signage to be in line with the Council’s signage policy?

**Officer Response**

The recommended Condition 2b relates to the provision of a Sign Management Plan. This is to include confirmation that the sign is not to contain discriminatory or offensive content.

**Question**

Councillor Mangano – has the Town of Claremont been consulted?

**Officer Response**

The Town of Claremont has not been consulted. The development application was advertised in accordance with the City’s Local Planning Policy - Consultation of Planning Proposals to adjoining landowners and occupiers within 100 metres of the site. This includes properties within the Town of Claremont.

**Question**

Can we add a condition to ensure the sign has blinkers on the sides to protect the nearby residents?

**Officer Response**

The applicant has provided a Lighting Impact Assessment which demonstrates that the proposal is designed to satisfy Australian Standard AS4282:2019 Control of the Obtrusive Effects of Outdoor Lighting. Condition 2a has been recommended to ensure compliance.

**Question**

What impacts to road users / businesses – road closures etc will the installation of the sign cause?

**Officer Response**

The panels, mounts, and framework will be fabricated offsite, allowing a relatively quick installation timeframe. It is estimated that a road closure may be required for approximately 6 hours. A detailed Construction and Traffic Management Plan will be required for the sign installation process, which is to be approved by the relevant authority (Main Roads) prior to installation.

**Question**

Councillor Coghlan – Curtin Avenue – volume of traffic that use this road who will be impacted?

**Officer Response**

West Coast Highway is identified as 'Primary Distributor Road' within the Main Roads Function Hierarchy. Latest Main Roads data indicates 32,184 vehicles on average per day Monday to Friday use the West Coast Highway. Officers are unaware of any plans to widen this part of West Coast Highway or the Langoulant Road reserve.

**Question**

What part of the scheme does Curtin Avenue sit in?

**Officer Response**

West Coast Highway is reserved as a Primnary Regional Road under the Metroplitian Regional Scheme. This reservation is then reflected in the City of nedlands Local Planning SA.

# PD61.09.22 Western Suburbs Greening Plan 2020-2025

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting – 27 September 2022 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil. |
| **Report Author** | Jessica Bruce - Acting Manager Health and Compliance |
| **Director** | Tony Free - Director Planning and Development |
| **Attachments** | 1. Western Suburbs Greening Plan 2020-2025 2. Appendix 01 Recommendations & Implementation Actions |

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

Moved – Councillor Amiry

Seconded – Councillor McManus

**That the Recommendation be adopted.**

(Printed below for ease of reference)

**CARRIED UNANIMOUSLY EN BLOC 13/-**

**Council Resolution / Recommendation**

**Council endorses the Western Suburbs Greening Plan 2020-2025.**

**Purpose**

This report is being presented to Council to seek endorsement of the Western Suburbs Greening Plan 2020-2025 following the conclusion of community engagement activities and briefing of elected members.

**Voting Requirement**

Simple majority.

**Background**

In 1998 A Strategic Plan for Perth’s Greenways was released by Tingay and Associates. This report was commissioned by the Ministry for Planning in association with the Commonwealth Department of Transport and Regional Development. Contained within this report were recommendations for local governments to identify potential and existing green corridors in their structure plans and Town Planning Schemes (if possible) along with the development of Local Planning Policies to deal with the planning and implementation of local greenways.

In response to this plan, the City of Nedlands in 2001 developed and approved its first Greenways Policy with the addition of a Western Suburbs Greening Plan 2002 commissioned by the Western Suburbs Regional Organisation of Councils (WESROC.). The Greenways Policy and the Western Suburbs Greening Plan 2002 have provided guidance to the City on how to integrate the natural environment into urban areas. Since that time the City has developed numerous greenways which has assisted the City to protect and enhance biodiversity and the urban forest, improve habitats and connectivity for local fauna, and increase the City’s capacity to absorb greenhouse gas emissions.

The aims of the Greening Plan are to:

* Identify areas of remnant vegetation within the Western Suburbs;
* Identify the potential to link these areas to form an integrated, cohesive network of greenways;
* Develop policies and broad management guidelines for the conservation, protection and enhancement of the identified greenways;
* Prepare broad management guidelines for the conservation and enhancement of local biodiversity;
* Recommend areas suitable as sites for establishing appropriate endemic habitats; and
* Identify opportunities for the local community to participate in the conservation and enhancement of local biodiversity.

The Western Suburbs Greening Plan 2002 provided a systematic approach for the City to manage vegetation along road reserves and in parks and reserves. It also provided a means by which the community could conserve and enhance local biodiversity.

The primary aim of the Plan was to assist in developing linkages between natural areas, to focus revegetation programs to increase canopy cover, connectivity, and habitat across the WESROC region. The Plan has assisted the City meet its obligations in regards to protecting and enhancing the urban forest, and it has also guided cross-boundary collaboration by linking greenways between councils which has allowed for improved environmental and sustainability outcomes in the WESROC region. For example, the Towns of Cottesloe and Claremont and Cities of Nedlands and Subiaco have all worked collaboratively to revegetate large areas along the rail corridor.

The City of Nedlands used the Western Suburbs Greening Plan 2002 to guide the City’s greenways forward works programs, to seek capital budget funding through the annual budget, to assist sourcing grant funding for greenway development projects, and to educate and involve the wider community in greening projects. For example, over a nine year period between 2007 to 2016 over 100,000 subsidised native seedlings were sold to WESROC residents to use on their properties or council verges. Also, the City’s community ‘Friends of’ groups have used the Plan to guide greening activities within their bushland areas.

Since 2002 the City has developed greenways at the following locations:

* Aberdare Road
* Allen Park
* Karella Street
* Birdwood Parade
* Heritage Lane
* Montgomery Avenue
* Mooro Drive
* Point Resolution
* Railway Parade
* River Foreshore areas (Watkins Rd, Waratah Place, and Bishop Road)
* Shenton Bushland
* Smyth Road
* Stephenson Avenue
* Stubbs Terrace
* Swanbourne Dunes
* The Esplanade
* Underwood Avenue

**Discussion**

The revised Western Suburbs Greening Plan 2020-2025 (Attachment 1) has been updated to make the information current and to capture the implementation and progress of the 2002 Plan.

There are 24 recommendations and 13 implementation projects provided on pages 86 and 87 (Attachment 2 - Appendix 01 Recommendations & Implementation Actions).

Key changes to the 2020-2025 Greening Plan include:

* Inclusion of a vision statement;
* Inclusion of an ‘Ecosystem Service Approach’ section to detail a strategy for encouraging conservation of land, water and living resources in a way that is sustainable and equitable;
* Inclusion of a ‘Planning & Strategic Documents’ section;
* Inclusion of an ‘Innovative Greening Projects’ section;
* Summary of greening projects that have been completed since 2002; and
* Inclusion of ‘Recommendations & Implementation Actions’ for 2020-2025 (Attachment 2).

**Consultation**

The six WESROC Councils and the Town of Cambridge provided significant input into the revised document between 2018 and 2020. This consultation is summarised below:

* An initial meeting with Ecoscape to confirm the scope of the review process;
* A number of planning meetings to review and update the recommendations and implementation actions (Attachment 2); and
* Several review periods where each local government was requested to review the content of the document and provide input.

The draft Western Suburbs Greening Plan 2020-2025 was finalised and endorsed by the WESROC Executive Committee and presented back to their respective local governments as an operational document. The City undertook further consultation of the Greening Plan for Nedlands residents between the 27 May and the 17 June 2022 and the 18 July – 5th August 2022. The City’s community ‘Friends of’ groups were notified of the community engagement period and directed to the City’s Your Voice community engagement platform to provide feedback on the greening plan. The Friends of Underwood Avenue Bushland and the Nedlands Tree Canopy Advocates were also contacted and directed to the City’s Your Voice community engagement platform to provide feedback. The wider community were notified through the City’s POST Newspaper full page advertisements (Nedlands News), social media updates and the City’s website under latest news.

The purpose of the Western Suburbs Greening Plan 2020-2025 is to capture the implementation and progress of the outdated 2002 Plan. Feedback from the City’s community consultation cannot directly change the plan however, it can influence Policy reviews such as can the Greenways Policy, the Nature Strip Development Policy, Natural Areas Management Policy, and Natural Area Management Plans. The Administration is seeking Council endorsement of a plan that is reflective of the works and progress made from 2002 across the western suburbs.

An overview of the statistics and summary of the feedback from the community consultation is provided below.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Platform** | **Site Visits/Responses** | | **Key Comments** | **City’s Response** |
| Your Voice | 140 total visits (85 between 27 May – 17 June and 55 between 18 July and 5 August) | | N/A | N/A |
| Your Voice | 42 Western Suburbs Greening Plan 2020-2025 downloaded | | N/A | N/A |
| Your Voice | 9 FAQ downloaded | | N/A | N/A |
| Your Voice | Seven written responses | 1. | * Support all greenway links and note that Underwood Bushland is mentioned several times and agree that it is a vital link for fauna and birdlife. * Consider Policies that resist pressure to cover the City’s green spaces with concrete. * Identify the Tawarri site as a greenway that should be maintained and enhanced for the community and the environment. * Support the re-introduction of banksia species at Pt Resolution for fauna including Carnaby Cockatoos. * Along Nedlands Foreshore there are opportunities to re-establish endemic species and improve riparian biodiversity by creating small sandy beaches and reed beds. * Support activities that enhance and contribute to the green areas within the City. | Comments noted. Council recently approved advertising Scheme Amendment No. 12, which deals with tree retention on private land. A supporting local planning policy has been prepared separately to guide the assessment of development applications for tree removal, destruction or damage. The City has a number of polices encouraging greening projects including the Greenways Policy, the Natural Areas Management Policy, the Nature Strip Development Policy, the Street Tree Policy and the Unauthorised Damage of Vegetation Policy.  There are three Banksia species included on the annual planting program at Pt Resolution along with Eucalypt trees that provide habitat for Carnaby’s Cockatoos.  The possibility of re-establishing riparian vegetation can be included in feedback on the Nedlands Foreshore Management Plan. |
| **Platform** | **Visits/Responses** | | **Key Comments** | **City’s Response** |
| Your Voice | Seven written responses | 2. | Propose an upgrade of the foreshore landscaping between Waratah Place and Riverview Court Dalkeith. | Comments noted. The possibility of upgrading the foreshore landscaping between Waratah Place and Riverview Court Dalkeith can be included in feedback as part of the Foreshore Management Plan. |
| 3. | Propose the development of a community garden similar to the Perth City Farm model to promote wellness at the individual, community, and planet level. Suggests some sites within Nedlands such as College Park, Masons Gardens, Melvista Park and David Cruickshank Reserve for example. | Comments noted.   * The City has a Community Gardens Council Policy that requires residents wishing to establish a community garden to formally write to the City to requesting permission to do so. * The City has a community garden located in Swanbourne. * If Council chose to develop a community garden precinct there would be significant cost implications that would require Council approval.   If an incorporated business or association wished to coordinate a community garden the City would consider the proposal. In this instance the applicant would need to take into consideration the planning, building and leasing implications prior to seeking Council approval. |
| **Platform** | **Responses** | | **Key Comments** | **City’s Response** |
| Your Voice | Seven written responses | 4. | * Excellent document, in particular, the emphasis on Noongar knowledge. * Greenway along Underwood Avenue Bushland is not mentioned under Objective 2 and Maintain Greenways. * UWA are not proposing to develop Underwood Avenue Bushland instead they plan to manage it and remove some bush on the west side adjacent to the buildings. * The community is interested in working with UWA to manage the bushland. | Comments noted.  The City is not in a position to modify the Greening Plan as it has been finalised.  The City can support community group activities to preserve bushland on the City’s land. |
| 5. | * Commendable to recognise the importance of green spaces within the Western Suburbs. * Consider greater focus on dune conservation. * Support the protection of all green spaces within the Western Suburbs and hopes green spaces increase rather than diminish. | Comments noted.  The City is dedicated to work with community groups who want to undertake activities to preserve bushland on the City’s land. |
| 6. | * Consideration for the Western Suburbs joining with other states on protection for trees on private property. * Many thanks for your work in this important area. | Comments noted.  Council recently approved advertising Scheme Amendment No. 12, which deals with tree retention on private land. A supporting local planning policy has been prepared separately to guide the assessment of development applications for tree removal, destruction or damage.  The City has the Unauthorised Damage of Vegetation Council Policy to address damage to vegetation on public land. |
| **Platform** | **Responses** | | **Key Comments** | **City’s Response** |
| Your Voice | Seven written responses | 7. | * The 2002 document was a visionary document and had notable successes including the Whadjuk Trails. WESROC should be commended for commissioning this important document. * The Plan was written in 2019 and it is now 2022 more than halfway through the plan. * Development pressure has led to accelerating challenges with many greening sites have been lost or are under threat. This pressure is leading to the fragmentation of the Whadjuk Trails. * The Greening Plan may provide a false sense of how much bushland is left. Implementation of the Greening Plan will require significant collaborative effort and resources without this, it is an aspirational document. Suggest the following: * The appointment of a WESROC project team to drive and coordinate goals, actions, funding and organise community workshops. * Solid data to inform action and measure outcomes including canopy cover. * Adoption of the 8 key strategic directions. * Stronger tree protection policies. * Maintenance of the Whadjuk Trails. * Increased revegetation of public land. * Revegetation of large private landholdings and drainage sumps. * Continue to encourage Native Gardens and the revegetation of verges. | Comments noted.  WESROC Councils are required to implement the Plan individually.  Council recently approved advertising Scheme Amendment No. 12, which deals with tree retention on private land. A supporting local planning policy has been prepared separately to guide the assessment of development applications for tree removal, destruction or damage.  The City intends to work with Department of Transport and the Western Australian Planning Commission to undertake coastal monitoring and protection activities.  The City intends to continue working with Department of Biodiversity Conservation and Attractions to undertake river foreshore monitoring and protection activities.  The City intends to progress further maintenance works of the Whadjuk Trail signage.  Items not individually addressed can be considered for inclusion into Policy and Management Plan reviews such as can the Greenways Policy, the Nature Strip Development Policy, Natural Areas Management Policy and the natural areas and the Allen Park Bushland Management Plans. |
| **Platform** | **Responses** | | **Key Comments** | **City’s Response** |
| Your Voice | Seven written responses | 7. cont. | * Resolve long standing tenure issues such as Underwood Bushland and Lot 150 Sayer St. * Climate Change protection by increased revegetation of Coastal reserves and rivers. * Improved disease control and tree protection. * Improved wildlife protection and pet control.   A number of actions suggested for Allen Park such as extending greenway corridors along Odern Crescent and hydrozoning areas surrounding the Allen Park ovals. Continuation of the Whadjuk Trails through the grassed area north of the Bridge Club. Rezoning Lot 150 as conservation. Encouraging native verges and rain gardens. Improving wildlife linkages and fencing pathways and walk trails within Allen Park bushland. |  |

**Strategic Implications**

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

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

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

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

**Priority Area**

* Retaining remnant bushland and cultural heritage

**Budget/Financial Implications**

The endorsement of the Western Suburbs Greening Plan 2020-2025 will not affect the City’s budget. The City developed a greenways forward works plan to align with the 2002 Greening Plan. This forward works plan has been included in the 10 year natural environment capital works plan and will be used to guide capital budget requests for future greening projects. These capital budget requests will be approved by Council on a case by case basis as part of the annual capital budget process. The impact of greening projects on rates will be subject to budgetary considerations in future capital budgets.

**Legislative and Policy Implications**

The following legislative and policy implications relate to this item:

* Greenways Council Policy
* Natural Areas Management Council Policy
* Unauthorised Damage of Vegetation Council Policy

**Decision Implications**

The community will benefit through the retention and enhancement of greenways as there are proven links between green spaces and improved wellbeing and health. Furthermore, maintaining and increasing green spaces in the City will assist to combat the negative effects that may result from climate change by reducing the heat island effect for example.

There is a risk that the City may not have the opportunity to source grant funding for greening projects if Council do not endorse the Greening Plan as strategic documents are generally required to support the application.

The Greening Plan includes a number of recommendations and implementation projects required to green the Western Suburbs (Attachment 2). Specific greening projects will be approved through the City’s annual capital budget process. Endorsing the Greening Plan does not bind the City to fund future greening projects.

Though the Greening Plan has been finalised, feedback from the engagement process can be incorporated into Policy reviews such as can the Greenways Policy, the Nature Strip Development Policy, Natural Areas Management Policy, and Natural Area Management Plans.

**Conclusion**

The Western Suburbs Greening Plan 2020-2025 is a strategic planning document and provides a framework for integrating the natural environment into urban areas. The preservation and enhancement of greenways in the City is vital to the health and wellbeing of the community. Furthermore, greenway development will assist the City to meet its obligations in relation to managing the urban forest and they will improve the quality of remnant bushland areas within the City and provide an avenue for community involvement in environmental protection.

The City has used the Greening Plan since 2002 to develop a number of greenways within the City. The updated Greening Plan will assist the City to continue to develop greenways and to implement the City’s Greenways Policy and the Urban Forest Strategy 2018-2023; and it is presented to Council for adoption.

**Further Information**

**Request**

Councillor Smyth – Could Administration comment on the issues raised by Ms Lesley Shaw in her public address.

**Officer Response**

The City acknowledges all the submissions made relating to the Western Suburbs Greening Plan 2020-2025 (the Plan) strategic document. As the Plan is finalised, the feedback received is intended to influence change to the City of Nedlands greening projects through policies and plans such as the Greenways Policy, Natural Areas Management Policy and the Urban Forest Strategy 2018-2023. The Western Suburbs Greening Plan 2020-2025 provides the high-level strategic direction as set by WESROC.

The Plan has been updated to make the information current and to capture the implementation and progress of the 2002 Plan. The Plan guided the City’s greenways corridors, conservation activities, grant funding opportunities, and education of the wider community through greening projects such as the native plant subsidy scheme and the ‘Friend of’ group activities.

The key strategic directions relating to building biodiversity, promoting awareness, encouraging action, natural resource conservation requirements, integration, management of conservation reserve systems, focus on threaten species and ecological communities, and conserving landscape and seascapes is part of the long-term framework that the City and WESROC are working towards. From these strategic directions, key projects relating to urban canopy, land use, and greening projects similar to hydro-zoning, rain gardens, improving greening corridors, infrastructure enhancements, and increased maintenance programs can be formed.

It is expected that the Plan will compliment the Allen Park Master Plan and be a driver and justification to progress recommendations and actions noted in these strategic documents. The competing demands to provide infrastructure and development with population growth applies further importance and reliance on having these plans in place.

# PD62.09.22 Permeable Ground Stabilisation Point Resolution

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting – 27 September 2022 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil |
| **Report Author** | Jessica Bruce – Acting Manager Health and Compliance |
| **Director** | Tony Free - Director Planning and Development |
| **Attachments** | Nil |

Councillor McManus left the room at 8.15 pm.

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

Moved – Councillor Smyth

Seconded – Councillor Senathirajah

**That the Recommendation be adopted.**

(Printed below for ease of reference)

Councillor McManus returned to the room at 8.20 pm.

**CARRIED 8/3**

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

**Council Resolution / Recommendation**

**Council include the upgrade of the northern firebreak at Point Resolution as part of the Foreshore Management Plan.**

**Purpose**

The purpose of this report is to respond to Council’s request to investigate the installation of a permeable ground stabilisation system on the northern firebreak at Point Resolution Reserve.

**Voting Requirement**

Simple Majority.

**Background**

Council at its meeting held on the 14 December 2021 resolved to request that the Chief Executive Officer prepare a report considering a recommendation to regrade and install a permeable ground stabilisation system on the vehicle access track to White beach near the Western end of Beatrice Road at Point Resolution Reserve.

**Discussion**

The City maintains a number of pathways consisting of asphalt and sand across six key bushland areas. These pathways provide a number of functions including fire risk reduction through the provision of firebreaks, recreation access for the community, and access for maintenance and Department of Fire and Emergency Services (DFES) vehicles.

In order to access the City’s reserves, the City has four-wheel drive vehicles to negotiate along firebreaks and sand tracks to undertake maintenance activities.

Point Resolution has seven pathways providing community access to the river foreshore which include four consisting of asphalt, one boardwalk and two sand tracks. Two of these pathways located in the northern part of the Reserve provide vehicle access for City staff, contractors, DFES vehicles, and the Department of Biodiversity Conservation and Attractions (DBCA) river officers.

The pathway relating to this Notice of Motion is the most northern fire break and consists of sand and grass. This links up other sand pathways along the river foreshore and an asphalt pathway providing a nearby alternative route directly to the foreshore. This is frequently used by authorised vehicles and is not accessible by public vehicles.

A picture containing ocean floor

Description automatically generated

Map: Northern firebreak proposed for stabilisation (red) and nearby

adjacent asphalt pathway (yellow)

A picture containing grass, outdoor, path, plant

Description automatically generated

Photo: Northern firebreak proposed for stabilisation

The City obtained two quotes which costed the works at approximately $18,000 (ex GST).

This response to the Notice of Motion aligns with the City’s current progress to develop an integrated Foreshore Management Plan. The City is currently developing a more strategic approach and long term planning document that guides the use, activity, development, and environmental protection of the marine and physical environmental with the foreshore area. It would be appropriate for the upgrade of the northern firebreak to be included as part of this Plan whereby it can be appropriately prioritised and listed as part of the implementation framework aligning with the long-term objectives for the use of the foreshore.

**Consultation**

Point Resolution Reserve falls within the Swan River Development Control Area (DCA) for which the DBCA is the overarching management authority under the Swan and Canning Rivers Management Act 2006. The DBCA have advised that they have a plastic-free Riverpark initiative which is focusing on the elimination of single-use plastics within the Riverpark. Whilst permeable stabilisation cells are not considered a single use plastic, they are made of plastic and the use of plastics within building materials is also being discouraged by the DBCA.

City officers and contractors do not encounter issues when accessing the foreshore along the northern firebreak using four-wheel drive vehicles. Upgrading this track should be prioritised with considerations to other foreshore improvements.

**Strategic Implications**

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

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

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

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

**Priority Area**

Retaining remnant bushland and cultural heritage

**Budget/Financial Implications**

The cost to stabilise the firebreak with permeable stabilisation cells is $18,250 (excluding GST and oncosts). There is no budget allocation for this item within the 2022/23 Capital budget.

**Legislative and Policy Implications**

The following legislative and policy implications relate to this item:

* Natural Areas Management Council Policy
* Natural Areas Path Network Council Policy

**Decision Implications**

The stabilisation of the northern firebreak is not included in the 2022/23 Capital budget. If this item is included, it will reduce existing funds available for asset renewal.

Including this permeable ground stabilisation system as part of current Foreshore Management Plan progress will allow for it to be considered and prioritised aligning with the implementation framework. The firebreak will remain in its current condition until the Foreshore Management Plan is finalised.

**Conclusion**

Administration recommends upgrade to the northern firebreak be included as part of the integrated City of Nedlands Foreshore Management Plan that is currently being progressed. Once the Foreshore Management Plan is finalised and endorsed by Council, the City will be in a clear position to upgrade the northern firebreak with the appropriate budget allocation.

**Further Information**

Nil.

# PD63.09.22 Procurement of Consultant - RFQ 2022-23.01 - Public Open Space Strategy and Local Planning Policy

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting – 27 September 2022 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | The author, reviewers and authoriser of this report declare they have no financial or impartiality interest with this matter.  There is no financial or personal relationship between City staff involved in the preparation of this report and the proponents or their consultants. |
| **Report Author** | Roy Winslow – Manager Urban Planning |
| **Director** | Tony Free - Director Planning & Development / Bill Parker - CEO |
| **Confidential Attachments** | 1. LK Advisory – Response to City of Nedlands RFQ 2022-23.01 Public Open Space Strategy and Local Planning Policy 2. RFQ 2022-23.01 – Evaluation Report - Public Open Space Strategy and Local Planning Policy |

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

Moved – Councillor Amiry

Seconded – Councillor McManus

**That the Recommendation be adopted.**

(Printed below for ease of reference)

**CARRIED UNANIMOUSLY EN BLOC 13/-**

**Council Resolution / Recommendation**

**That Council accepts the Request for Quotation received from LK Advisory for delivery of the City’s Public Open Space Strategy and Local Planning Policy up to $78,345 (excluding GST).**

**Purpose**

In accordance with Council’s Procurement of Good and Services Policy, the purpose of this report is to seek Council’s consideration for the approval of Request for Quotation (RFQ) 2022-23.01 - Public Open Space Strategy and Local Planning Policy. Council’s consideration is required as only one submission was received in the procurement band between $50 001 and $250 000.

**Voting Requirement**

Simple Majority.

**Background**

**22 March 2022 OCM - Public Open Space Strategy and Local Planning Policy**

LK Advisory completed a Community Benefits and Infrastructure Contributions research project for the City in February 2022. At the 22 March 2022 OCM, Council considered this project (Item 16.5) and resolved to select a cash-in-lieu of public open space developer contribution model. Council simultaneously resolved to support the development of a Public Open Space Strategy and associated Local Planning Policy to provide evidence based, statutory support to the chosen developer contribution model.

In accordance with this resolution, the City has undertaken a Request for Quotation process.

**Procurement of Good and Services Policy**

At the 24 May 2022 OCM (Item 17.2) the City of Nedlands Procurement of Good and Services Policy was reviewed by Council and amended.

The procurement thresholds table between $50 001 and $250 000 was amended. This amendment removed the CEO’s ability to exercise discretion where only one written quotation is received for purchases between $50 001 and $250 000. The CEO’s discretion was replaced with the requirement that the matter be brought to Council for its consideration.

The City has recently sought five (5) written quotations for the delivery of a Public Open Space Strategy and associated Local Planning Policy.

At the close of the RFQ process only one (1) supplier had submitted a proposal for this procurement process, being LK Advisory (see **Attachment 1**). An evaluation of the RFQ by City planning and procurement staff (see **Attachment 2**) confirmed that LK Advisory possess relevant knowledge and resources to complete the project, and demonstrate a thorough understanding of public open space and developer contribution models in a local government context.

The Chief Executive Officer has endorsed the evaluation report and this matter is now presented to Council for its consideration.

**Discussion**

City officers have investigated why the other four suppliers did not submit a quote for this service. Feedback received from these suppliers indicated the suppliers did not have the capacity to take on an additional project at this time, or aspects of the scope was outside of their business capabilities.

**Consultation**

Consultation was conducted between City officers and

* Preferred panel program suppliers (both those who submitted quotes and those who did not)
* Other Local Governments (reference checks)

**Strategic Implications**

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

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

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

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

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

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

**Budget/Financial Implications**

Adequate funds are planned and listed in the 2022/23 Annual Budget for this matter.

**Legislative and Policy Implications**

[City of Nedlands Procurement of Goods and Services Policy](https://nedlands365.sharepoint.com/:w:/r/sites/controlled_documents/Council_Policies_Procedures/Published/Procurement%20of%20Good%20and%20Services%20Council%20Policy.docx?d=w41db85e762b5419bbb03a8b786773f2c&csf=1&web=1)

*Local Government (Functions & General) Regulation 1996*

**Decision Implications**

If Council endorses the recommendation, the City can proceed with finalising the RFQ process for the City’s Public Open Space Strategy and associated Local Planning Policy.

If Council does not endorse the recommendation, the programme for completion of the City’s Public Open Space Strategy and associated Local Planning Policy will be delayed. Another RFQ process will need to be completed to attempt to obtain additional submissions from consultants. Given the nature of the work required and the current lack of capacity in the consultancy field, the City may continue to face difficulties in obtaining additional quotes.

**Conclusion**

It is recommended that Council accepts the response to RFQ 2022-23.01 - Public Open Space Strategy and associated Local Planning Policy provided by LK Advisory.

**Further Information**

**Request**

Councillor Smyth – Can the policy be renamed Public Open Space Funding Strategy?

**Officer Response**

At the time of adopting the Strategy and the Policy, the suggested name can be used.

**Request**

Councillor Coghlan – Could a copy of the previous development contributions document be added to the Councillor Portal?

**Officer Response**

The final report by L K Advisory (February 2022) - Community Benefits and Infrastructure Contributions has been provided.

# Divisional Reports - Technical Services Report No’s TS20.09.22

# TS20.09.22 RFQ 2022-23.06 Supply and Application of Crack Sealing

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting – 27 September 2022 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil. |
| **Report Author** | Jason Spyker – Coordinator Civil Maintenance |
| **Director** | Andrew Melville – Acting Director Technical Services |
| **Attachments** | 1. CONFIDENTIAL Evaluation and Recommendation Report –Award RFQ 2022-23.02 Supply and Application of Crack Sealing |

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

Moved – Councillor Amiry

Seconded – Councillor McManus

**That the Recommendation be adopted.**

(Printed below for ease of reference)

**CARRIED UNANIMOUSLY EN BLOC 13/-**

**Council Resolution / Recommendation**

**That Council:**

1. **approves the award of the contract for Supply and Application of Crack Sealing in accordance with the City’s Request for Quote number RFQ 2022-23.02 and comprising of that request, the City’s Conditions of Contract and the Pro Crack Seal submission;**
2. **instructs the CEO to arrange for a Letter of Acceptance and a Contract document be sent to Pro Crack Seal for execution; and**
3. **instructs the CEO to arrange for all other quote respondents to be advised of the outcome.**

**Purpose**

The purpose of the report is for Council to accept the evaluation and recommendation for the award of RFQ 2022-23.02 Supply and Application of Crack Sealing to Pro Crack Seal.

**Voting Requirement**

Simple Majority.

**Background**

The City appointed an experienced civil consultant (Talis) to undertake an inspection and condition assessment for the City’s Road network in March 2021. The condition assessment report revealed that our large road asset base is in average to good condition. Sixty-two roads require intervention to prevent further deterioration and to extract the maximum serviceable life out of the assets at optimal costs.

The City has a requirement to maintain and provide trafficable road network assets within the public realm. Road crack sealing is the first line of defence for average to good condition sealed surfaces suffering from non-structural cracking. Road crack sealing is a recognised pavement maintenance technique, extending the life of the pavement with the application of hot bituminised crumb rubber crack sealing product to cracks preventing water from entering the road pavement sub grade and compromising its structural integrity.

Typical benefits include:

* Preventing water ingress into the road base layers and preserve integrity of sealed surface.
* Reducing the likelihood of further deterioration of the road and pavement until the seal layer is resurfaced.
* Preserving pavement for an extended period at the lowest cost.

Due to the specialised skills set and equipment requirements needed to undertake this function, the City is required to engage the services of an experienced contractor to undertake such works.

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

To ensure that the City can continue to undertake these vital works, a Request for Quote was offered to six (6) organisations through the WALGA PSP-009 panel during the period 28 June 2022 – 28 July 2022. The City received a total of two (2) submissions.

**Discussion**

After the closure of the tender period, the evaluation panel completed the analysis and evaluation of the two (2) submissions.  At the conclusion of the process Pro Crack Seal was nominated as the preferred supplier for this package of works. The submissions were rated against the following criteria:

* Relevant Experience (20%),
* Key personnel skills and experience (30%),
* Respondents resources (30%), and
* Demonstrated Understanding (20%)

Pro Crack Seal provided information on similar works that they have recently undertaken, successfully demonstrating an ability to complete the requirements of this request.

Key personnel listed were experienced, suitably skilled and have experience delivering similar works.

The Respondent’s resources were detailed and provided good information on contingency planning to ensure the maintenance works would be delivered.

Pro Crack Sealing have provided a comprehensive understanding of the City’s requirements. This includes the detailed process of site preparation, removal of weeds and subsequent application of the road crack seal product.

Following the due diligence processes that the City has undertaken, the City is confident that Pro Crack Seal can complete the scope of work to the required standards, and that their offer represents good value for money to the City within the market.

**Consultation**

Not Required.

**Strategic Implications**

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

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

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

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

**Great Natural and Built Environment**

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

**High standard of services**

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

**Easy to Get Around**

We strive for our City to be easy to get around by preferred mode of travel, whether by car, public transport, cycle or foot.

**Priority Area**

* Urban form - protecting our quality living environment
* Renewal of community infrastructure such as roads, footpaths, community and sports facilities

**Budget/Financial Implications**

Council provides funding for the operation and maintenance of the road network within the City’s annual operational budget. Currently, the annual operational budget provides for inspections, minor repairs, operating the existing road network, and funding to cover a basic level of service for maintaining the City’s existing road network. The works covered by this contract would be undertaken within the annual operational budget allocation for Road Maintenance.

The forecast annual expenditure under this contract is estimated to be approximately $55,000 in its first year, which represents approx. 10% of the road maintenance contract budget for the financial year. There are currently a backlog of road crack sealing works that are required, and as such long term expenditure is expected to be lower in future years.

**Legislative and Policy Implications**

The award of this quote is governed by the City of Nedlands [Procurement of Goods and Services Policy](https://www.nedlands.wa.gov.au/documents/608/procurement-of-good-and-services-council-policy).

The works to be delivered under this contract are in line with the City of Nedlands [Asset Management Policy](https://www.nedlands.wa.gov.au/documents/251/asset-management-council-policy).

**Decision Implications**

By endorsing the officer recommendation, a contractor will be appointed to provide the required service functions to enable the City to deliver the continuous improvements, along with the operational and maintenance activities required to ensure that the road network operates at maximum efficiency.

By not endorsing the recommendation, ongoing road assets will be unable to be effectively maintained, and the road network degradation will continue to accelerate, negatively impacting the City’s financial capacity to deliver future capital works, private property and business owners.

**Conclusion**

Pro Crack Seal have completed road crack seal projects for other metropolitan local governments, have the required skills and experience necessary to complete the works. It is for these reasons that they are the recommended organisation for this contract of works.

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

**Further Information**

Nil.

# Divisional Reports - Community Services & Development Report No’s CSD05.09.22 to CSD06.09.22

# CSD05.09.22 Cricket Turf Wicket Maintenance Agreements

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting - 27 September 2022 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil. |
| **Report Author** | Amanda Cronin, A/Manager Community Development |
| **CEO** | Bill Parker |
| **Attachments** | Nil. |

**Regulation 11(da) – Council agreed that the Clubs should be responsible for monitoring water use to raise their awareness to the quantities being used.**

Moved – Councillor Youngman

Seconded – Councillor Mangano

**Council Resolution**

**Council agrees to:**

1. **enter into 5-year agreements for the preparation and maintenance of the centre and practice turf cricket wickets and provide a subsidy as follows:**
2. **$49,289 (ex GST) per annum to Western Suburbs Cricket Club for College Park, indexed at 3.5% in following years;**
3. **$33,012 (ex GST) per annum to Claremont Nedlands Cricket Club for Melvista Oval, indexed at 3.5% in following years; and**
4. **$33,012 (ex GST) per annum to Swanbourne Cricket Club for Swanbourne Oval, indexed at 3.5% in following years;**
5. **update the key terms of the agreement to include the option for Clubs to deliver outfield mowing at a higher level of service and provide an additional subsidy as follows:**
6. **$** **4,768 (ex GST) to Claremont Nedlands Cricket Club, on a pro rata basis, for 1 September – 31 March annually, indexed at 3.5% in following years;**
7. **$ 4,214 (ex GST) per cricket season to Western Suburbs Cricket Club, on a pro rata basis, indexed at 3.5% in following years; and**
8. **$4,131 (ex GST) per cricket season to Swanbourne Cricket Club, on a pro rata basis, indexed at 3.5% in following years; and**
9. **execute each subsidy in a Turf Wicket Maintenance Agreement and applies the Council seal;**
10. **Each club shall be required to provide weekly reports in arrears for the water flow meter readings for each site that they administer;**
11. **The CEO shall publish these figures, alongside the corresponding monthly figures recorded from the previous year in such a way that Councillors will understand the cumulative water use at each site, in the Weekly CEO Report to Councillors; and**

1. **Each club shall provide the City of Nedlands administration with a Water Management Plan, this plan shall include but not be limited to:**
   1. **the predicted water usage per month;**
   2. **the time of day watering is applied;**
   3. **the number of watering stations to be used; and**
   4. **the watering time per station.**

Councillor Coghlan left the room at 8.32 pm and returned at 8.36pm.

**CARRIED 9/2**

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

Revised Officer Recommendation

Council agrees to:

1. enter into 5-year agreements for the preparation and maintenance of the centre and practice turf cricket wickets and provide a subsidy as follows:
2. $49,289 (ex GST) per annum to Western Suburbs Cricket Club for College Park, indexed at 3.5% in following years;
3. $33,012 (ex GST) per annum to Claremont Nedlands Cricket Club for Melvista Oval, indexed at 3.5% in following years; and
4. $33,012 (ex GST) per annum to Swanbourne Cricket Club for Swanbourne Oval, indexed at 3.5% in following years;
5. update the key terms of the agreement to include the option for Clubs to deliver outfield mowing at a higher level of service and provide an additional subsidy as follows:
6. $ 4,768 (ex GST) to Claremont Nedlands Cricket Club, on a pro rata basis, for 1 September – 31 March annually, indexed at 3.5% in following years;
7. $ 4,214 (ex GST) per cricket season to Western Suburbs Cricket Club, on a pro rata basis, indexed at 3.5% in following years; and
8. $4,131 (ex GST) per cricket season to Swanbourne Cricket Club, on a pro rata basis, indexed at 3.5% in following years; and
9. execute each subsidy in a Turf Wicket Maintenance Agreement and applies the Council seal.

Recommendation

Council agrees to:

1. enter into 5-year agreements for the preparation and maintenance of the centre and practice turf cricket wickets and provide a subsidy as follows:
2. $49,289 (ex GST) per annum to Western Suburbs Cricket Club for College Park, indexed at 3.5% in following years;
3. $33,012 (ex GST) per annum to Claremont Nedlands Cricket Club for Melvista Oval, indexed at 3.5% in following years; and
4. $33,012 (ex GST) per annum to Swanbourne Cricket Club for Swanbourne Oval, indexed at 3.5% in following years;
5. update the key terms of the agreement to include the option for Clubs to deliver outfield mowing at a higher level of service and provide an additional subsidy as follows:
6. $ 4,034 (ex GST) to Claremont Nedlands Cricket Club for 1 September – 31 March annually, indexed at 3.5% in following years;
7. $ 3,565 (ex GST) per cricket season to Western Suburbs Cricket Club, indexed at 3.5% in following years; and
8. $3,496 (ex GST) per cricket season to Swanbourne Cricket Club, indexed at 3.5% in following years; and
9. execute each subsidy in a Turf Wicket Maintenance Agreement and applies the Council seal.

**Purpose**

The City of Nedlands has Turf Wicket Maintenance agreements with three cricket clubs: Claremont Nedlands Cricket Club (CNCC), Western Suburbs Cricket Club (WSCC) and Swanbourne Cricket Club (SCC). The agreements have now expired and need to be renewed before the 2022/23 cricket season.

It is proposed to continue to provide financial support to the Clubs for turf wicket maintenance for a term of five years, 1 July 2022 – 30 June 2027.

This report considers the option for Clubs to manage outfield mowing, in addition to turf wicket maintenance, in return for an additional subsidy.

**Voting Requirement**

Simple Majority.

**Background**

The City has four turf centre wickets (one at Allen Park, one at Melvista Oval and two at College Park) and practice turf wickets at all ovals.

Since 2006, the City has provided financial assistance to cricket clubs based in the City towards the costs associated with maintaining turf cricket wickets. This financial assistance has been provided via a Turf Wicket Agreement and associated subsidy.

Prior to this agreement, the City exclusively maintained turf wicket facilities across the City. This management model was more costly for the City due to staffing costs. The agreements are a more practical management model for maintaining turf wickets, allowing the individual clubs to maintain the turf to its required standards.

The City has agreements with CNCC, WSCC and SCC for the maintenance of the turf wickets at Melvista Oval, College Park and Allen Park Upper Oval respectively. The agreements are for each club to maintain the centre turf wicket and practice turf wickets at its respective oval, with the City providing a subsidy to the clubs to undertake the work. These agreements are now due for renewal for the 2022/23 Cricket Season.

Clubs have expressed a desire to amend their agreements to include the option to manage outfield mowing at a higher level of service. CNCC trialed this arrangement for the 2021/2022 cricket season, at no cost to the City.

**Discussion**

To date, the agreements include provision for the Cricket Clubs to maintain the turf wickets only, while the City maintained the outfields. Sports turf mowing services are currently delivered by the City internally. The level of service is limited by the equipment the City owns, its staff resourcing and the ability to maintain the equipment to ensure turf cutting effectiveness. Unfortunately, the City does not have the resources to provide a higher level of service to the cricket clubs.

If the option of mowing the outfields is included in the agreements, the Clubs would be responsible for mowing the outfield for the summer Cricket season which runs from October to March. The City would contribute the amount ordinarily spent by the City on the mowing program for these fields as an additional subsidy in the agreements. Clubs can opt in or opt out for this arrangement. The Clubs would need to fund the gap between the City service level and the increased level they wish to achieve.

The 2021/22 subsidy and the proposed increase for 2022/23 has been outlined below.

Turf Wicket Agreement Subsidy 2022/23 proposal

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Club** | **Subsidy**  **21/22** | **Proposed Subsidy 22/23**  **(index by 3.5%)** | **Optional Increase for mowing**  **22/23** | **Proposed Total Subsidy 22/23**  **(inc mowing)** |
| WSCC | $47,622 | $49,289 | $3,565 | $52,854 |
| CNCC | $31,896 | $33,012 | $4,034 | $37,046 |
| SCC | $31,896 | $33,012 | $3,496 | $36,508 |
| **Total** | **$111,414** | **$115,313** | **$11,095** | **$126,408** |

CNCC have requested to manage mowing at Melvista Oval from 1 September – 31 March annually and this variation is reflected in the above table.

**Consultation**

The cricket clubs have been consulted and are supportive of the renewed Turf Wicket Maintenance Agreement.

Parks Services have been consulted and are supportive of the renewed Turf Wicket Maintenance Agreement.

**Strategic Implications**

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

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

**Values** **High Standard of Services**

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

**Great Communities**

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

**Provide for Sport and Recreation**

Increase the level of service for parks, ovals and associated equipment.

**Budget/Financial Implications**

The total proposed subsidy amount is $126,408 (ex GST) for the 2022/23 Cricket season. This would be allocated to the existing Parks Services budget for each oval and therefore does not require further budget consideration.

Allowing the cricket clubs to mow the outfield during the cricket season is a reduction of 8% of the area currently mowed by Parks Services. The Clubs would manage the mowing for 6-7 months of the year only. The City would continue to manage the mowing for the rest of the year. Therefore, this arrangement will not equate to a reduction in FTE immediately. It is anticipated that the FTE assigned to mowing of sports grounds will reduce by 0.2 of an FTE in the long term, should the Clubs opt in to manage mowing.

**Priority Area**

* Renewal of community infrastructure such as roads, footpaths, community and sports facilities
* Providing for sport and recreation

**Legislative and Policy Implications**

The Council Provided Grants, Subsidies and Donations Council Policy outlines that any other requests for funds from Council (including requests over $5,000) will be presented to Council for a decision.

[Council Provided Grants, Subsidies and Donations Policy](https://nedlands365.sharepoint.com/:w:/r/sites/controlled_documents/Council_Policies_Procedures/Published/Council%20Provided%20Grants,%20Subsidies%20and%20Donations%20Policy.docx?d=wd49d6d475080401fb7af855f692269d1&csf=1&web=1)

**Decision Implications**

If Council endorse Part 1 of the recommendation, the City will enter into Turf Wicket Maintenance Agreements with CNCC, WSCC and SCC. The Agreements will be for a term of five years, 1 July 2022 – 30 June 2027. Under the new agreements, the cricket clubs will be responsible for maintaining the turf wicket facilities at Melvista Oval, College Park and Allen Park Upper Oval.

If Council endorse Part 2 of the recommendation, the City will update the key terms of the agreement to include the option for Clubs to deliver outfield mowing at a higher level of service and provide an additional subsidy. The Clubs will have the option to opt in or opt out to manage the mowing of outfields for 6-7 months annually for the duration of the agreement.

If Council does not endorse Part 1 of the recommendation to include maintenance of turf wickets in the key terms of the agreement, the City will then need to undertake this work at Melvista Oval, College Park and Allen Park Upper Oval. The City does not currently undertake this work as it’s been managed directly by the Clubs since 2006. The City does not have staff allocated or those skilled in turf wicket maintenance. This would require an increase in staffing or funding for external contractors to manage the maintenance of turf wicket facilities across these facilities.

If Council does not endorse Part 2 of the recommendation to include mowing in the key terms of the agreement, the agreement will remain the same as previous years, and only include management of turf wicket facilities and the associated subsidy. The City will continue to manage outfield mowing at the current level of service, and no additional subsidy will be provided to the Clubs for mowing. Likewise, if the Clubs do not opt in to manage outfield mowing, the City will continue to manage this service.

**Conclusion**

It is recommended that Council extend the Turf Wicket Maintenance Agreements and associated subsidies with Western Suburbs Cricket Club, Claremont Nedlands Cricket Club and Swanbourne Cricket Club for the maintenance of turf wicket facilities at College Park Upper Oval, Melvista Oval and Allen Park Upper Oval. A term of five years will greatly assist the Clubs with forward planning. The Clubs have a proven track record in maintaining the cricket wicket facilities.

The additional subsidy will support the Clubs who opt in to manage outfield mowing for the summer cricket season to a higher level of service. The subsidy will assist the Clubs achieve the mowing standards they require, without requiring further budget consideration. The Clubs will cover the difference in cost associated with providing a higher level of service.

**Further Information**

The City met with representatives from all three clubs to discuss the outfield mowing proposal and associated subsidy. CNCC are interested in managing outfield mowing at Melvista Oval. SCC will likely opt out and the City will continue to mow the outfield at Allen Park Upper Oval at the standard level of service. WSCC expressed interest in a hybrid approach whereby the City would mow the outfield once a week and the Club could engage a contractor to mow once a week at a higher level of service. The subsidy would be provided on a pro-rata basis. A revised officer recommendation is put forward to reflect this discussion.

**Revised Officer Recommendation**

**Council agrees to:**

1. **enter into 5-year agreements for the preparation and maintenance of the centre and practice turf cricket wickets and provide a subsidy as follows:**
2. **$49,289 (ex GST) per annum to Western Suburbs Cricket Club for College Park, indexed at 3.5% in following years;**
3. **$33,012 (ex GST) per annum to Claremont Nedlands Cricket Club for Melvista Oval, indexed at 3.5% in following years; and**
4. **$33,012 (ex GST) per annum to Swanbourne Cricket Club for Swanbourne Oval, indexed at 3.5% in following years;**
5. **update the key terms of the agreement to include the option for Clubs to deliver outfield mowing at a higher level of service and provide an additional subsidy as follows:**
6. **$** **4,768 (ex GST) to Claremont Nedlands Cricket Club, on a pro rata basis, for 1 September – 31 March annually, indexed at 3.5% in following years;**
7. **$ 4,214 (ex GST) per cricket season to Western Suburbs Cricket Club, on a pro rata basis, indexed at 3.5% in following years; and**
8. **$4,131 (ex GST) per cricket season to Swanbourne Cricket Club, on a pro rata basis, indexed at 3.5% in following years; and**
9. **execute each subsidy in a Turf Wicket Maintenance Agreement and applies the Council seal.**

# CSD06.09.22 CRSFF Application Nedlands Yacht Club Sail Training Centre Redevelopment

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting - 27 September 2022 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil. |
| **Report Author** | Amanda Cronin, A/Manager Community Development |
| **CEO** | Bill Parker |
| **Attachments** | 1. Proposed Nedlands Yacht Club Sail Training Centre Redevelopment |

Councillor McManus left the room at 8.46 pm.

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

Moved – Mayor Argyle

Seconded – Councillor Bennett

**That the Recommendation be adopted.**

(Printed below for ease of reference)

Councillor McManus returned to the room at 8.47 pm.

**CARRIED 10/1**

**(Against: Cr. Mangano)**

**Council Resolution / Recommendation**

**Council:**

1. **advises Department of Local Government, Sport and Cultural Industries that it has ranked and rated the Nedlands Yacht Club Sail Training Centre Redevelopment as well planned and needed by the applicant (B Rating),**
2. **endorses the above application to Department of Local Government, Sport and Cultural Industries conditional on:**
   1. **all necessary statutory approvals are obtained by the applicant; and**
   2. **the project receives DLGSCI funding; and**
   3. **project funding being endorsed by Council as part of the 2023/24 and 2024/25 annual budget; and**
3. **requests the CEO to list the amount of $543,333 for consideration in the Long Term Financial Plan across the 2023/2024 and 2024/2025 financial years, i.e. $271,667 per financial year.**

**Purpose**

This item seeks Council’s endorsement of the Nedlands Yacht Club’s (NYC) grant application to the Department of Local Government, Sport and Cultural Industries (DLGSCI) for the Community Sport and Recreation Facilities Fund (CSRFF) Forward Planning Round.

Nedlands Yacht Club are also requesting a $543,333 contribution from Council for the redevelopment.

**Voting Requirement**

Simple Majority.

**Background**

The DLGSCI administers the CSRFF. The purpose of the fund is to provide financial assistance to sporting clubs and local government authorities to develop basic infrastructure for sport and recreation. The program aims to increase participation in sport and recreation, with an emphasis on physical activity, through rational development of sustainable, good quality, well designed and well utilised facilities. This fund has three categories, shown below:

Table 1: CSRFF Grant Categories

|  |  |  |  |
| --- | --- | --- | --- |
| **Grant Category** | **Total Project Cost Range** | **Standard DLGCSI Contribution** | **Frequency** |
| Small Grant | ≤ $300,000 | $2,500 – $100,000 | Bi-annual |
| Annual Grant | $300,001 - $500,000 | $100,001 - $166,666 | Annual |
| Forward Planning Grant | ≥ $500,000 | $166,667 - $1,000,000 | Annual |

For applications to be supported by DLGSC, they must firstly be endorsed by the relevant Local Government Authority. For approved projects, DLGSC will provide a grant of a maximum of 1/3 of the total project costs.

**Ranking**: The City is required by DLGSC to rank in priority order the applications received for each CSRFF round.

**Rating**: The City is required by DLGSC to rate each application as one of these:

A - Well planned and needed by municipality

B - Well planned and needed by applicant

C - Needed by municipality, more planning required

D - Needed by applicant, more planning required

E - Idea has merit, more preliminary work needed

F - Not recommended.

**Discussion**

An overview of the proposal is below:

Table 2: CSRFF Forward Planning 2022/2023 September Round

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Applicant** | **Project** | **Total Project Cost**  **(Ex GST)** | **Club Contribution** | **Amount Requested of State Govt.** | **Amount Requested of Council** |
| Nedlands Yacht Club | Nedlands Yacht Club Sail Training Centre Redevelopment | $1.63 million | $543,333 | $543,333 | $543,333 |
| **Total Grant Amount Being Requested from Council** | | | | | $543,333 |

**Nedlands Yacht Club**

NYC was established in 1952. The Club is located on the esplanade in Nedlands, on crown land vested in the City. The Club leases this land from the City. The current Junior Clubhouse was built in 1955 by volunteers and does not meet the current building codes or standards for disability access or privacy.

NYC is seeking a CSRFF grant to demolish the existing junior clubhouse and build a new Sail Training Centre. A rendition of the proposal can be seen at Attachment 1. The new building will be used as a sail training centre and a clubhouse. NYC propose to build a modern training facility with ablutions, accessible toilets, storage, and a training room to cater for its growing number of junior sailors and sailing course participants. NYC have investigated renovating the existing facility however they have concluded that building a new facility is more functional and cost-effective than renovating the current building. NYC will be responsible for all operational costs associated with the new building.

The total project cost for this project is $1.6million. NYC will contribute $493,334 in cash and $50,000 in volunteer labor, totaling $543,333. The Club are asking DLGSCI to contribute $543,333 and a Council grant of $543,333. This fits with the standard approach to funding such projects, which is that the Club, State Government and Council each contribute 1/3 of the total project cost.

NYC has a membership of 506, including all ages ranging from 7 – 80. Their female membership is higher than the national average for yacht clubs, and 50% of their junior sailors are female. NYC has a junior and school sailing program which includes several local schools. Over 310 children have participated in their sailing programs in the last 12 months. The Club also hosts several competitions including the State Championships, Sporting Schools State Championships, and the Optimist State Championships.

The project will have a high level of community benefit for City residents who are members of the Club. Additionally, the project will benefit other members of the community who may attend the club for sailing, school programs, fundraising or other events. It will also provide some benefit to the UWA Soccer Club and WA Windsurfing who also use the facility. The development of a new Sail Training Centre will assist the club’s viability as it will allow the club to increase participation levels and will add no additional running costs to the club in the long term. The project is expected to be completed in April 2025.

**Consultation**

The applicant has completed a formal application to submit to DLGSCI for this grant round. The application is available to Councillors on request from the CEO’s office.

**Strategic Implications**

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

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

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

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

**Great Communities**

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

**Priority Area**

* Renewal of community infrastructure such as roads, footpaths, community, and sports facilities.
* Providing for sport and recreation.

The City currently has no approved Strategic Recreation Plan in place. However, ongoing upgrade of sporting and community facilities within the City of Nedlands is identified as a priority in the City’s Strategic Community Plan. The application is consistent with Council’s strategic priorities being renewal of community infrastructure and providing for sport and recreation. The project will benefit the junior club members, especially female participation, as well as the wider community who use the sailing facilities.

**Budget/Financial Implications**

Nedlands Yacht Club are requesting a $543,333 contribution from Council. The grant would be paid to the club on the completion of the project, which is scheduled for April 2025.

It is recommended that this be included in the long-term financial plan in the capital works budget and spread out over the 2023/2024 and 2024/2025 financial years. Therefore, the financial implication of providing grant funding to the Nedlands Yacht Club will be factored into long term financial planning. This will have no impact on the 2022/2023 budget.

**Legislative and Policy Implications**

**Council Policy**

Councils’ Capital Grants to Sporting Clubs policy states that

“To ensure the financial support it provides to sporting clubs is effectively targeted to achieve maximum community benefit, Council will consider the following key priorities:

1. Multi-use: priority will be given to developing facilities that will be used by more than one sporting club or type, particularly where such clubs are not yet sharing facilities. This is to facilitate the intent of maximising efficiencies and encouraging clubs to share some facilities while still retaining each club’s separate management and identity.
2. Recreation Plan rating: priority will be given to supporting sports identified as a high priority in the City’s Strategic Recreation Plan. The Strategic Recreation Plan provides a rating for each sport type, based on two factors: the demand to play that sport type and the facilities already provided for that sport type. These two factors result in a rating for each sport type as high, medium or low priority for facility development. Sport types with a high level of demand (growing membership) and a low level of existing facilities receive the highest rating.
3. Other funding: priority will be given to projects that are eligible for funding from other government bodies such as the Department of Recreation’s Community Sport and Recreation Development Fund (CSRFF) or Lotterywest funding. This is to facilitate the overall financial viability of the project and contribute most effectively to the upgrade of community facilities.
4. Level of community benefit: priority will be given to projects that demonstrate a high level of benefit to the local City of Nedlands community. This will include, but is not limited to, City of Nedlands resident membership of the applicant sporting club (total and proportional), support for junior sport and the level of community access (i.e., by non-club members and by community groups and organisations)”.

**DLGSC Requirements**

In general, DLGSC will fund up to 1/3 of the total cost of an approved project, with the remaining 2/3 to be funded by either the applicant sporting club or a combination of the applicant sporting club and the relevant local government authority.

DLGSC will only consider projects endorsed by the relevant local government. However, Councils may endorse projects without necessarily providing funding to them.

**Decision Implications**

Council is required to decide on the Club’s application by the grant round closing date of 30 September 2022. If Council endorses the application, it will be submitted to DLGSCI for consideration. If Council does not endorse the Club’s application, the Club cannot proceed with their application to DLGSCI.

**Conclusion**

It is recommended that Council endorses the Nedlands Yacht Club application for funding to Department of Local Government, Sport and Cultural Industries and approves a grant of $543,333 for its Sail Training Centre Redevelopment, on the condition it receives state government support and meet all necessary statutory approvals. Council’s support for the application will strengthen the Clubs ability to receive funding from state government and is consistent with Council’s strategic aim of providing sport and recreation infrastructure as essential for healthy communities.

**Further Information**

**Request**

Councillor Smyth – has this application been referred to the Foreshore Management Committee or has consultation occurred with the Foreshore Management Committee?

**Officer Response**

No.

**Request**

Councillor Mangano – can further funding be identified?

**Officer Response**

The CSRFF program is the main source of grant funding available to develop sport and recreation infrastructure.

**Request**

Mayor Argyle – funding agreement re is approval for funding does it become null and void if one party does not come up with the funding?

**Officer Response**

If one party does not come up with the funding, this would likely delay the project. Council approval is conditional on the project receiving DLGSCI funding.

**Request**

Councillor Combes – Could the purpose of the report be amended to include the conditional funding implications?

**Officer Response**

The recommendation notes that Council approval is conditional on the project receiving DLGSCI funding.

# Divisional Reports - Corporate & Strategy Report No’s CPS39.09.22 to CPS45.09.22

# CPS39.09.22 Lease to Leo Heaney Pty Ltd – Portion of Reserve 45054 John XXIII Depot in Mt Claremont

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting – 27 September 2022 |
| **Applicant** | Leo Heaney Pty Ltd |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil. |
| **Report Author** | Michael Cole – Director Corporate Services |
| **Director** | Michael Cole – Director Corporate Services |
| **Attachments** | 1. CONFIDENTIAL – Public Submission – Letter to Cr Smyth 2. CONFIDENTIAL – Mt Claremont Depot Lease 3. CONFIDENTIAL – Submission – Proposed Lease of Portion of Lot 502, John XXIII Ave, Mount Claremont |

**Regulation 11(da) - Council agreed to defer this item until Council is provided an adequate risk assessment of the service road usage.**

Moved – Councillor Smyth

Seconded – Councillor Amiry

**Council Resolution**

**That the item be deferred until Council is provided with an adequate risk assessment of this service road usage.**

**CARRIED 6/5**

**(Against: Mayor Argyle Crs. Senathirajah**

**McManus Youngman & Basson)**

Recommendation

That Council:

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

**Purpose**

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

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

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

**Voting Requirement**

Simple Majority.

**Background**

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

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

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

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

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

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

**Discussion**

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

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

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

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

**Consultation**

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

**Strategic Implications**

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

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

**Values Great Governance and Civic Leadership**

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

**Budget/Financial Implications**

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

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

**Legislative and Policy Implications**

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

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

**Decision Implications**

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

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

**Conclusion**

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

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

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

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

**Further Information**

**Request**

Councillor Smyth – Could administration please provide an alternate motion of refusal for the Council Meeting. Requested that this item be removed from en bloc,

**Officer Response**

Given a similar alternate motion of refusal was negated at the OCM of August 2022, under the Council’s Standing Orders Local Law - 10.23 Negated motions, a motion to the same effect as any motion that has been negated by the Council or committee, except those motions provided for in clause 14.1 of the Standing Orders, shall not again be entertained within a period of 3 months except with the consent of an absolute majority of the Council or committee members.

In order to consider this alternate motion, the consent of an Absolute Majority of Council is required.

Should consent be received, the following alternate motion is provided:

**Alternate Motion**

**Council refuses the lease of portion of Reserve 45054 (zoned for public purposes) to Leo Heaney Pty Ltd, for the storage of privately owned vehicles.**

Reasons, as previously provided by Councillor Smyth:

The access road is not an actual dedicated road in the legal sense (It is crown land vested in the City of Nedlands to provide access to other landlocked land parcels) I have been pushing for a properly constructed road (avenue of trees etc) to provide safe and emergency access for the emerging playing fields. Also, to alleviate traffic congestion in this immediate area.

The additional traffic movements will add to the dust problem generated from the unsealed road. I believe this area has a high ambient dust load due to the activities in the old tip site (mulching). How dirty is your outdoor furniture?

The additional traffic movements will add to congestion critically at the student car parking entrance and the newly located school bus stops along JTC Avenue.

The water trucks could also add to the congestion at the corner of Brockway & John 23rd Ave because they are travelling to Vincent and Cambridge.

This area is a regionally important Sport & Recreation area and should not be compromised by adhoc planning decisions in the guise of short-term lease arrangements.

We need to be vigilant regarding what is likely to unfold in the Graylands Hospital precinct, as one precedent can lead to another.

**Request**

Councillor Mangano – has any consideration be given to formalising this road as a dedicated gazetted road?

**Officer Response**

With reference to Reserve 45632, being the current physical access road, this land is owned by the State of WA vested to the City of Nedlands by way of a management order for the purpose of ‘Access’. The Minister for Lands may by order cancel, change the purpose of or amend the boundaries of, or the location or lots comprising a reserve in accordance with section 51 of the Land Administration Act. This will require a resolution by Council and involve the revocation of the current management order.

**Request**

Councillor McManus – can a traffic count details be provided?

**Officer Response**

There are no traffic count details available.

# CPS40.09.22 Lease to WMRC – City of Nedlands John XXIII Depot in Mt Claremont, Portion of Reserve 45054, Lot 502 on Deposited Plan 73830, Mt Claremont

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting – 27 September 2022 |
| **Applicant** | WMRC (Western Metropolitan Regional Council) |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil. |
| **Report Author** | Peter Scassera, Coordinator Land and Property |
| **Director** | Michael Cole Director Corporate Services |
| **Attachments** | 1. WMRC Request letter 2. Proposed Lease area |

Councillor Basson left the room at 9.40 pm.

**Regulation 11(da) - Council agreed to defer this item until Council is provided with an adequate risk assessment of the service road usage.**

Moved – Councillor Smyth

Seconded – Councillor Mangano

**Council Resolution**

**That the item be deferred until Council is provided with an adequate risk assessment of this service road usage.**

Councillor Basson returned to the room at 9.41 pm.

**CARRIED 6/5**

**(Against: Mayor Argyle Crs. Senathirajah McManus Youngman & Basson)**

Recommendation

That Council:

1. approve in-principle the proposal to lease a 1105m² (approx.) portion of Reserve 45054, Lot 502 on Deposited Plan 73830, Mount Claremont to WMRC for a Green Waste Facility;

2. delegates to the Chief Executive Officer the authority to negotiate the key terms of a lease with WMRC and refer the key terms back to Council for consideration; and

3. notes that the approval in-principle of the proposal does not create an agreement to lease or fetter the City’s discretion in the exercise of its statutory functions.

**Purpose**

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

**Voting Requirement**

Simple Majority.

**Background**

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

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

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

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

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

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

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

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

**Discussion**

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

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

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

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

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

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

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

* Throughput FY21/22: 3000t of Garden Organic (GO) Bin Greenwaste and 4000t of Bulk Green waste. With more councils moving from GO to Food Organics Garden Organics (FOGO) the GO throughput is expected decrease in future years.
* FOGO is not being stored or processed on this site.
* Estimated throughput for FY22/23 is 5800t.
* City of Nedlands delivered 248t of Greenwaste in the last FY.
* Delivery traffic per week: 12 side loader compactor trucks with GO Greenwaste and 60-80 smaller trucks from Councils deliver Bulk Greenwaste. Total 80-100 trucks per week.
* 6-7 walking floor semi-trailers need to be loaded per week for transfer to processing sites.
* Current opening hours: 7am to 4pm Monday to Friday
* The current site is licenced for 20,000 tonnes annual throughput

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

* Approx. 1100sqm storage and loading area.
* Truck accessibility.
* Opening hours from 7am – 4pm Monday to Friday with the option to load semi- trailers on weekends.
* Construction of 2.5m high loading ramp with a footprint of 12m\*6.5m.
* Construction of L shaped storage bunker with concrete elements or road barriers.
* Accessible for 17-20 trucks per day.
* Access to nearest fire hydrant or alternatively we install water tank.
* WMRC staff is loading 5-7 semi-trailers per week.
* Estimated throughput for FY22/23 is 5800t.

An overview of the proposed lease area is shown in attachment 2.

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

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

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

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

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

**Consultation**

Consultation with WRMC has occurred.

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

**Strategic Implications**

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

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

**Values Healthy and Safe**

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

**Great Natural and Built Environment**

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

**High standard of services**

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

**Great Governance and Civic Leadership**

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

**Great for Business**

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

**Priority Area**

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

**Budget/Financial Implications**

The lease would be at no cost to Council.

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

**Legislative and Policy Implications**

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

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

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

**Decision Implications**

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

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

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

**Conclusion**

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

**Further Information**

**Request**

Councillor Smyth – what work has occurred in actioning the council resolution to making the road a dedicated road and having a northern access point?

**Officer Response**

The City has investigated the land tenure for the surrounding land including Lot 1500 on DP419082 being land immediately adjacent to the City’s Mount Claremont Depot site to determine whether a northern access point can be achieved.

Subject to consent from Christ Church Grammar School and the Minister for Lands an arrangement granting access rights over Lot 1500 may be achieved through one of three legal mechanisms, these include:

1. Licence
2. Easement
3. Lease

The main differences between each agreement are as follows:

**Licence**

* Contractual in nature and legally binding on all parties to the licence.
* Not capable of being registered against the certificate of title to the affected lots as it does not create a caveatable interest in the land.
* Can only be created for a specific term and cannot be created in perpetuity.
* Licence area can be marked up on a simple sketch.
* May include a termination clause should circumstances change.

**Easement**

* Proprietary in nature, in order to create a legal easement, it would need to be recorded against the affected parcel of land (registering an easement against the title will also require DPLH approval).
* Usually intended to be created in perpetuity however it’s possible to create an easement that is limited in time or limited so that the easement is extinguished should certain events occur.
* The City will need to engage a surveyor to prepare an Interest Only Deposited Plan showing the location and dimensions of the easement and have it lodged at Landgate.
* Will need to be endorsed with duty and registered at Landgate.

**Lease**

* Would need to be for a specified term and cannot be granted in perpetuity.
* Would confer an interest in land and would be capable of being secured against the title to the affected parcel by way of registration of the lease or by lodging a caveat over the title to the affected parcel to protect the lessee’s interest (requires DPLH approval).
* The area subject to the lease would need to be set out on a plan with dimensions and angels of the leased area, ideally an Interest Only Deposited Plan which would be lodged at Landgate.
* The grant of a lease would be caught by section 3.58 of the Local Government Act 1995 should reciprocal agreements be required (CCGS require access over Citys Mount Claremont Depot Site).

**Request**

Councillor Mangano – confirmation that only green waste will be stored on site?

**Officer Response**

The CEO of WMRC has confirmed that only green waste is stored on site. The Green waste stockyard is only accessed by commercial clients and council trucks and all operators are site inducted. The CEO of WMRC has advised that they strictly follow DPIRD’s advice and directions in handling green waste; and remain in close contact with DPIRD regarding any changes to procedure.

**Request**

Councillor McManus – how much green waste will be stored onsite at any one time?

**Officer Response**

The CEO of the WMRC has confirmed that the maximum extent of storage at the site would consist of two piles of green waste of up to 4 metres high spread over approximately 200sqm each.

**Request**

Councillor Bennett – what period of time is the waste sitting on site for?

**Officer Response**

The CEO of the WMRC has advised that the pile grows and shrinks throughout each week. It is rarely, if ever, completely removed. In a busy week during spring, WMRC remove (truck out) 180-200 tonnes per week with around the same amount coming in. Their staff are on site for several hours a day to load trucks and maintain a tidy yard and orderly stockpiles.

**Request**

Councillor Smyth – spreading of contaminated items be confirmed in terms of the wood borer.

**Officer Response**

The CEO of WMRC has advised that they strictly follow DPIRD’s advice and directions in handling green waste; and remain in close contact with DPIRD regarding any changes to procedure. The DPIRD strategy focusses on processing of green waste, rather than its stockpiling and transfer. Their processing is carried out by Western Tree Recyclers at their Postans operational site to the strict standards required by DPIRD. Please note that residents under no circumstances drop off at the green waste yard. The Green waste stockyard is only accessed by commercial clients and council trucks and all operators are site inducted.

**The Presiding Member adjourned the meeting for 10 minutes for the purposes of a refreshment break.**

The meeting adjourned at 9.50pm and reconvened at 10.04pm with the following people in attendance:

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

Councillor B Brackenridge Melvista Ward

Councillor R A Coghlan Melvista Ward

Councillor R Senathirajah Melvista Ward

Councillor H Amiry Coastal Districts Ward

Councillor L J McManus Coastal Districts Ward

Councillor K A Smyth Coastal Districts Ward

Councillor F J O Bennett Dalkeith Ward

Councillor A W Mangano Dalkeith Ward

Councillor N R Youngman Dalkeith Ward

Councillor O J Basson Hollywood Ward

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

Mr M R Cole Director Corporate Services

Mr T G Free Director Planning & Development

Mr A D Melville Acting Director Technical Services

Mrs N M Ceric Executive Officer

**Public** There were 6 members of the public present and 5 online.

# CPS41.09.22 Tawarri Hot Springs Pty Ltd – Request licence to occupy portion of Reserve 17391 Esplanade Dalkeith

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting – 27 September 2022 |
| **Applicant** | Tawarri Hot Springs Pty Ltd |
| **Employee Disclosure under section 5.70 Local Government Act 1995** |  |
| **Report Author** | Peter Scasserra - Coordinator Land and Property |
| **Director** | Michael Cole - Director Corporate Services |
| **Attachments** | Nil. |

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

Moved – Councillor Amiry

Seconded – Councillor McManus

**That the Recommendation be adopted.**

(Printed below for ease of reference)

**CARRIED UNANIMOUSLY EN BLOC 11/-**

**Council Resolution / Recommendation**

**That Council refuse the request from Tawarri Hot Springs Pty Ltd for a licence to occupy portion of Reserve 17391, Lot 500 on Deposited Plan 418496 (being land vested to the City of Nedlands by way of a Management Order ) to construct the necessary bores and electricity transformer/sub-station to support the proposed Tawarri Hot Springs development.**

**Purpose**

For Council to consider a request from Tawarri Hot Springs Pty Ltd for a licence to occupy a portion of Reserve 17391 for the purposes of two geothermal artesian bores and an electricity transformer/sub-station as well as undertake the ongoing maintenance of this infrastructure.

**Voting Requirement**

Simple Majority.

**Background**

Reserve 17391 is land owned by the State of Western Australia and historically comprised of several older lots vested to the City of Nedlands (City) by way of Management Order I749288.

On 20 April 2022 Management Order I749288 was revoked by the State of Western Australia (State) and replaced with Management Order P116998, this followed the excision of a portion of the land that was delivered back to the State, subsequently Reserve 17391 was redescribed and now comprises Lots 500 and 501 on Deposited Plan 418496.

The new Management Order for Reserve 17391 continues to provide the City with the statutory right to care, control and manage Crown land for the purpose of Recreation with power to lease for any term not exceeding 21 years, subject to the consent of the Minister for Lands, however excludes the portion that was formally excised.

Lot 500 is predominantly a sloping site that currently consists of natural bushland and is located adjacent to public open space and recreational facilities along the Esplanade, Dalkeith. The land is encumbered by a Memorial under the Contaminated Sites Act 2003.

Reserve 17391 is land classified within the Metropolitan Region Scheme (MRS) area for parks and recreation. A use that is within the definition of “parks and recreation” can therefore be considered.

Tawarri Hot Springs Pty Ltd (THS) have been requested by the Department of Planning, Land and Heritage (DPLH) to formally seek confirmation from the City of Nedlands that it will permit THS to construct the necessary bores and electricity transformer/sub-station on portion of Reserve 17391 as per their submitted development application. This would involve the City agreeing to a licence that permits THS to occupy portions of the land that is covered by Management Order P116988 on a non-exclusive basis.

The proposal therefore seeks approval from the City to utilise a portion of Reserve 17391 (part of Lot 500) to accommodate two geothermal artesian bores and an electricity transformer/sub-station pursuant to a licence which permits the proponent to undertake the ongoing maintenance of this infrastructure.

THS had entered into an MOU with the City. At the time of signing the MOU, it was conveyed to THS that this MOU can be used as a non-binding statement of intent that the City is willing to work with THS on the Licence Agreement. THS were also advised that the City will only proceed with the preparation of such documents should all other Lease and DA requirements gain formal approval of Council.

At its meeting of 29 March 2022, Council resolved to not proceed with the major land transaction and therefore the lease with THS. In addition, at the same meeting Council decided not to deal with the report relating to the State Development Assessment Unit Planning application for THS on the basis that a lease had not been supported by Council.

**Discussion**

Reserve 17391 is located within the locality of Dalkeith and is situated along the Esplanade being one of the major thoroughfares providing vehicular access to the City’s foreshore. Development surrounding Reserve 17391 comprises residential dwellings, play grounds, two yacht clubs, recreational facilities, car parks, ablutions, club rooms and an inoperative function centre.

Reserve 17391 is an MRS Reserve classified for the purpose of parks and recreation, it is considered that a use that is within the definition of “parks and recreation” can continue to operate on the site. The MRS defines “parks and recreation” as “Land of regional significance for ecological, recreation or landscape purposes”.

Reserve 17391 is also Crown land vested to the City by way of a Management Order. The Management Order provides the City with a statutory right to care, control and manage the Crown land in accordance with the conditions on the use and development of the reserve and also grants the City certain powers to deal with the land.

Management Order P116988 permits the land to be used for the purpose of ‘Recreation’ only and requires the City to seek consent of the Minister for Lands prior to formalising any agreement for lease of the Reserve.

At the Special Council Meeting held 29 March 2022, the Council resolved to not proceed with the major land transaction proposed to facilitate the THS development on the basis of commercial risk, inappropriate use of public land, cost of car parking and the location of the development was deemed inappropriate for such an enterprise.

Following the above resolution, the Minister for Lands used his power to proceed with the development and formally excised the Tawarri site from Reserve 17391, resulting in the City no longer having the care, control and management of that portion of the reserve, a reduction in the reserve area, redescription of lots and Management Order I749288 being revoked and replaced by Management Order P116988.

Considering Council did not support the THS development proposal, it would follow that Council would not support a licence to permit use of an adjoining reserve to construct the necessary bores and electricity transformer/sub-station. Therefore the recommendation proposes to refuse the request from THS for a licence to occupy a portion of Reserve 17391.

Should the THS development proceed, it is recommended that the development must contain all infrastructure within the development site.

**Consultation**

Other than preliminary discussion that gave rise to the MOU with THS, there has been no further consultation on this request.

**Strategic Implications**

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

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

**Values Great Natural and Built Environment**

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

**Reflects Identities**

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

**Priority Area**

• Urban form - protecting our quality living environment

• Retaining remnant bushland and cultural heritage

**Budget/Financial Implications**

There are no budget or financial implications for the recommendation in this report.

Should Council agree to a licence an appropriate term would need to be negotiated with the applicant and a market valuation would be obtained. This could result in some licence income coming to the City.

**Legislative and Policy Implications**

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

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

Crown land reserves vested to the City by way of a Management Order are generally subject to conditions. Should the City resolve to proceed with an agreement for lease or licence for Reserve 17391, consent from the Minister for Lands is required.

**Decision Implications**

Should Council resolve to refuse the request for a licence to occupy a portion of Reserve 17391 to THS, Officers will not progress this matter any further.

If Council resolve to approve a licence with THS for a portion of Reserve 17391, Officers will arrange for a market rental valuation analysis to be undertaken by a licensed Valuer to determine the licence income that may be achieved. Officers will also work with THS to negotiate key terms for a licence and refer the key terms back to Council for review and approval.

**Conclusion**

DPLH have requested THS seek approval from the City to permit THS to construct the necessary bores and electricity transformer/sub-station required to facilitate their development on the adjacent Tawarri site. This proposal will require consideration for a non- exclusive use licence for portion of Reserve 17391 (part of Lot 500) subject to consent from the Minister for Lands. Officers believe a licence should be refused on the basis that this decision is consistent with Council not supporting the THS development proposal.

**Further Information**

**Request**

Councillor Bennett – further information to be added into the decision implications should council refuse the application? E.g., could more land be taken from the adjoining reserve?

**Officer Response**

Considering Reserve 17391 remains vested to the City by way of a Management Order, the State cannot excise a further portion of the Reserve unless the management authority noted on the management order, this being the City of Nedlands, agrees.

Therefore, in order for DPLH to initiate any statutory or parliamentary actions to amend Reserve 17391, a resolution by Council is required.

Notwithstanding the above, the State may revoke a management order should it identify sufficient grounds to excise a portion of the Reserve. In this instance, DPLH has advised the proponent that they are required to contain all development work within the lot boundary and any proposal to accommodate components of the development within Reserve 17391 is a matter between the City and the proponent given the City are the management body for the Reserve.

# CPS42.09.22 Reclassification of Crown Reserve – Swanbourne

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting - 27 September 2022 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Ac 1995** | Nil. |
| **Report Author** | Peter Scassera– Coordinator Land and Property |
| **Director** | Michael Cole - Director Corporate Services |
| **Attachments** | 1. Notice of Motion – 28 September 2021 2. Parcels for Consideration – Visual Image |

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

Moved – Councillor Senathirajah

Seconded – Councillor McManus

**That the Recommendation be adopted.**

(Printed below for ease of reference)

Amendment

Moved - Councillor Smyth

Seconded - Councillor Youngman

Add a new clause 2, as follows:

2. Council instructs the CEO to undertake the process required to incorporate the following land parcels into the protection of Class A reserve:

1. Lot 150 (11 Sayer Street) - freehold
2. Lot 139 (12 Sayer Street) - freehold

The AMENDMENT was PUT and was

Lost 1/10

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

Amendment

Moved - Councillor Bennett

Seconded - Councillor McManus

That the CEO investigate a land swap agreement with the State Government for Lot 150 (11 Sayer Street) and Lot 139 (12 Sayer Street).

The AMENDMENT was PUT and was

Lost 5/6

(Against: Mayor Argyle Crs. Brackenridge Coghlan Senathirajah Amiry & Basson)

**The Original Motion was PUT and was**

**CARRIED UNANIMOUSLY 11/-**

**Council Resolution / Recommendation**

**That Council authorise the Chief Executive Officer to liaise with the Department of Planning, Lands and Heritage and request the Minister for Lands to amend the classification of the following parcels of land from Class ‘C’ Reserve to Class ‘A’ Reserve;**

1. **Reserve 47257**
2. **Reserve 19842**
3. **Reserve 23729**

**Purpose**

Following a Notice of Motion on 28 September 2021, elected members are presented with this report to consider the reclassification of various parcels of land (both freehold and crown reserve) located within the Allen Park Precinct and greater Swanbourne area.

**Voting Requirement**

Simple Majority.

**Background**

The Allen Park Master Plan (‘APMP’) was endorsed in 2017 and noted various land tenure arrangements and community concerns that land currently utilised for bushland preservation may be reclaimed for development in the future

On 28 September 2021, following a Notice of Motion (‘NoM’) Council requested the CEO investigate the various parcels of land mentioned in the APMP to be reclassified as Class ‘A’ Reserve in order to achieve the highest level of protection.

This report outlines the current ownership details and current use of each of those parcels and recommends to the elected members an appropriate pathway to reflect the intent of the Notice of Motion whilst also protecting the best interests of the City’s ratepayers.

**Discussion**

As mentioned above, the Allen Park Master Plan (‘APMP’) was endorsed in 2017 and noted various land tenure arrangements and community concerns that land currently utilised for bushland preservation may be reclaimed for development in the future.

Following the reclamation by the Minister for Lands of a portion of land within the Allen Park precinct for ‘WA Children’s Hospice Project’ it was evident some parts of the community had an appetite to ensure the rest of the precinct remained as protected from future development as possible under the *Land Administration Act 1997.*

Subsequently, on 28 September 2021, following a Notice of Motion (‘NoM’) (see attachment 1), Council requested the CEO investigate the various parcels of land mentioned in the APMP to be reclassified as Class ‘A’ Reserve in order to achieve the highest level of protection available.

Following this NoM, officers investigated the current land tenure arrangements for each of the parcels as noted within and also other parcels of land located nearby that the City either owned (in freehold) or were in care and control of (Crown land vested to the City via Management Order).

The following nine land parcels have been identified as the only parcels within the Allen Park Heritage precinct that relate to land tenure issues not acted upon by Council.

Below is an outline of each parcel, proprietor (owner) details, the current zoning, use, and also the social, environmental and financial considerations. For elected members reference, a visual of each parcel is contained in attachment 2.

1. Class ‘C’ Reserve 47257

Owner: State of WA

LPS3 Zoning: Public Open Space

Current Use: Bushland/Public Open Space

Social/Environmental Value: Yes

Financial Value: No

1. Lot 1 on Diagram 24967

Owner: City of Nedlands

LPS3 Zoning: Environmental Conservation

Current Use: Bushland

Social/Environmental Value: Yes

Financial Value: Yes

1. Lot 131 on Plan 222332 (Old Mayo House)

Owner: City of Nedlands

LPS3 Zoning: Environmental Conservation

Current Use: Leased to Mayo Community Garden Inc.

Social/Environmental Value: Yes

Financial Value: Yes

1. Class ‘C’ Reserve 19842 (9 Sayer Street, Swanbourne)

Owner: State of WA

LPS3 Zoning: Public Open Space

Current Use: Bushland

Social/Environmental Value: Yes

Financial Value: No

1. Lot 150 on Plan 222332 (11 Sayer Street, Swanbourne)

Owner: City of Nedlands

LPS3 Zoning: R25

Current Use: No Current Use (Degraded with isolated native plants)

Social/Environmental Value: Yes

Financial Value: Yes

1. Lot 139 on Plan 222332 (12 Sayer Street, Swanbourne)

Owner: City of Nedlands

LPS3 Zoning: Environmental Conservation

Current Use: Bushland

Social/Environmental Value: Yes

Financial Value: Yes

1. Lot 301 on Plan 22248

Owner: Commonwealth

LPS3 Zoning: N/A (MRS - Public Purpose Reserve)

Current Use: Bushland

Social/Environmental Value: Yes

Financial Value: No

1. Lot 192 on Plan 204900

Owner: City of Nedlands

LPS3 Zoning: N/A (MRS – Park & Recreation Reserve)

Current Use: Driveway/Bushland/Public Open Space

Social/Environmental Value: Yes

Financial Value: Yes

1. Class ‘C’ Reserve 23729

Owner: State of WA

LPS3 Zoning: N/A (MRS - Park & Recreation Reserve)

Current Use: Bushland

Social/Environmental Value: Yes

Financial Value: No

The bushland areas within Allen Park have been managed for environmental conservation by the City in collaboration with the community since the early 1990s. It is an important ecological corridor that provides habitat for wildlife including the endangered Carnaby’s Black-Cockatoos. Furthermore, the bushland protects vulnerable coastal foreshore areas from erosion.

Two community groups are involved in the conservation of the bushland, the Friends of Allen Park Bushland Group and the Swanbourne Coastal Alliance. The collaboration between the City and the community has led to a significant improvement in the quality of the bushland and as such it is considered an important community asset.

These areas have received significant funding from the City of Nedlands and grant funding bodies including National Heritage Grants, the Western Australian Local Government Association, Perth Biodiversity Project funding, Australian Government Coastcare Grant program, Lotterywest grants and the Western Australian Planning Commission’s Coastwest Grants program. Furthermore, the community has provided substantial in-kind resources to improve the quality of the bushland over the last twenty years as such they warrant the highest order of protection.

Elected members are also advised at this point that the recommendation as contained within this report also has strong synergies to a previous resolution of Council in 2014 (PD9.14). This resolution essentially adopted various Natural Area Management Plans and instructed the Administration to undertake land administrative tasks to reclassify parcels of land within the Allen Park Precinct.

The recommendation within this report reflects some of the above land administration tasks whilst also proposes to ensure the protection of additional areas of land to the north of the Allen Park Precinct (Whole of Reserve 47257).

**Land Investment Strategy**

Elected members will note the City does not have an endorsed strategic approach towards land investment and therefore changes to the City’s freehold land portfolio are not recommended. Officers are currently working on this strategy and anticipate it will be ready for consideration early 2023.

**Consultation**

Throughout the Allen Park master planning process, the community were extensively consulted with. The resultant Allen Park Master Plan has formed the basis of both the Notice of Motion and this report.

**Strategic Implications**

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

**Values Great Natural and Built Environment**

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

**Priority Area**

* Retaining remnant bushland and cultural heritage

**Budget/Financial Implications**

Should elected members choose to endorse the recommendation as proposed, there would be no effect to the City’s budget.

**Legislative and Policy Implications**

The [*Land Administration Act 1997*](https://www.legislation.wa.gov.au/legislation/prod/filestore.nsf/FileURL/mrdoc_42740.pdf/%24FILE/Land%20Administration%20Act%201997%20-%20%5B07-d0-00%5D.pdf?OpenElement)provides the legislative basis for the creation, management, amendment and cancellation of reserves of Crown land.

The recommendation as contained within this report is also consistent with the City’s ‘Natural Areas Management’ Council Policy and Greenways Policy

Whilst not legislation or policy, the recommendation is also consistent with the resolution of Council in 2014 (PD9.14).

**Decision Implications**

Should elected members approve the recommendation as contained within this report, the subject Reserves currently classified as Class ‘C’ will be considered for reclassification to Class ‘A’ by the Minister for Lands and be subject to a parliamentary procedure.

Provided Parliament resolve to amend the classification of the Reserves the Minister for Lands may by order reclassify Reserves 47257, 19842 and 23729 from Class ‘C’ to Class ‘A’.

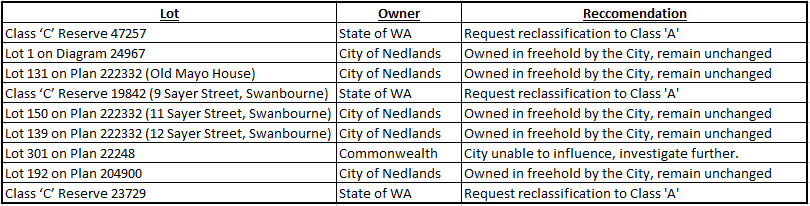
The current Management Orders will be revoked and replaced with new Management Orders as part of the reclassification process. This ensures the City of Nedlands retains the care, control and management of the land, the application to reclassify the Reserves will request the City of Nedlands is nominated as the Management Body for the new Management Orders and further request the current purpose of Parks and Recreation be retained.

Reclassifying a Class ‘C’ Reserve to a Class ‘A’ Reserve will provide the highest level of protection available for Crown land created under the *Land Administration Act 1997* in order to safeguard areas of high conservation or high community value.

Should elected members choose not to approve the recommendation as contained within this report, the Reserves currently classified as Class ‘C’ will remain unchanged.

**Conclusion**

It is clear of the nine parcels identified, there are opportunities to acquire a greater level of protection for some parcels of land within the precinct under the *Land Administration Act 1997.*

However, it is noted that some of the parcels of land currently offer the City financial value (freehold lots) and also that one parcel is owned by the Commonwealth - with the future of that site being very difficult to influence at this time. The table below references each parcel investigated and notes a recommendation alongside.

Given the circumstances above, it is recommended that three parcels (Reserves 47257, 19842 and 23729) be provided the greatest level of protection available under the *Land Administration Act 1997.*

This position will appropriately protect the land which the City does not own, whilst also allowing the City to continue to realise the financial value of holding the parcels it does.

**Further Information**

**Request**

Councillor Smyth – can an amendment be provided to include Lot 150 & 139 to be included as A Class Reserve.

**Officer Response**

It may be more appropriate to consider deferring this proposal and including it as part of the Land Assets Optimisation Strategy. An option could be to investigate a land swap. See below for more information.

**Request**

Councillor Smyth – could the City investigate a land swap – freehold land?

**Officer Response**

A land swap would involve an exchange of these lots for other suitable reserve land.

Land exchanges are assessed very much on a case-by-case basis and up to DPLH’s discretion. In order for one to be considered, there has to be a clear benefit to the State in doing so. Sales of Crown land should reflect the highest and best use for the land, and we seek to obtain the maximum return possible from any sale.

Accordingly, any exchange has to demonstrate merit as to why the State as landowner should forego the sale of Crown land at its current unimproved market value. The proposed future land uses should be in the interests of both the local community and State and are in line with broader planning objectives and land use priorities. Exchanges that propose disposing of Crown land with economic value for freehold land with no economic value don’t present a desirable outcome for the State.

If the State determine that a land swap will provide positive outcomes and broader State community benefits, provided the land swap is outside of a road proposal, then a request for a land swap is not subject to a set statutory process that defines how it is to be received by DPLH. Therefore, a Crown Land Enquiry Form accompanied by a Council resolution and land tenure information is sufficient for DPLH to initiate their due diligence process.

**Request**

Councillor Amiry – is there a classification of land that provides a higher level of protection than A class reserve?

**Officer Response**

A local government my request the Minister for Lands to reclassify reserve land to A Class pursuant to the LAA*,* to offer the highest level of protection for land deemed environmentally valuable provided the rationale on why the Class A classification can be justified. Class A reservations are considered when the land has an intrinsic community value which warrants protection (e.g., heritage significance etc.). These are not approved without adequate discretion as the perceived value of such classifications may otherwise be degraded.

Additionally, a local government may also request the Minister for Lands to change the purpose of a management order from ‘recreation’ to ‘landscape protection and conservation’ and retain Class A pursuant to section 51 of the LAA. This may be considered if ‘recreation’ has become an incompatible purpose and the reserve is no longer required for providing some form of use for sporting clubs. There would need to be adequate justification as to why the land is required for conservation purposes, and what the land provides for in terms of its conservation value (e.g., locations of threatened/rare flora and fauna, relates to a biodiversity strategy and/or conservation plan, etc.)

Further to the above the Department of Biodiversity, Conservation and Attractions may be approached to explore further opportunities and evaluate whether the subject land can be classified pursuant to the *Conservation and Land Management Act 1984* as a conservation estate (e.g., conservation park, nature reserve etc.). A vesting under this statue will offer a dual layer of protection.

# CPS43.09.22 Monthly Financial Report – August 2022

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting - 27 September 2022 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil. |
| **Report Author** | Stuart Billingham – Manager Financial Services |
| **Director** | Michael Cole – Director Corporate Services |
| **Attachments** | 1. Statement of Financial Activity – 31 August 2022  2. Statement of Net Current Assets – 31 August 2022  3. Statement of Comprehensive Income – 31 August 2022  4. Statement of Financial Position – 31 August 2022  5. Reserve Movements – 31 August 2022  6. Borrowings – 31 August 2022  7. Capital Works Program – 31 August 2022 |

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

Moved – Councillor Senathirajah

Seconded – Councillor McManus

**That the Recommendation be adopted.**

(Printed below for ease of reference)

**CARRIED7/4**

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

**Council Resolution / Recommendation**

**That Council receive the Monthly Financial Report for 31 August 2022.**

**Purpose**

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

**Voting Requirement**

Simple Majority.

**Background**

Nil.

**Discussion**

The monthly financial management report meets the requirements of Regulation 34(1), 34(3), and 34(5) of the *Local Government (Financial Management) Regulations 1996*.

The attached report shows the month end position as at the end of August 2022. Please note that the opening position is a preliminary result for the year ended 30 June 2022 as the Financial Statements for 2021/22 are still being finalised and as a result will be subject to change. The municipal closing surplus as at 31 August 2022 is $31,299,018 which is a $4,137,500 favourable variance, compared to a budgeted surplus for the same period of $27,161,518.

The operating revenue at the end of August 2022 was $29,799,114 which represents a $922,088 unfavourable variance compared to the year-to-date budget, primarily in operating grants, subsidies and contributions. More details are provided below.

The operating expense at the end of August 2022 was $5,130,176, which represents a $1,519,179 favourable variance compared to the year-to-date budget, primarily in materials & contracts and depreciation.

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

**Operating Activities**

**Revenue**

**Rates**

Unfavourable variance of $21,452 primary due to timing difference of interim rates being received.

**Operating grants, subsidies, and contributions**

Unfavourable variance of $624,783 primary due to timing difference of operating grant revenue being received by the City, YTD actual less than YTD Budget estimates.

**Fees and charges**

Unfavourable variance of $213,434 primary due to the timing difference of fees and charges for the 2022/23 year being received. Rate notices were issued 24 August 2022 which includes waste charges.

**Service Charges**

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

**Interest earnings**

Unfavourable variance of $99,627 primary due to the timing difference of interest earning for 2022/23 year being received. (Rates Instalment interest variance timing difference $55,568, Municipal interest down $20,425, Reserve Interest down $18,240)

**Other revenue**

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

**Expenditure**

**Employee costs**

Unfavourable variance of $213,455 due to timing difference, as three pay periods in August 2022

**Materials and contracts**

Favourable variance of $808,062, primary due to timing differences.

**Utility charges**

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

**Depreciation and amortisation**

Favourable variance of $559,298, primary due to Depreciation not run until 2022 Final Audit is signed off.

**Insurance expenses**

Favourable variance of $263,341 primary due timing difference for second instalment LGIS insurance invoices still being processed in September 2022.

**Interest expenses**

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

**Other expenditure**

Unfavourable variance of $46,606 primary due to minor timing differences.

**Loss on disposal of assets**

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

**Investing Activities**

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

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

**Proceeds from disposal of assets**

Favourable variance of $24,091 primary due to timing YTD actuals disposal of asset before budget estimates timing.

**Purchase of property, plant and equipment**

Unfavourable variance of $70,480 primary due to timing difference YTD actuals higher than YTD budget estimates.

**Purchase and construction of infrastructure**

Unfavourable variance of $787,971 primary due to timing difference YTD actuals higher than YTD budget estimates.

**Financing Activities**

**Repayment of borrowings**

Favourable variance of $163,135 primary due to timing difference YTD actuals less than YTD Budget estimates.

**Proceeds from borrowings**

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

**Recoup from self-supporting loans**

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

**Payment for principal portion of lease liability**

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

**Transfer to reserves**

Unfavourable variance of $25,856 primary due to timing difference of interest received YTD actual lower than YTD Budget on Reserve funds invested in Term deposits.

**Transfer from reserves**

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

Outstanding rates debtors are $29,480,000 as at 31 August 2022 compared to $27,248,000 as at 31 August 2021. Breakdown as follows:

|  |  |  |  |
| --- | --- | --- | --- |
| **Receivable** | **31-Aug-22 ($000)** | **31-Aug-21 ($000)** | **Variance ($000)** |
| Rates | $21,754 | $20,357 | $1,397 |
| Rubbish & Pool | $2,852 | $2,519 | $333 |
| Pensioner Rebates | 1,161 | $1,174 | -$13 |
| ESL | $3,713 | $3,198 | $515 |
| **Total** | **$29,480** | **$27,248** | **$2,232** |

**Employee Data**

|  |  |
| --- | --- |
| **Description** | **Number** |
| Full time / Part time / Casual Head Count | 189.0 |
| Establishment (Budgeted FTE) | 169.04 |
| Occupied positions (FTE) | 152.49 |
| Casual positions (FTE) | 9.17 |
| Contract employees - temporary/agency (FTE) | 3.0 |
| Resignations (employee number) | 4.0 |

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

**Consultation**

N/A

**Strategic Implications**

The 2022/23 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 2022/23 approved budget ensures that there is an equitable distribution of benefits in the community.

The 2022/23 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**

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

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

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

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

**Legislative and Policy Implications**

[*Local Government Act 1995*](https://www.legislation.wa.gov.au/legislation/prod/filestore.nsf/FileURL/mrdoc_43454.pdf/$FILE/Local%20Government%20Act%201995%20-%20%5B07-t0-00%5D.pdf?OpenElement) and [*Local Government (Financial Management) Regulations*](https://www.legislation.wa.gov.au/legislation/prod/filestore.nsf/FileURL/mrdoc_45250.pdf/$FILE/Local%20Government%20(Financial%20Management)%20Regulations%201996%20-%20%5B03-j0-00%5D.pdf?OpenElement) *1996.*

**Decision Implications**

Nil.

**Conclusion**

The municipal surplus as at 31 August 2022 is $31,299,018 which is favourable, compared to a budgeted surplus for the same period of $27,161,518 being a 15.23% variance.

The operating revenue at the end of August 2022 was $4,379,701 which represents a $900,636 or 17.06% unfavourable variance compared to the year-to-date budget of 5,280,337, primarily in Operating grants and fees and charges.

The operating expense at the end of August 2022 was $5,265,677, which represents a $1,383,684 or 20.81% favourable variance compared to the year-to-date budget of $6,649,361, primarily in materials and contracts costs, depreciation and insurance expenses.

**Further Information**

Nil.

# CPS44.09.22 Monthly Investment Report – August 2022

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting - 27 September 2022 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil. |
| **Report Author** | Stuart Billingham – Manager Financial Services |
| **Director** | Michael Cole – Director Corporate Services |
| **Attachments** | 1. Investment Report for the period ended 31 August 2022 |

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

Moved – Councillor Amiry

Seconded – Councillor McManus

**That the Recommendation be adopted.**

(Printed below for ease of reference)

**CARRIED UNANIMOUSLY EN BLOC 13/-**

**Council Resolution / Recommendation**

**That Council receive the Investment Report for the period ended 31 August 2022.**

**Purpose**

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

**Voting Requirement**

Simple Majority.

**Background**

Nil.

**Discussion**

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

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

The Investment Summary shows that as at 31 August 2022 and 31 August 2021 the City held the following funds in investments:

|  |  |  |
| --- | --- | --- |
| **Funds** | **31-Aug-22** | **31-Aug-21** |
| Municipal | $10,340,259 | $5,320,871 |
| Reserve | $2,728,039 | $3,575,944 |
| **Total Investments** | **$14,179,299** | **$8,896,815** |

As at 31 August 2022 the City had $833,515 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 May, the surplus cash is maintained in the Westpac online saver account.

The total interest earned from investments as at 31 August 2022 was $20,090, comprising of $10,926 earnt at maturity and $9,164 accrued.

The Investment Portfolio comprises holdings in the following institutions:

|  |  |  |
| --- | --- | --- |
| **Financial Institution** | **Funds Invested** | **Proportion of Portfolio** |
| NAB | $4,238,338.26 | 29.90% |
| WBC | $4,005,052.91 | 28.24% |
| ANZ | $2,189,436.12 | 15.44% |
| CBA | $3,746,471.52 | 26.42% |
| **Total** | **$14,179,299.81** | **100.00%** |

**Consultation**

N/A

**Strategic Implications**

The investment of surplus funds in the 2022/23 approved budget is in line with the City’s strategic direction.

The 2022/23 approved budget ensured that there is an equitable distribution of benefits in the community.

The 2022/23 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 2022/23 approved budget was based on economic and financial data available at the time of preparation of the budget.

**Budget/Financial Implications**

The August 2022 YTD Actual interest income from investments is $20,090 compared to the August 2022 YTD Budget of $36,194 variance a timing difference.

**Legislative and Policy Implications**

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

**Decision Implications**

N/A

**Conclusion**

The Investment Report is now presented to Council.

**Further Information**

Nil.

# CPS45.09.22 List of Account Paid – August 2022

|  |  |
| --- | --- |
| **Meeting & Date** | Council – 27 September 2022 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil |
| **Report Author** | Purvi Chudasama – Finance Officer (Accounts Payable) |
| **Director** | Michael Cole - Director Corporate Services |
| **Attachments** | 1. Creditor Payment Listing – August 2022; and 2. Credit Card and Purchasing Card Payments - August 2022 |

**Regulation 11(da) – Not Applicable – Motion was lost.**

Moved – Councillor McManus

Seconded – Councillor Senathirajah

That the Recommendation be adopted.

(Printed below for ease of reference)

Lost 5/6

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

Recommendation

Council receives the List of Accounts Paid for the month of August 2022 as per attachments.

**Purpose**

The purpose of this report is to present list of accounts paid for the month of August 2022.

**Voting Requirement**

Simple Majority.

**Background**

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

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

**Discussion**

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

**Consultation**

Not applicable.

**Strategic Implications**

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

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

We have local services delivered to a high standard that take the needs of our diverse community into account. The 2022/23 budget was prepared in line with the City’s level of tolerance of risk and it is managed through budgetary review and control. All relevant information has been provided in this report and through the attachments.

**Priority Area**

Not applicable

**Budget/Financial Implications**

The payments are made in accordance with the approved budget.

**Legislative and Policy Implications**

In accordance with *Regulation 13* of the [*Local Government (Financial Management) Regulations 1996* Administration](https://www.legislation.wa.gov.au/legislation/prod/filestore.nsf/FileURL/mrdoc_45250.pdf/$FILE/Local%20Government%20(Financial%20Management)%20Regulations%201996%20-%20%5B03-j0-00%5D.pdf?OpenElement) is required to present the List of Accounts Paid for the month of May 2022 to Council.

**Decision Implications**

This does not have any impact upon the rates.

**Conclusion**

The List of Accounts Paid for the months of August 2022 complies with the relevant legislation and can be received by Council (see attachments).

**Further Information**

Nil.

# Reports by the Chief Executive Officer CEO10.09.22 to CEO11.09.22

# CEO10.09.22 Annual Review of the City of Nedlands Register of Delegations

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting – 27 September 2022 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil. |
| **Report Authors** | Nicole Ceric, Executive Officer  Sam Curulli, Governance Officer |
| **CEO** | Bill Parker, Chief Executive Officer |
| **Attachments** | 1. Register of Delegations - with track changes |

Moved – Councillor Mangano

Seconded – Councillor Youngman

That the Recommendation be adopted subject to the following:

* 1. Obstruction permits - Thoroughfares Local Law (Part 6). - a condition be added to section 1.3 Local Law Delegations to the CEO as follows;

A decision made under Part 6 – Permits of the Thoroughfares Local Law where the permit exceeds 6 months is to be referred to Council for consideration; and

* 1. That under 1.1.17 Tenders for Goods and Services - Accepting and Rejecting Tenders; Varying Contracts; Exercising Contract Extension Options the delegation amount to the CEO be $250,000.

Lost 5/6

(Against: Mayor Argyle Crs. Senathirajah Amiry McManus Youngman & Basson)

**Regulation 11(da) – Council agreed to increase the CEO’s delegation from $250,000 to $350,000 in line with other like size local governments.**

Moved - Councillor Youngman

Seconded - Councillor McManus

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

**That under 1.1.17 Tenders for Goods and Services - Accepting and Rejecting Tenders; Varying Contracts; Exercising Contract Extension Options the delegation amount to the CEO be $350,000.**

**CARRIED 7/4**

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

**Council Resolution**

**That Council approves the delegations made to the Chief Executive Officer and Committees, as contained in the Register of Delegations, Attachment 1 subject to the following:**

**That under 1.1.17 Tenders for Goods and Services - Accepting and Rejecting Tenders; Varying Contracts; Exercising Contract Extension Options the delegation amount to the CEO be $350,000.**

Recommendation

That Council approves the delegations made to the Chief Executive Officer and Committees, as contained in the Register of Delegations, Attachment 1.

**Purpose**

The City is required to review its Register of Delegations annually in accordance with section 5.46(2) of the *Local Government Act 1995.* This review has now been completed and is presented to Council for approval.

**Voting Requirement**

Absolute Majority.

**Background**

At least once every financial year, delegations from the *Local Government Act 1995* and the City of Nedlands Local Planning Scheme No.3 are to be reviewed by the delegator, either Council or the Chief Executive Officer.

The last review was undertaken at the Ordinary Council Meeting on 22 June 2021. The Annual review has now been completed by the Chief Executive Officer and is presented with the recommended changes explained.

**Attachment 1** is the current Register of Delegations with track changes showing a range of proposed changes.

The first change is that of the **Introductory Section** of this delegation. There is no legislative requirement surrounding this change, however the addition of this section provides an extensive key and breakdown in understanding and interpreting the Register of Delegations and ensures good governance and transparency in the City’s register. A large majority of band 1 and 2 local governments are beginning to include this section in their delegations register as a means of interpretation and transparency. The risk factor of changing legislation is mitigated due to the annual register review requirement.

The addition of **Head of Power** above each delegation ensures good governance advising readers of the appropriate legislation that bounds each of the delegations concerned.

The change of wording from **Local Government to Council** provides transparency and easier identification when interpreting the register, specifically in distinguishing Council to CEO and CEO to Employees delegations.

The removal of the $5,000 limit in **Delegation 1.1.2- Compensation- Damage Incurred when Performing Executive Functions** as section 3.22(1) of the *Local Government Act 1995* does not suggest an amount, and rather should be an amount determined on an individual basis when required.

The addition of Director Planning and Development for **Delegation 1.1.4- Declare Vehicle is Abandoned Vehicle Wreck**, due to the nature of the delegation and the need for an additional subdelegate.

The proposal to increase the Chief Executive Officer’s delegated authority from $249,999 to $500,000 (GST exclusive) in **Delegation 1.1.17- Tenders for Goods and Services- Accepting and Rejecting Tenders; Varying Contracts; Exercising Contract Extension Options**. This proposed increase will be of assistance with the delivery of the City’s Annual Capital Works Program. Between 01 July 2021 to 08 August 2022, there were three tenders approved between $250,000 and $500,000. They are as follows:

* RFT 2020-21.13- Provision of Educting Services- $300,000.00
* RFT21NB05- Civil Works Road Rehabilitation on Mooro Drive, Mount Claremont- $471,310.10
* RFT2021-22.06- Provision of Stormwater Construction and Maintenance Works- $425,000.00

As the City’s Capital Works Program matures and progresses, we will see an increase in the number and value of projects being delivered. The average value of the projects being undertaken are expected to fall within the $400-800k range.

Under the current timelines, Council Reports for the award of Tenders above $250,000 are required to be finalised approximately 6 weeks before the Ordinary Council Meeting to ensure that it is considered in accordance with the Council’s Governance Framework.  The current procurement period includes a 3-4 week advertisement period followed by a 2 week period to undertake the tender review and the drafting of Evaluation and Council reports.   There is then a 6-week period where no works can occur whilst Administration awaits the decision of the OCM.   This means an ideal procurement process will take a minimum of 3 months, out of 12 months of a delivery year. The 6-week period awaiting the decision of Council effectively doubles the time taken for the procurement process to be completed. Currently a typical procurement process is taking 4 months.

It is important to note that Council have existing protections regarding the Administration’s procurement and awarding of contracts.  These include:

1. Procurement Policy and process
2. All RFT Evaluation Reports are reviewed by Procurement and Probity.
3. All RFT’s are signed off by the Evaluation Panel, Procurement, the relevant Manager and Director before being approved the CEO prior to being presented to Council.

By altering the CEO’s delegation to enter into contracts and increasing the contract value that is able to be awarded, the City will be able to reduce, by half, the time taken to undertake the procurement, thereby improving efficiencies within the process, considering the existing protections with regard to the awarding of contracts.

The removal of the above mentioned 6-week period from the procurement process will lead to an improvement of the Capital Works delivery process by:

* Reducing the time taken to award a contract – which may lead to less escalation built into tenderers prices.
* A smoothing in the delivery team’s workload – leading to improved project management and more consistent levels of work onsite throughout the year.
* An approximate 5% increase in efficiency due to a more streamlined process – allowing each Project Manager to deliver 1-2 additional projects of this size annually.

As per s.3.57 of the Local Government (Functions and General) Regulations. Contracts awarded by the CEO will still require an evaluation and recommendation report signed by:

* The Tender Evaluation Panel
* The Coordinator Procurement and Contracts
* the relevant Director,
* and the CEO

The required reports confirm that there is budget available. Should additional budget be required, a budget adjustment will be brought to Council for an approval prior to a contract being entered into. The CEO is only able to approve a contract where there is available budget.

The multiple upcoming contracts and the increasing costs of construction and maintenance across all industries are all appropriate factors supporting the proposal of a delegated increase. When comparing other Local Governments, the City of Subiaco currently has a CEO delegated authority amount of $350,000 and the City of Joondalup an amount of $500,000. Council can place conditions the acceptance of tenders for specific projects during the annual budget process.

Additionally, it is proposed to reword function 8 to reflect the following, “Authority to vary a contract that has been entered into with a successful tenderer, provided the variation/s are necessary for the goods and services to be supplied, and do not change the scope of the original contract and the revised contract value remains within the approved budget. This provides transparency and by removing set limits, the City is able to ensure minimal disruption to Council in its operations. This proposed function allows the CEO to vary a contract within the approved budget. In the event that the variation will be above the approved budget, it will be required to be taken back to Council for further consideration.

In **Delegation 1.1.20- Disposing of Property**, an edit of the maximum value in council condition (b) to $100,000 as per s.3.58 of the *Local Government Act 1995.* Further, the maximum value of $50,000 has been inputted in CEO conditions on this sub-delegation as per section 5.43 of the *Local Government Act 1995.*

The inclusion of the appropriate $1,000 limits in **Delegation 1.1.22- Defer, Grant Discounts, Waive or Write Off Debts** as per section 6.12 of the *Local Government Act 1995.* Additionally, changing of wording in Council conditions on this delegation, reflecting that a debt may only be waived, and concession granted where “it is only to charitable or not for profit community groups”, to standardize wording for easier interpretation. Further, the addition of council condition “e) For the CEO to report to Council on the exercise of this delegation”, as is a requirement of section 6.12(1)(c) of the *Local Government Act 1995.*

The inclusion of City of Nedlands Investment of Council Funds Policy, in **Delegation 1.1.23- Power to Invest and Manage Investments.**

The inclusion of the City of Nedlands Hardship provisions Policy, in **Delegation 1.1.25- Agreement as to Payment of Rates and Service Charges.**

The inclusion of Coordinator Procurement and Contracts and Procurement Officer as delegates for **Delegation 1.2.5- Appoint Persons (other than employees) to Open Tenders** as a result of additional City staff and relevant competencies to perform delegated tasks.

The inclusion of the Director Corporate Services as a delegate for **Delegation 1.2.10 Financial Management Systems and Procedures** due to the financial nature of this delegation, and to align with the delegates from Shire of Harvey, City of Stirling and City of Busselton. Currently, there are no delegates for this delegation.

The inclusion of the Director Corporate Services as a delegate for **Delegation 1.2.11- Audit- CEO Review of Systems and Procedures** due to the financial nature of this delegation, and to align with the delegates from Shire of Harvey, City of Stirling and City of Busselton. Currently, there are no delegates for this delegation.

The addition of Manager Building Services and Senior Building Surveyor in **Delegation 2.1.4- Designate Employees as Authorised Persons,** due to the nature of the delegation, the addition of these appropriate delegates mitigates risk, ensures effectiveness of the delegation and aligns the City with Shire of Harvey and City of Busselton delegations.

For each of the delegations: **2.1.7- Referrals and Issuing Certificates, 2.1.8 - Private Pool Barrier - Alternative and Performance Solutions & 2.1.9 - Smoke Alarms - Alternative Solutions**, function (2) refers to the authority to either approve/refuse a smoke alarm, approve a door for compliance purposes and authority to issue a certificate for building compliance. The addition of a CEO conditions under each of these delegations, includes “In undertaking function 2 of this delegation, the subdelegate must be appropriately qualified pursuant to r.5 of the Building Regulations 2012 and must hold the appropriate registration in accordance with the Building Services (Registration) Regulations 2011”.

The change from Bush Fire Control Officer as a delegate to CEO in **Delegation 3.1.2 - Prohibited Burning Times- Vary,** as the City does not have a Bush Fire Control Officer.

The addition of Council condition that “an exemption will not be granted unless it is demonstrated that the number of cats to be exempt will not be a nuisance or injurious or dangerous to health” on **Delegation 4.1.3 - Approval to Breed Cats,** as per s.37 of the Cat Act.

The addition of council condition on sub-delegation that “notices of decisions must include advice as to review rights in accordance with r.11 of the Cat (Uniform Local Provisions) Regulations 2013” on **Delegation 4.1.5 - Application to Keep Additional Cats.**

The addition of the $50 maximum value in function (1), in **Delegation 5.1.1 - Part Payment of Steralisation Costs/ Directions to Veterinary Surgeons**, as per s.10A(1)(a) of the Dog Act 1976.

The addition of council conditions on **Delegation 7.1.2 Notices - Deal with Objections and Give Effect to Notices**, “The Chief Executive Officer is permitted to sub-delegate to employees” as per s.10AA(3) of the Graffiti Vandalism Act.

The addition of the $1,000 maximum value on council conditions on **Delegation 8.1.4 - Determine Compensation for Seized Items,** as per s.264 of the Public Health Act.

**Key Relevant Previous Council Decisions:**

Ordinary Council Meeting - 22 June 2021 - Annual Review & Amendment

Ordinary Council Meeting - 23 February 2021 - Amendment

Ordinary Council Meeting - 23 June 2020 - Annual Review & Amendment

Ordinary Council Meeting - 26 May 2020 - Amendment

Ordinary Council Meeting - 25 February 2020 - Amendment

**Consultation**

The Chief Executive Officer reviewed the Register of Delegations in consultation with the Executive Officer, Governance Officer, Directors and relevant staff members to ensure the register complied with the requirements under the *Local Government Act 1995* and the City’s daily operational requirements. On 18 August 2022, a Concept Forum was held with Council Members to discuss the proposed changes to the Register of Delegations. During this Concept Forum, questions and requests for further information were raised and promptly responded to either in session or taken on notice.

**Strategic Implications**

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

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

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

**Budget/Financial Implications**

Nil.

**Legislative and Policy Implications**

Under section 5.46(2) of the [*Local Government Act 1995*](https://www.legislation.wa.gov.au/legislation/prod/filestore.nsf/FileURL/mrdoc_43454.pdf/$FILE/Local%20Government%20Act%201995%20-%20%5B07-t0-00%5D.pdf?OpenElement)the CEO is to keep a register of the delegations made under the Act and at least once every financial year these delegations are to be reviewed by the delegator.

Should Council not review and approve this review of the Register of Delegations Council would be in breach of the Local Government Act as the delegator.

**Conclusion**

The Chief Executive Officer has reviewed the Register of Delegations as required by the *Local Government Act 1995* and is recommending the amendments as shown with track changes in the attached Register of Delegations to be approved by Council.

**Further Information**

**Request**

Councillor Mangano – verge permits – long term obstruction of verges to come to Council. Assistance with section for an amendment.

**Officer Response**

The following wording has been drafted as requested and further information provided below.

**That the following condition be added section 1.3 Local Law Delegations to the CEO:**

**A decision made under Part 6- Permits of the Thoroughfares Local Law where the permit exceeds 12 months is to be referred to Council for consideration.**

The table following shows the number 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 a significant additional number of items sent to Council for determination.

|  |  |  |
| --- | --- | --- |
| FY | No. Permits Issued | Revenue |
| 19-20 | 111 | $31,720 |
| 20-21 | 128 | $43,874 |
| 21-22 | 140 | $42,064 |
| 22-23 (ongoing) | 38 (up to 1 Sept 22) | $14,430 to 1 Sept 22 |

Currently the average approval time for a verge use permit is 2-4 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.

It may also result in builders starting work on site and utilising unapproved verge areas causing a significant increase in reactive compliance matters, placing a much higher workload on the compliance department, rather than addressing the use prior to commencement in an effective controlled manner.

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.

Most permits are issued coinciding with building works and vary from 6 months to 24 months commensurate with the duration of expected building works. Under this motion the consideration is that permits over 12 months be sent to Council to determine and approve.

A breakdown of permits that are approved within financial year 2021-2022 is shown below:

|  |  |  |
| --- | --- | --- |
| Approval Duration | Number of Permits Approved | Percentage of total Approved |
| 0 to 12 months | 86 | 60% |
| More than 12 months | 58 | 40% |

It would be expected if Council were to be dealing with these applications for this financial year, 40% of the total number of applications would need to be sent to Council for assessment and determination. Forecasting the expected total based upon the current application workload of 20 applications per month so far, it would mean an estimated 200 applications received for this financial year. Subsequently, an estimated additional 80 reportswill need to be presented to Council to be determine.

To add an additional workload for the writing and administration of80reports 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.

The City’s development compliance functions have seen considerable improvement over the last 6 months since inception. Previously, the City‘s response was 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.

Today this new approach has significantly enhanced the City’s compliance regime including the control and use of Council verge land, avoiding the current complaint based reactive approach. Also, significant work has been undertaken with the builders commencing work within the City and working alongside them effectively regarding verge use which has seen marked improvement in control and compliance. The current regime has seen the builders **working with the City and not against us thus enabling the City to get effective control of** verge areas, previously not seen here before.

The Cities fees and charges have been amended in line with our improved compliance approach and now the City receives increased revenue based upon an application fee of $272 and a verge rental fee of $2.5/m2/month up from $1/m2/month. Additionally, an increased infrastructure bonded is taken to cover any damage that the builder does not fix up at their own cost.

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 current process.

**Request**

Councillor Mangano – Could we have an amendment for making the threshold for tender approval by the CEO to be $250,000.

The following amendment wording has been drafted as requested and further information provided.

**That the delegation 1.1.17 Tenders for Goods and Services - Accepting and Rejecting Tenders; Varying Contracts; Exercising Contract Extension Options be amended to replace “$500,000” to “$250,000**

**Request**

Councillor Youngman – Could we have an amendment for making the threshold for tender approval by the CEO to be more in line with Subiaco’s - $350,000.

The following amendment wording has been drafted as requested and further information provided.

**That the delegation 1.1.17 Tenders for Goods and Services- Accepting and Rejecting Tenders; Varying Contracts; Exercising Contract Extension Options be amended to replace “$500,000” to “$350,000”.**

**Officer Response**

The affected delegation would be 1.1.17 Tenders for Goods and Services - Accepting and Rejecting Tenders; Varying Contracts; Exercising Contract Extension Options.

The proposal to increase the Chief Executive Officer’s delegated authority from $249,999 to $350,000 (GST exclusive) would be of great assistance with the delivery of the City’s Annual Capital Works Program. Between July 2021 to present, there were two tenders that fell between $250,000-$350,000. They are as per below:

* RFT2020/21-04- Payroll Outsourcing Services- $258,053.40
* RFT2020-21-13- Provision of Educting Services- $300,000.00

Under the current timelines, Council Reports for the award of Tenders above $250,000 are required to be finalised approximately 6 weeks before the Ordinary Council Meeting to ensure that it is considered in accordance with the Council’s Governance Framework.  The current procurement period includes a 3-4 week advertisement period followed by a 2 week period to undertake the tender review and the drafting of Evaluation and Council reports.   There is then a 6-week period where no works can occur whilst Administration awaits the decision of the OCM.   This means an ideal procurement process will take a minimum of 3 months, out of 12 months of a delivery year. The 6-week period awaiting the decision of Council effectively doubles the time taken for the procurement process to be completed. Currently a typical procurement process is taking 4 months.

It is important to note that Council have existing protections regarding the Administration’s procurement and awarding of contracts.  These include:

1. Procurement Policy and process
2. All RFT Evaluation Reports are reviewed by Procurement and Probity.
3. All RFT’s are signed off by the Evaluation Panel, Procurement, the relevant Manager and Director before being approved the CEO prior to being presented to Council.

By altering the CEO’s delegation to enter into contracts and increasing the contract value that is able to be awarded, the City will be able to reduce, by half, the time taken to undertake the procurement, thereby improving efficiencies within the process, considering the existing protections with regard to the awarding of contracts.

The removal of the above mentioned 6-week period from the procurement process will lead to an improvement of the Capital Works delivery process by:

* Reducing the time taken to award a contract – which may lead to less escalation built into tenderers prices.
* A smoothing in the delivery team’s workload – leading to improved project management and more consistent levels of work onsite throughout the year.
* An approximate 5% increase in efficiency due to a more streamlined process – allowing each Project Manager to deliver 1-2 additional projects of this size annually.

As per s.3.57 of the Local Government (Functions and General) Regulations. Contracts awarded by the CEO will still require an evaluation and recommendation report signed by:

* The Tender Evaluation Panel
* The Coordinator Procurement and Contracts
* the relevant Director,
* and the CEO

The required reports confirm that there is budget available.  Should additional budget be required, a budget adjustment will be brought to Council for an approval prior to a contract being entered into.  The CEO is only able to approve a contract where there is available budget. Council remains able to place conditions on any tenders that may be politically sensitive in nature. The multiple upcoming contracts and the increased cost of construction and maintenance across all industries are appropriate factors supporting the proposal of a delegated increase. When comparing with other Local Governments, the City of Subiaco currently has a CEO delegated authority amount of $350,000, which is a reasonable comparison given its proximity and similarity in size.

# CEO11.09.22 United Nations Sustainable Development Goals

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting – 27 September 2022 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil. |
| **Report Author** | Gemma Carlucci – Corporate Planning Officer |
| **CEO** | Bill Parker – Chief Executive Officer |
| **Attachments** | 1. SDG Indicator Framework 2. Approaches by Other Local Governments |

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

Moved – Mayor Argyle

Seconded – Councillor Brackenridge

**That the Recommendation be adopted.**

(Printed below for ease of reference)

**CARRIED 7/4**

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

**Council Resolution / Recommendation**

**That Council:**

1. **approve the City of Nedlands becoming a signatory of the United Nations Sustainable Development Goals (SDGs); and**
2. **commit the City to implementing the SDG’s aspirational (strategic) intent locally, by:**
   1. **Strategic integration with the Integrated Planning and Reporting Framework (IPRF),**
   2. **Proactive communications of the City of Nedlands’ commitment to sustainability and delivering of sustainable development outcomes, and**
   3. **Continuous improvement and maturation of the City of Nedlands Corporate Reporting Framework to include and/or enhance localised sustainability targets, indicators and reporting.**

**Purpose**

This report seeks Council’s approval for the City of Nedlands to become a signatory to the United Nations Sustainable Development Goals.

**Voting Requirement**

Simple majority.

**Background**

Sustainability refers to preservation of environmental, social and economic resources. It ensures we (i.e., societies, governments, businesses, people and individuals) meet our needs currently without compromising the ability of future generations to meet their needs.

Sustainability, therefore, plays major role in local governments’ strategic planning, and the translation of this strategic planning, into the services and projects delivered to communities now and into the future.

The United Nations (UN) Sustainable Development Goals (SDGs or the goals) provide a universal sustainability framework to guide sustainable development outcomes at all levels: global, national, local and regional.

As all levels of government are accountable for ensuring sustainable development in their locality, local governments are generally encouraged by Federal and State Governments, and advocates of the UN such as the United Nations Association of Australia WA Division (UNAAWA), to sign up to the SDGs in a way that is strategically and operationally feasible.

This report therefore details how the City of Nedlands can, by signing up to the SDGs, commit to implementing their aspirational (strategic) intent locally, to help continue to provide for a sustainable future for the Nedlands community.

**United Nations Sustainable Development Goals**

At a historical United Nations (UN) Summit held in 2015, world leaders adopted the [17 SDGs (see Figure 1)](http://www.un.org/sustainabledevelopment/sustainable-development-goals/) of the [2030 Agenda for Sustainable Development](http://www.un.org/ga/search/view_doc.asp?symbol=A/RES/70/1&Lang=E) (2030 Agenda). These officially came into force globally on 1 January 2016.

Figure 1 – United Nations Sustainable Development Goals

A picture containing graphical user interface

Description automatically generated

The aspirational focus of the goals is to provide for a sustainable future holistically (i.e., our planet, communities, families and economies) by eradicating absolute poverty, whilst achieving economic growth, fulfilling social needs (i.e., education, health, social protection and job opportunities) and addressing climate change and environmental protection issues.

Each goal has associated targets and indicators to help guide implementation of strategies and practices which achieve sustainable development outcomes. In total, there are: 17 goals, 169 targets and 232 indicators (see Attachment 1 – SDG Indicator Framework).

To track the global implementation of the goals by 2030, countries are encouraged to establish national frameworks to monitor and review their progress towards implementing SDG targets and indicators. This is achieved through national monitoring and reporting, which is then fed into the [global framework and reporting](https://unstats.un.org/sdgs/), as well as through recognition of sustainable development outcomes.

**Australia’s Commitment & National Framework**

Australia was one of the 193 countries to sign up to the SDGs as a universal sustainability approach. Australia’s commitment includes [national monitoring and reporting](https://www.sdgdata.gov.au/) implementation the relevant goals to feed into the [global framework and reporting](https://unstats.un.org/sdgs/), and a Voluntary National Review at least twice over the lifetime of the 2030 Agenda (Australia’s first Voluntary National Review occurred in 2018). Currently, the Australia is ranked 38th out of 163 countries, with a score of 75.58 out of 100, representing its global performance score towards achieving the SDGs (see [global rankings](https://dashboards.sdgindex.org/rankings) and [Australia's UN Country Profile](https://country-profiles.unstatshub.org/aus)).

As Australia’s monitoring and reporting consists of the consolidated efforts of governments, businesses, the education sector, civil society, communities and individuals, at regional, local, state and national levels, the Australian Government provides a [SDG Indicators Reporting Platform](https://www.sdgdata.gov.au/) (the reporting platform) for all Australian entities to utilise and help implement their commitment to the goals. The reporting platform can also be used to assist in the translation, or localication (see definition below), of the SDG targets and indicators.

|  |
| --- |
| **What is Localisaton?**  Localisation is the concept [and process] of adapting content or products to a specific market or locale. The aim of this process is to give something a localised look and feel of having been specifically created for a particular culture, language, or geographic location. Reference: [WiX Encyclopedia](https://www.wix.com/encyclopedia/definition/localization#:~:text=Localization%20is%20the%20concept%20of%20adapting%20content%20or,for%20a%20particular%20culture%2C%20language%2C%20or%20geographic%20location.)  Example: SDG 2 Zero Hunger – Obesity is the flipside of hunger. Addressing obesity is just as relevant as addressing hunger in the local government context. Localisation may include targets addressing obesity. Reference: [City of Melbourne](https://www.melbourne.vic.gov.au/sitecollectiondocuments/sustainable-development-goals.pdf) |

**Discussion**

**SDGs & local governments**

All levels of government are accountable for ensuring sustainable development outcomes. Therefore, sustainability considerations are likely to be already embedded within all governments’ strategy and operations in some way.

However, local governments are generally encouraged by Federal and State Governments, and advocates of the UN such as the United Nations Association of Australia WA Division (UNAAWA), to sign up to the SDGs, at a minimum – through a commitment to their aspirational intent (a strategic commitment), as they provide a universal (shared) sustainability framework.

**Strategic Commitment**

Signing up to an aspirational level of commitment (a strategic commitment) does not legally bind local governments to either the global or national frameworks. Therefore, there are no mandatory requirements to, for example:

* commit to all of the goals
* implement the goals
* meet the minimum agreed global and national targets, or
* comply with global and national monitoring and reporting process.

However, a strategic commitment, such as – for example – applying the goals as an overarching universal sustainability framework to inform all components for the Integrated Planning and Reporting Framework (IPRF), elevates the importance of sustainability considerations in local government strategic planning, and service and project delivery to the community. It can also highlight what local governments are potentially already doing locally, as providing sustainable development outcomes to the community now and into the future, is a key responsibility of local governments.

Furthermore, SDG targets and indicators can also help guide the development and/or enhance local governments’ existing localised sustainability targets and indicators (i.e., waste management and reduction, financial sustainable service and project delivery etc.), in-line with national and global collaborative efforts in this area.

**Higher Levels of Commitment**

If local governments were to, alternatively, sign up to the goals at higher level of commitment, such as – for example – committing to implementing all the goals and meeting agreed targets locally, and complying with global and national monitoring and reporting processes, this would require specific resourcing and more complex processes of localisation and measurement alignment to the national and global frameworks.

Higher levels of commitment therefore require resourcing (financial and workforce) and higher levels of service to manage the City’s accountability for delivering this level of commitment.

See Attachment 2 for examples of other local government levels commitment to the SDGs. In Western Australia, local governments currently signed up to the goals have done so via a strategic commitment only at this point in time.

**Sustainability & City of Nedlands**

The City of Nedlands has always applied a sustainability lens to its strategic planning and the delivery of services and projects to its community.

This is reflected in Council’s previous sustainability efforts between 1999 and 2019 such as:

* the Local Agenda 21 Program – This involved the Council working with the community to create a more sustainable local environment, with specific focus on the areas of: Natural Environment, Waste Management, Community Wellbeing, Built Environment, Transport and Energy Efficiency, and
* the Sustainable Nedlands Committee – A committee of Council.

Furthermore, the community’s guiding vision, as articulated in the current Strategic Community Plan (SCP), states ‘Our city will be an environmentally-sensitive, beautiful and inclusive place’, therefore sets a sustainability premise for the strategic values (detailed below) which guide Council’s decisions on behalf of the community.

**Officer Comments**

Given the following (see below), it is recommended that the City of Nedlands become signatory to the SDGs and adopt the goals as a universal (shared) sustainability framework to help continue to provide a sustainable future for the Nedlands community:

1. that local governments are accountable for ensuring sustainable development outcomes generally,
2. the encouragement by State and Federal Governments, and UN advocates such as the UNAAWA, for local governments to commit to the SDGs,
3. the sustainability precedence set by the previous actions of Council/City of Nedlands,
4. the community’s vision within the current SCP, and
5. other local governments (Attachment 2) approaches in adopting the SDGs as a universal (shared) sustainability framework.

To ensure this is done in way that is strategically and operationally feasible, it is proposed to phase integration of the goals as follows:

**Phase 1**

Commit to implementing the SDGs’ aspirational (strategic) intent locally, through:

* integration with the IPRF,
* proactive communications of the City of Nedlands commitment to sustainability and delivering of sustainable development outcomes, and
* continuous improvement and maturation of the City of Nedlands Corporate Reporting Framework to include and/or enhance localised sustainability targets, indicators and reporting.

**Phase 2**

In-line with the SCP – Major Review, in four years (2026-27):

* review the integration progress to identify continuous improvement opportunities that strengthen delivery against the SDG’s aspirational (strategic) intent, and
* investigate the feasibility and resourcing implications for active participation into the national reporting framework and/or facilitating a formal Voluntary Local Review process.

**Consultation**

* Discussion Paper provided to Council and presented at the Concept Forum held on 16 August 2022,
* Dr Sandy Chong (President – UNAAWA),
* Representatives from Western Australian local governments including the City of Albany and Shires of Donnybrook Balingup & Bridgetown Greenbushes, and
* Desktop research (only) on the City of Melbourne’s approach.

**Strategic Implications**

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

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

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

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

**Great Natural and Built Environment**

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

**High Standard of Services**

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

**Great Governance and Civic Leadership**

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

**Great Communities**

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

**Reflects Identities**

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

**Great for Business**

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

**Easy to Get Around**

We strive for our City to be easy to get around by preferred mode of travel, whether by car, public transport, cycle or foot.

**Budget/Financial Implications**

There are no financial implications related to this report, as it is expected that implementation of the recommendations can be accommodated within existing resourcing (workforce and budget). Resourcing (workforce and budget) implications may result however, based on the outcomes of recommendation 3(b).

**Legislative and Policy Implications**

* Section 5.56 of the[*Local Government Act 1995*](https://www.legislation.wa.gov.au/legislation/prod/filestore.nsf/FileURL/mrdoc_43454.pdf/$FILE/Local%20Government%20Act%201995%20-%20%5B07-t0-00%5D.pdf?OpenElement)– Plan for the future of a district
* Regulation 19C of the[*Local Government (Administration) Regulations 1996*](https://www.legislation.wa.gov.au/legislation/prod/filestore.nsf/FileURL/mrdoc_43667.pdf/$FILE/Local%20Government%20(Administration)%20Regulations%201996%20-%20%5B03-m0-00%5D.pdf?OpenElement)

**Decision Implications**

If Council were to sign up and commit to SDGs, the City of Nedlands will have an explicit universal (shared) sustainability framework to inform strategic planning, service and project delivery and decision-making, that is also aligned to national and global sustainability priorities.

If Council were not to sign up and commit to the SDGs, strategic planning, service and project delivery and decision-making will still be implicitly informed by sustainability principles however, in absence of a specific sustainability strategy, application of sustainability principles will be more ambiguous.

**Conclusion**

Signing up and committing to the United Nations Sustainability Development Goals, as proposed in this report, builds on a sustainability foundation already set by the Council/City of Nedlands.

The goals can provide overarching strategic guidance as a universal (shared) sustainability framework for the City of Nedlands’ Integrated Planning and Reporting Framework, which can only enhance the City of Nedlands leadership in providing a sustainable future for the Nedlands’ community.

This commitment also places the City of Nedlands in a position in which it is actively contributing to national and global agendas for ensuring a sustainable future holistically.

**Further Information**

Nil.

# Reports from the Workforce Plan Implementation Committee

# WPIC01.09.22 Workforce Plan Implementation Committee Terms of Reference

|  |  |
| --- | --- |
| **Meeting & Date** | Workforce Plan Implementation Committee Meeting - 22 August 2022  Council Meeting – 27 September 2022 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil. |
| **Report Author** | Bill Parker – Chief Executive Officer |
| **CEO** | Bill Parker – Chief Executive Officer |
| **Attachments** | * 1. Consultant Brief |

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

Moved – Councillor Amiry

Seconded – Councillor McManus

**That the Recommendation be adopted.**

(Printed below for ease of reference)

**CARRIED UNANIMOUSLY EN BLOC 11/-**

**Council Resolution / Committee Recommendation to Council**

**That Council:**

1. **approves the terms of reference for the Workforce Plan Implementation 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 implementation of the City of Nedlands Workforce Plan.**

**Scope**

1. **To consider and approve the Workforce Plan Implementation Strategy and Tasks;**
2. **To work with the Administration to determine the additional information required for effective implementation, and the extra resources required, if any.**
3. **To approve the brief for an external consultant, if required, to facilitate the Implementation Strategy.**
4. **To recommend to Council, based on the City’s consultation process with the different stakeholders and benchmarking, what discretionary services should be provided by the City, and at what service levels, together with the cost-benefit analysis of such services.**
5. **To submit to Council recommendations for changes to the adopted Workforce Plan, if any, by 30 April 2023.**
6. **To collaborate with the CEO Performance Review Committee to ensure effective development of KRAs, goals, measures, and targets.**

**Membership**

1. **The membership of the committee shall comprise the Mayor, four Councillors (one Councillor from each ward). as voting members and the Chief Executive Officer as a non-voting member.**
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. **Deputy members are only required to attend and vote if the primary member is absent, an apology or on leave or has resigned.**
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.**

**Staff**

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

**Meetings**

1. **The Workforce Plan Implementation Committee operates under the City of Nedlands Standing Orders Local Law.**
2. **The Committee shall have flexibility in relation to when it needs to meet, but as a minimum shall meet bimonthly (every 2 months). It is the responsibility of the presiding member to call the meetings of the committee.**
3. **notes the consultant brief as per attachment 1 to engage an appropriately skilled and qualified consultant to undertake phase two of the organisational review subject to under “3 Preparation of financial information which sets out the impact of adopting the draft Workforce Plan on the City’s future financial circumstances”:**
   1. **add a clause c. Identify services that are newly required and transitional; and**
   2. **add a clause d. Identify services that could be outsourced.**

**Purpose**

The purpose of this report is for Council to consider a recommendation from the Workforce Plan Implementation Committee regarding a Terms of Reference and a Brief to engage an appropriately skilled and qualified consultant to undertake phase two of the organisational review.

Recommendation to Committee

That the Workforce Plan Implementation Committee:

1. approves the terms of reference for the Workforce Plan Implementation 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 implementation of the City of Nedlands Workforce Plan.

Scope

1. To consider and approve the brief for the organisational review (phase 2);
2. To evaluate the responses to the request for the provision of organisational review services (Stage 2) and to select a preferred consultant;
3. To consider the draft organisational review (Stage 2) and make a recommendation to Council on the adoption of the organisational review (Stage 2);
4. Collaborate with the CEO Performance Review Committee to ensure effective development of KRAs, goals, measures and targets.

Membership

1. The membership of the committee shall comprise the Mayor, four Councillors (one Councillor from each ward). as voting members and the Chief Executive Officer as a non-voting member.
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. Deputy members are only required to attend and vote if the primary member is absent, an apology or on leave or has resigned.
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.

Staff

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

Meetings

1. The Workforce Plan Implementation Committee operates under the City of Nedlands Standing Orders Local Law.
2. The Committee shall have flexibility in relation to when it needs to meet, but as a minimum shall meet bimonthly (every 2 months). It is the responsibility of the presiding member to call the meetings of the committee.
3. endorses the consultant brief as per attachment 1 to engage an appropriately skilled and qualified consultant to undertake phase two of the organisational review.

**Voting Requirement**

Simple Majority.

**Background**

On 26th July 2022, Council resolved to receive the Organisational Review and adopt the Workforce Plan. Additionally, Council resolved to establish a Workforce Plan Implementation Committee, appoint committee members and undertake further tasks. The further tasks include:

* An analysis of the actual workload in each section compared with staffing numbers in each section including benchmarking against at least 2 similar Local Governments
* An explanation and justification for the FTE levels within the draft Workforce Plan being preferred to the FTE levels consistent with the industry benchmarks identified in the Organisational Review
* The preparation of financial information which sets out the impact of adopting the draft Workforce Plan on the City’s future financial circumstances

In response to this Council decision, a meeting of the Workforce Plan Implementation Committee was convened.

The Committee’s recommendation regarding a terms of reference and a Brief to engage an appropriately skilled and qualified consultant to undertake phase two of the organisational review is presented to Council for consideration.

**Discussion**

**Terms of Reference**

The Terms of Reference endorsed by the Committee state that the Committee will:

1. To consider and approve the Workforce Plan Implementation Strategy and Tasks;
2. To work with the Administration to determine the additional information required for effective implementation, and the extra resources required, if any.
3. To approve the brief for an external consultant, if required, to facilitate the Implementation Strategy.
4. To recommend to Council, based on the City’s consultation process with the different stakeholders and benchmarking, what discretionary services should be provided by the City, and at what service levels, together with the cost-benefit analysis of such services.
5. To submit to Council recommendations for changes to the adopted Workforce Plan, if any, by 30 April 2023.
6. To collaborate with the CEO Performance Review Committee to ensure effective development of KRAs, goals, measures, and targets.

**Consultant Brief**

In preparing the brief, the City of Nedlands has attempted to take the various elements of the Council resolution and translate these into deliverables for the successful consultant. The translation has been outlined below:

1. **An analysis of the actual workload in each section compared with staffing numbers in each section**

Phase 1: In addition to a workload assessment, the City has also added the identification of service levels within each service area. The reason for doing so is that service levels are easily comparable across local governments.

1. **Explanation and justification for the FTE levels within the draft Workforce Plan being preferred to the FTE levels consistent with the industry benchmarks identified in the Organisational Review**

Phase 2: The City has requested that the consultant identify the total number of FTE the City can accommodate based on benchmarking within the Australasian Local Government Performance Excellence Program and other sources.

1. **Preparation of financial information which sets out the impact of adopting the draft Workforce Plan on the City’s future financial circumstances**

Phase 3 and 4: The City has requested the consultant propose an organisational structure based on the benchmarking in Phase 2. The proposed structure must:

a. Identify service level reductions

b. Identify services that will no longer be provided

c. Identify services that are newly required and transitional; and

d. Identify services that could be outsourced.

The final task is for a cost benefit analysis in each instance whereby the discontinuation ore reduced levels of service are proposed.

**Consultation**

No consultation has occurred.

**Strategic Implications**

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

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

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

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

**Budget/Financial Implications**

Until such time that the City has undertaken a procurement process, the cost of the consultancy is unknown.

**Legislative and Policy Implications**

There are no legislative or policy implications that relate to this item.

**Decision Implications**

If Council endorses the Terms of Reference and the brief, the City will commence a procurement process.

If Council does not endorse the Terms of Reference and the brief, the City will amend and resubmit both documents for consideration by the Committee.

**Conclusion**

Council has resolved to undertake a further organisational review. This item seeks to endorse a Terms of Reference and brief to appoint a suitably experience and qualified consultant to undertake the task (if required).

**Further Information**

Nil.

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

# Councillor Mangano – Sealing of Laneways

On the 24 August 2022, Councillor Mangano gave notice of his intention to move the following motion.

Moved – Councillor Mangano

Seconded – Councillor Smyth

That Council requests the CEO to present a report to Council in relation to sealing of laneways throughout the City by the November Ordinary Council Meeting, including the following as a minimum:

1. A list of all laneways and the square meterage that requires sealing and draining (i.e. not already sealed and drained to a good standard);
2. An indicative cost to seal and drain each of the above laneways (+/- 20%); and
3. A model using service charges to fully fund the project, for example dividing the cost of each laneway by the number of frontages and advise the average cost per frontage to drain and seal these laneways (drainage and sealing only, not lighting or other services).

Lost 4/7

(Against: Mayor Argyle Crs. Brackenridge Coghlan

Senathirajah Amiry McManus & Basson)

Moved – Councillor Amiry

Seconded – Mayor Argyle

**Council Resolution**

**That Administration is to present a Laneways Maintenance Programme in the indicated timeframe in relation to maintenance of laneways throughout the City, including the following elements:**

1. **By December 2022 provide to council a:**
   1. **Definition of a Laneway Minimum Standard Condition for the City of Nedlands (if one does not currently exist).  This should include seal, drainage, curbing, signage and lighting; and**
   2. **Compiled list of all laneways, their square meterage and current condition throughout the City of Nedlands;**
2. **By February 2023 rank each Laneway in terms of their need for repair/renewal to meet the Laneway Minimum Standard Condition, according to following 4 categories;**
   1. **To be repaired to min standard or above within 1 month;**
   2. **To be repaired to min. standard or above within 12 months;**
   3. **To be repaired to min standard or above within 36 months;**
   4. **To be repaired to min standard or above within 60 months; and**
   5. **Not expected to require repair in the next 60 months;**
3. **By March 2023 provide to Council list of those laneways that require repair/renewal identified in 2a above and if required seek specific Council approval for repair of a laneway where costs exceed CEO approval authority;**
4. **By April 2023 provide to Council confirmation of status with regards to work progressed on laneways in category 2a; and**
5. **By June 2023:**
   1. **have entered into the Long Term financial Plan the indicative cost to repair each of the laneways in category 2b, 2c and 2d to level II accuracy (+20%/-10%) or nearest as used by Admin.**
   2. **Include 2b costs in 2024 budget**
   3. **Review the Laneways Maintenance Programme and include into the City’s related policies as appropriate.**

Councillor Coghlan left the room at 11.30 pm and returned at 11.33 pm.

**CARRIED 7/4**

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

Justification

1. Laneways across the City are in very poor condition generally.

2. Flooding into private properties has occurred due to lack of drainage.

3. Some properties only access for vehicles is via a laneway.

4. Washouts of laneways onto adjoining roads requiring cleanup after storm events.

5. Increasing density in some areas will result in more traffic on laneways, increasing damage to already poor condition laneways.

Administration Comment

The sealing and drainage of the City’s laneways is a large issue for many of the City’s residents who have primary access to their property via a laneway. If laneways were to be drained and sealed, this should be undertaken holistically and managed by the City to ensure contemporary and compliant design, with appropriate drainage for the entire laneway. Sealing and draining laneways will be a substantial increase in the level of service currently provided and will come with both a correspondingly sized capital cost and increased lifecycle cost for the laneway. These expected budgetary impacts would need to be considered in the context of the Long-Term Financial Plan to allow all City funding requirements to be considered. The requested information and report can be provided for the November Ordinary Council Meeting.

# Councillor Mangano – Leveling of Verge – 52 Jutland Parade, Dalkeith

On the 16 September 2022, Councillor Mangano gave notice of his intention to move the following motion.

Moved – Councillor Mangano

Seconded – Councillor Bennett

That Council directs the CEO to remove the unauthorised fill adjoining 52 Jutland Parade, to return the levels to the natural ground level as per the 2 neighbouring properties, to be completed by 31st October 2022.

Lost 3/8

(Against: Mayor Argyle Crs. Brackenridge Coghlan Senathirajah

Amiry McManus Youngman & Basson)

Justification

1. The verge levels were raised without any authorisation by the City, both by the previous owner and the current owner.
2. The current owner has not reduced the verge levels since the last fill was done in February 2022.
3. It is a trip hazard to the general public.

**A picture containing grass, outdoor, sky, sign

Description automatically generated**

Administration Comment

A footpath exists on the south side of Jutland Parade, thus pedestrian access is not restricted by the verge levels, in front of 52 Jutland Parade.

Soil can be removed from the verge adjacent to 52 Jutland Parade, by the City. Indicative costs to undertake this work could range between $6,000 and $11,000 depending on whether or not the soil is found to be contaminated. Traffic management costs will likely result in additional cost of approximately $1,500. Removal of the soil may render the front fence unsafe and prone to falling. The work will also likely result in vehicular access to the lot being restricted.

Officers are still working with the owner of 52 Jutland Parade on a solution to facilitate the removal of fill from their land. In the event of the City removing soil from the verge, this may assist the owner of 52 Jutland Parade, as when they do remove fill from their site, less fill may be required to be carted away from the site, thus costing them less. As it is very likely that the owner of 52 Jutland will need to fill part of the verge to create a crossover to allow heavy vehicles to access the site to undertake site works / remove fill, if the soil on the verge is removed at this point in time, less expense is likely to be incurred by the owner of 52 Jutland Parade in terms of cartage costs. A cost that will be picked up by the City.

# Councillor Mangano – Carpark at Tawarri

On the 14 September 2022, Councillor Mangano gave notice of his intention to move the following motion.

Councillor McManus left the room at 11.49 pm.

Moved – Councillor McManus

Seconded – Councillor Bennett

**Council Resolution**

**That Council requests the CEO to present a report to Council at the December Ordinary Council Meeting detailing solutions to the flooding in the Tawarri car park including increased soakwell capacity at the current location, additional soakwells, raising the roadway, or any other solutions.**

Councillor McManus returned to the room at 11.50 pm.

**CARRIED7/4**

**(Against: Mayor Argyle Crs. Senathirajah Amiry & Basson)**

Justification

* + - 1. This is a long-standing issue
      2. It detracts from the appearance of the area

1. Standing water can cause health issues

Administration Comment

There is an ongoing issue with the drainage at the Tawarri carpark. This issue does not have a simple solution due to the location of the carpark near the Swan River and the associated shallow water table, restricting the rate of water infiltration. Officers can investigate and prepare a report on the requested information, however given the tight timeframe to the November OCM and other high priority projects currently progressing, the December OCM would be a more appropriate timeframe for the report to be presented.

**Officer Recommendation**

**That Council requests the CEO to present a report to Council at the December OCM detailing solutions to the flooding in the Tawarri car park including increased soakwell capacity at the current location, additional soakwells, raising the roadway, or any other solutions.**

# Councillor Youngman – Underground Power

On the 14 September 2022, Councillor Youngman gave notice of his intention to move the following motion.

Moved – Councillor Youngman

Seconded – Councillor McManus

**Council Resolution**

**That Council requests that when the Long-Term Financial Plan is presented to Council for adoption, it includes the most financially desirable model to fund the remaining components of the underground power program taking into consideration:**

1. **Survey feedback**
2. **Debt servicing**
3. **Borrowing capacity**
4. **Reserve balances**
5. **Asset rationalisation**

**CARRIED 10/1**

**(Against: Mayor Argyle)**

Justification

The discussion of undergrounding power of those remaining areas in the City of Nedlands has reached a point such that the project may not get started in the foreseeable future. The City of Nedlands has already spent in excess of $900,000 designing the underground power grid and currently has approximately $2,500,000 set aside for the project.

With an expected price currently in the vicinity of $20,000,000 to complete the chances of the City of Nedlands being able to provide up to 50% are remote in the near future without committing to borrowing and/or reviewing unused assets.

Discussing the survey of residents and ratepayers in the City of Nedlands to determine their willingness to go ahead with the project, what portion of the cost they are prepared to pay and their expected timeline to completion will provide the realtime feedback for the City to create a plan moving forward. There would be advantages to running the entire project concurrently.

Numerous election platforms beyond the past 6 years have spoken about committing to the completion of underground power. The benefit of completing underground power will be reflected in increased verge tree canopy and reduced risks of power outages from storms and accidents.

Administration Comment

The draft LTFP is being finalised and will be presented to a Council Forum prior to being considered for adoption by Council.

It will include a financially desirable model to fund the remaining components of the underground power program taking into consideration:

* + - 1. Survey feedback
      2. Debt servicing
      3. Borrowing capacity
      4. Reserve balances
      5. Asset rationalisation

# Urgent Business Approved By the Presiding Member or By Decision

The following urgent items were approved by the Presiding Member for this meeting.

# CPRC03.09.22 CEO Performance Review Committee Terms of Reference

|  |  |
| --- | --- |
| **Meeting & Date** | CEO Performance Review Committee Meeting – 6 September 2022  Council Meeting – 27 September 2022 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil. |
| **Report Author** | Nicole Ceric – Executive Officer |
| **Attachments** | Nil. |

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

Moved – Councillor Coghlan

Seconded – Councillor Amiry

**That the Recommendation be adopted.**

(Printed below for ease of reference)

**CARRIED UNANIMOUSLY 11/-**

**Council Resolution / Committee Recommendation / Recommendation**

**That Council adopts the updated Terms of Reference for the CEO Performance Review Committee as follows to ensure each CEO Performance Review is completed with the same objective in accordance with the CEO Performance Review Council Policy and the Local Government Act 1995:**

**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 in accordance with Council’s adopted CEO Performance Review Policy and the Local Government Act 1995;**
3. **Is to make recommendations to Council regarding:**
4. **The setting of goals and objectives**
5. **The measurement of key performance indicators (KPIs); and**
6. **Changes to the remuneration package within the terms of the Chief Executive Officer’s contract.**
7. **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 observer.**
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.**

**Purpose**

The purpose of this report is to Council to approve the Terms of Reference for the CEO Performance Review Committee as recommended by the Committee. The Committee reviewed its Terms of Reference to ensure they aligned with the CEO Performance Review Policy.

**Voting Requirement**

Simple Majority.

**Background**

The Local Government (Administration) Amendment Regulations 2021 include Guidelines for Recruitment and Selection, Performance Review and Termination of Employment of Local Government CEOs.

The guidelines recommend the Council delegates the CEO Performance Review to a panel. The panel has a duty to gather as much evidence as possible upon which to base their assessments. The role of the review panel includes developing the performance agreement in the first instance, conducting the performance review and reporting on the findings and recommendations of the review to council.

It is also recommended that council develop a policy to guide the performance review process. A policy might include the composition of the panel, primary functions, the role and appointment of an independent consultant, and the responsibilities of review panel members.

**Discussion**

Council at its Special Council Meeting Council of 27 June 2022 adopted a CEO Performance Review Policy.

Division 3 - Standards for review of performance of CEO’s sets out the minimum regulatory standards for undertaking the review. This policy facilitates Division 3 s.16(3) which requires the process to be set out in a written document.

The CEO Performance Review Committee’s Terms of Reference now need to be updated to ensure it aligns with the Council Policy in order to ensure the Committee conducts the CEO Performance Review in accordance with the adopted Policy and the Local Government Act 1995.

The update to the Terms of Reference is shown in red above for ease of reference to the changes required.

**Consultation**

The CEO Performance Review Committee has reviewed the Terms of Reference.

**Strategic Implications**

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

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

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

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

**Budget/Financial Implications**

There are no budget or financial implications.

**Legislative and Policy Implications**

The CEO Performance Review process is conducted in accordance with the Local Government Act 1995. The Guidelines for Local Government CEO Recruitment and Selection, Performance Review and Termination outline the recommended practice for local governments in undertaking these processes and assisting local governments in meeting the model standards prescribed in the Local Government (Administration) Amendment Regulations 2021.

The CEO Performance Review Committee reviewed its Terms of Reference to ensure they aligned with the CEO Performance Review Policy.

**Decision Implications**

Council has established the CEO Performance Review Committee to undertake the CEO’s performance and the Committee must operate in accordance with the Council adopted terms of reference and the Local Government Act 1995 to ensure the review does not breach.

**Conclusion**

It is recommended that the CEO Performance Review Committee Terms of Reference are updated to align with Council’s adopted CEO Performance Review Policy. The CEO Performance Review Committee, therefore, presents its Terms of Reference to Council for adoption.

**Further Information**

Nil.

# CPRC04.09.22 CEO Performance Review Committee – Appointment of Consultant

|  |  |
| --- | --- |
| **Meeting & Date** | CEO Performance Review Committee Meeting – 6 September 2022  CEO Performance Review Committee Meeting – 19 September 2022  CEO Performance Review Committee Meeting – 20 September 2022  Council Meeting – 27 September 2022 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil. |
| **Report Author** | Michael Cole Director Corporate Services |
| **Attachments** | 1. CONFIDENTIAL Proposal 1 2. CONFIDENTIAL Proposal 2 3. CONFIDENTIAL Proposal 3 4. CONFIDENTIAL Copy of Scope emailed to Consultants |

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

Moved – Councillor Coghlan

Seconded – Councillor Youngman

**That the Recommendation be adopted.**

(Printed below for ease of reference)

**CARRIED 10/1**

**(Against: Cr. Mangano)**

**Council Resolution / Committee Recommendation**

**That Council:**

1. **endorses the appointment of a consultant to assist the CEO Performance Review Committee for the CEO Performance Review for the previous 12 months;**
2. **appoints a consultant to assist the CEO Performance Review Committee with the setting of the CEO’s KRAs for the period ending 30 June 2023 to be measurable as part of the 6 month probation period; and**
3. **appoints the same consultant to assist the CEO Performance Review Committee with the CEO’s 6 month probation performance review.**
4. **endorses the CEO Performance Review Committee recommendation to appoint the consultant as per Confidential Attachment 2 to assist the CEO Performance Review Committee with the CEO Performance Reviews.**

Recommendation

That Council endorses the CEO Performance Review Committee recommendation to appoint (insert name of consultant) to assist the CEO Performance Review Committee with the CEO Performance Reviews.

**Purpose**

The purpose of this report is for Council to endorse the CEO Performance Review Committee Recommendation to select a consultant from proposals received to assist the Committee with the CEO Performance Reviews including the previous period ending 30 June 2022, the period ending 30 June 2023 and also the setting of the CEO’s KRAs for the period ending 30 June 2023 to be measurable as part of the CEO 6-month probation review.

**Voting Requirement**

Simple Majority.

**Background**

The Chief Executive Officer Mr William (Bill) Parker was appointed as CEO in July 2021 for a period of up to 12 months. Following a recruitment process for a permanent CEO, Mr Parker was appointed as CEO and commenced a 3-year employment contract with the City as of 4 July 2022.

Section 5.38 of the Local Government Act requires that a CEO who is employed for more than one year must have their performance reviewed formally, at least annually.

The CEO Performance Review Committee is required to undertake a review of the CEO’s performance and agree to KPIs for the next review period.

**Discussion**

To assist the Committee, Administration has sought quotes from reputable consultants with experience in local government CEO performance reviews.

Five proposals were sought and three have been received. Two declined on the basis that they didn’t have the capacity to undertake this work at this time.

Proposals have been received from:

1. Brainbox Group
2. LG People and Culture
3. Delivery Outcomes Pty Ltd

The proposals were referred for the Committee’s consideration and recommendation to Council.

**Consultation**

The Committee Chair – Councillor Coghlan, Mayor Argyle and Councillor Smyth were consulted on the consultants to be approached for proposals.

The CEO Performance Review Committee met on the following dates to select a consultant and make a recommendation to Council.

* 6 September 2022
* 19 September 2022
* 20 September 2022

**Strategic Implications**

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

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

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

**Priority Area**

* Not applicable

**Budget/Financial Implication**

There are sufficient funds within the Annual Budget to accommodate this expense.

Under the Council’s Procurement of Goods and Services Policy, for procurement up the $10,000 the City is required to seek a minimum of two verbal or written quotes from suppliers. For procurement between $10,001 and $50,000 the City is required to seek a minimum of three written responses. In this case four written submissions were sought and two were received.

**Legislative and Policy Implications**

To ensure compliance with *s.5.38(1) of the Local Government Act 1995* a local government must review the performance of the CEO if the CEO is employed for a term of more than one year.

The Guidelines for Local Government CEO Recruitment and Selection, Performance Review and Termination outline the recommended practice for local governments in undertaking these processes and assisting local governments in meeting the model standards prescribed in the Local Government (Administration) Amendment Regulations 2021.

The CEO Performance Review Policy sets out the CEO performance review process to be conducted in an objective manner against the performance criteria and the CEO’s achievement of duties under their employment contract and in accordance with section 5.41 of the Local Government Act 1995.

**Decision Implications**

Should the Committee endorse this recommendation, Administration will formalize the engagement of the consultant.

Should the Committee not accept either proposal, the Committee can proceed with the review without the assistance of a consultant.

**Conclusion**

Three proposals from reputable consultants have been obtained and were included for the CEO Performance Review Committee’s consideration and recommendation to Council. The Committee has made a recommendation and Council is now asked to endorse that decision.

**Further Information**

At its meeting on 19 September 2022 the CEO Performance Review Committee requested the Director Corporate Services seek clarification from the consultants as to whether the review for the previous period ending 30 June 2022 and the next review period ending 30 June 2023 were included in the proposals.

The Committee also requested that the scope of works provided to the consultants be included as an attachment to the report to enable the committee to cross reference it with the proposals prior to recommending a Consultant to Council.

The updated proposals are now attached, and it is noted that there has been no change to the cost. The scope emailed to the consultants is also attached as requested.

# Confidential Items

Confidential items to be discussed at this point.

Closure of Meeting to the Public

Moved – Councillor Amiry

Seconded - Councillor McManus

**That the meeting be closed to the public in accordance with Section 5.23 (c) of the Local Government Act 1995 to allow confidential discussion on the following Items.**

**CARRIED UNANIMOUSLY 11/-**

The meeting was closed to the public at 11.58pm.

# CEO12.09.22 Appointment of Designated Employee – Director Technical Services

Confidential report circulated separately to Council Members.

Moved - Councillor Bennett

Seconded - Councillor Amiry

**That the meeting be reopened to members of the public and the press.**

**CARRIED UNANIMOUSLY 11/-**

The meeting was reopened to members of the public and the press at 12.14am on 28 September 2022.

In accordance with Standing Orders 12.7(3) the Presiding Member read out the motions passed by the Council whilst it was proceeding behind closed doors and the vote of the members to be recorded in the minutes under section 5.21 of the Local Government Act 1995.

Moved – Councillor McManus

Seconded – Councillor Youngman

**That the Confidential Recommendation be adopted.**

**CARRIED 8/3**

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

**Council Resolution / Recommendation**

**That Council:**

1. **accepts the Chief Executive Officer’s recommendation to appoint Mr Matthew MacPherson to the position of Director Technical Services for a maximum term of 5 years; and**
2. **does not make the appointment public until such time as the employment contract has been executed by both parties and the appointee has finalised their departure arrangements with their current employer.**

**The above resolution was made public following the execution of the employment contract in line with the Resolution.**

# Declaration of Closure

There being no further business, the Presiding Member declared the meeting closed at 12.20

pm.