

**Minutes**

**Council Meeting**

**28 July 2020**

**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.

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**City of Nedlands**

**Minutes of a meeting of the Council held online via Teams and livestreamed for the public and onsite, in the Ellis Room at Bendat Basketball Centre, 201 Underwood Ave, Floreat on Tuesday 28 July 2020 at 6 pm, and following adjournment, online via Teams and livestreamed for the public and onsite at Council Chamber, 71 Stirling Hwy, Nedlands at 6pm on Thursday 30 July 2020.**

# Declaration of Opening

The Presiding Member will declare the meeting open at 6.05 pm and drew attention to the disclaimer below.

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

**Councillors** Her Worship the Mayor, C M de Lacy (Presiding Member)

Councillor F J O Bennett (from 6.08 pm) Dalkeith Ward

Councillor A W Mangano Dalkeith Ward

Vacant Dalkeith Ward

Councillor B G Hodsdon Hollywood Ward

Councillor P N Poliwka Hollywood Ward

Councillor J D Wetherall Hollywood Ward

Councillor R A Coghlan Melvista Ward

Councillor G A R Hay Melvista Ward

Councillor R Senathirajah Melvista Ward

Councillor N B J Horley Coastal Districts Ward

Councillor L J McManus Coastal Districts Ward

Councillor K A Smyth Coastal Districts Ward

**Staff** Mr M A Goodlet Chief Executive Officer

Mrs L M Driscoll Director Corporate & Strategy

Mr P L Mickleson Director Planning & Development

Mr J Duff Director Technical Services

Mrs N M Ceric Executive Assistant to CEO & Mayor

**Public** There were 120 members of the public present.

**Press** The Post Newspaper representative.

**Leave of Absence** Nil.

**(Previously Approved)**

**Apologies** Nil.

**Disclaimer**

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

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

Councillor Bennett joined the meeting at 6.08 pm.

# Public Question Time

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

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

## Mr Julian Atkinson, 15 Leopold Street, Nedlands

Question 1

How can the council have sold some of the land in question to the developer without going to public auction?

Answer 1

A local government is able to dispose of land by one of three methods; public auction, public tender or by inviting submissions.

Question 2

The best outcome is to develop the new facility with the existing facility. Why can this not happen?

Answer 2

It is possible for this to happen. However, the City isn’t party to the commercial arrangements between the adjacent landowners and doesn’t control joint development of the facility.

## Mrs Jane Leaversuch, 78 Doonan Road, Nedlands

Question 1

How does the City believe that it follows the policy?

3.0 Objectives state:

'3.1 To recognise the importance of community and stakeholder engagement in the assessment of and determination of planning proposals.

3.2 To provide a consistent approach to the methodology in which the City undertakes engagement in relation to the form and duration of public consultation periods for planning proposals.

3.3 To recognise that discretion should be applied on a case-by-case basis given the varying degree of significance, scale and nature of planning proposals in the undertaking of public consultation with the community.’

Answer 1

The City’s Local Planning Policy goes above and beyond statutory requirements of the State Government as prescribed in the Planning and Development (Local Planning Schemes) Regulations 2015. As such the operation of the LPP seeks to further engage with the local community using additional methods that are not requirements under planning legislation to involve the community in its assessment of planning proposals.

The City’s approach remains through the engagement LPP which clearly states the methodologies applied to consultation in various categories of applications and proposals.

The City is able to apply discretion as allowed in the LPP, in each instance when engaging with the local community.

Question 2

If the Council believes that it has followed this policy, why do so many residents feel that they haven’t been consulted by the City of Nedlands in the four years that Peter Mickelson, Town Planner, says the City has been working with the developer, Oryx Communities?

Answer 2

No development proposal has been lodged with the City of Nedlands until June 2020. The administration cannot consult with the community based on unresolved preliminary plans or concepts that are either confidential, copyright or unresolved. The City has not ‘worked’ with the developer for the past four years. Current discussions relating to the current proposal only commenced late 2019.

Question 3

Why has the Council not followed up with any residents when no responses have been received on any of the planning policy changes in relation to Doonan and Betty Street during the ‘consultation process’?

Answer 3

Administration have advertised the Draft Local Planning Policy in accordance with the Planning and Development Regulations 2015 as well as the City’s Local Planning Policy for Consultation of Planning Proposals, this has included advertisements in the local newspaper, social media posts and online advertising on the City’s website. The Local Planning Policy for Residential Aged Care applies to the entire City. The current meeting agenda deals with some of the issues raised in the consultation.

Question 4

What does the Council currently believe are the public concerns and aspirations for the Aged Care Facility on Betty and Doonan Road?

Answer 4

Councillors are generally aware of the public concerns and aspirations for the Aged Care Facility. The Responsible Officer Report will bring the details of those concerns to Council to determine a formal position. Council will also be considering three reports at this meeting which deal with matters relating to the concerns of the public.

## Mrs Kylie Passage, 80 Doonan Road, Nedlands

Question 1

With reference to the proposed Aged Care Facility at Betty St/Doonan Rd, at the Council Meeting on 23 June 2020, Director of Planning, Peter Mickleson,  made comments to the effect that “Oryx undertook more community consultation than I’ve ever seen any developer do for a proposal”. (comments not minuted)

1. Was Mr Mickleson referring to the “community survey” conducted about a different proposal in 2016?

Answer 1a

Mr Mickleson was referring to the overall consultation that the applicant has undertaken for the site since 2016, not mentioning any specific version or detail about specific designs or development outcomes.

1. Was Mr Mickleson aware that the community survey only had 79 respondents, and that almost half (46%) lived outside of Nedlands? (source, Oryx Community Engagement Report by Creating Communities, May 2016)

Answer 1b

Mr Mickleson is aware that approximately 5000 letters were sent to postcode 6009 mailboxes advising of a community open day run by a consultant on behalf of Oryx as part of its community engagement activities.

1. Does Mr Mickleson consider this representative of extensive community consultation?

Answer 1c

Mr Mickleson believes that the level of consultation undertaken outside of the statutory requirements is beyond what most applicants undertake within the City of Nedlands.

1. Does the City of Nedlands consider this representative of extensive community consultation?

Answer 1d

The City of Nedlands is not in control of, nor does it adjudicate, applicant led community engagement. The City is only in control of the community engagement it undertakes as guided by City Policy.

1. Did the City of Nedlands undertake any independent assessment of community support for an aged care facility at this location?

Answer 1e

The City of Nedlands is assessing a current JDAP application and is following the relevant DAP regulations. The City also undertakes community consultation in accordance with the Planning and Development (Local Planning Schemes) Regulations 2015 as well as advertising above that required by the Regulations in accordance with the Local Planning Policy, Consultation of Planning Proposals.

Question 2

With reference to the “Key Dates and History of this Application” document for the Betty St/Doonan Rd Residential Aged Care Facility document on the City of Nedlands website:

1. A “comprehensive proposal” was presented to the Elected Members on 5 April 2015.  Was the proposal from Oryx?  If so, can the City please provide details and a copy of this proposal to the public.

Answer 2a

The proposal was from individuals who are now part of Oryx. The presentation was made at a workshop of Councillors and no documents were provided or minutes taken which is normal for workshops.

1. “Oryx presented its vision” to Elected members on 9 June 2015.  Given that the four blocks of land (73/75 Doonan Rd, 16/18 Betty St) included in the proposal for a two-storey aged care facility presented to the community in 2016 were all residentially zoned land at that time, and the Draft Local Planning Scheme No 3 (LPS3) signalling potential change to Special Use 8 aged care use was not endorsed for advertising until the Special Council Meeting on 13 December 2016, how did Oryx Communities know that the lots were designated for future aged care use?

Answer 2b

Oryx proposed to initiate a Scheme Amendment over the land.

1. Did, Oryx, prior to the City of Nedlands including the four residential blocks of land in the Special Use 8 aged care use in its Draft Local Planning Scheme No 3, make any request or requests to the or Council to make these zoning changes to those sites?

Answer 2c

No.

1. When the City of Nedlands endorsed Draft Local Planning Scheme No 3 in December 2016 and proposed changes to the Special Use 8 zoning for the Melvista Lodge site, as well as 16/18 Betty St and 73/75 Doonan Rd, was it the City’s and or Council’s intention for and/or expectation of an integrated site?

Answer 2d

No, although that option would have been possible.

## Mr Mario Faugno, 74 Doonan Road, Nedlands

The following questions relate to the current proposed development of the High Care Aged Facility at Doonan Road/Betty Street, Nedlands (the Proposed Development):

Question 1

Reference is made to the matter raised at the Council Meeting held on 23 June 2020 (Items 10.1 and 10.2) on the Proposed Development and comments made by the Director of Planning & Development in the Meeting on the consultation undertaken by the Developer on the Proposed Development.  The Director commented to the Council that the consultation undertaken by the Developer was “the best he has ever seen”.

Answer 1

It is understood that the developer held an open, concept level engagement with the public and that the Director was impressed by this, given there was no statutory requirement to do this.

Question 2

It is noted that at the time the Director of Planning made this comment, only the 5 immediate adjacent residents to the Site had been informed by the Developer of the Proposed Development and also by unaddressed letter in their mailbox.  At that time also over 200 surrounding residents were completely unaware of the Proposed Development, and no consultation had been undertaken at all by the Developers on the Proposed Development.  The community is well aware that some limited consultation was undertaken by the Developer on a completely different proposal back in April 2016 (one open day only) and some 4 years earlier, but nothing on the current Development Proposal.

Given these clear facts and complete lack of any consultation and notice regarding the Proposed Development, can the Director of Planning & Development please indicate the basis on which he believes this was the “the best [consultation] he has ever seen” undertaken by a developer?

Answer 2

The comments were made in relation to the engagement done for the early concept, rather than the current consultation period.

Question 3

Reference is made to comments made by the Director of Planning & Development to a member of the public on 18 June 2020 at City’s offices who attended the City’s office to book consultation sessions for several concerned community members on the Proposed Development.   At that attendance the Director of Planning & Development, Mr Mickleson, stated to that member of the public that “if you think you can change anything [on the Proposed Development] you are a dreamer”.  Can the CEO please advise:

a.    Is a comment such as this, and from the head of the City’s Planning Department, appropriate conduct and comment in regards to a development application still under public consultation and comment and not yet assessed and reviewed by the City, or indeed appropriate conduct at any other time?;

Answer 3a

The CEO has conferred with the Planning Director to confirm this conversation. It was a comment stated in an albeit flippant manner, but primarily aimed at explaining the lack of control Councils have over the State Government planning system. The CEO requests that both the public and staff always speak to each other in a civil manner. The CEO has also heard the Director speak on more than one occasion, to express his concerns that the planning system in WA is structured so that local government has frustratingly little power in the most crucial components of planning; of his acknowledgement of the real difficulty facing residents who are adversely impacted by LPS3 having set up their homes for life; and of the difficulty for local government which is required by law to implement the system as it stands.

Question 3b.     Does the CEO believe that the Director of Planning & Development, or indeed any other member of his planning staff at the City, when queried on development matters should provide objective, balanced and non-biased responses on development matters before the City?;

Answer 3b

Yes.

Question 3c

Does the CEO believe this conduct is not in keeping with and unbecoming of the office of the Director of Planning & Development for the City?

Answer 3c

Refer to answer in 2a.

Question 3d

Can the CEO please advise what steps will be taken in this regard to ensure the public maintains full confidence on the objective and non-biased decision-making process of the City on planning and development matters.

Answer 3d

The CEO is aware that the City’s planning department, while dealing with the impacts of LPS3 and an unprecedented surge in development applications, has been accused at varying times, of being both biased towards the developer and of bias towards the residents.  The City will continue to employ professional and qualified planners to deal with planning matters impartially and in accordance with the requirements of legislation.

Question 4

Can the Director of Planning & Development please advise if he has any personal, commercial or professional relationship, either past or present, with the developers of the Proposed Development, Oryx Communities, Dueke Investments P/L, any of Oryx or Dueke’s related companies, or any of Oryx or Deuke’s directors, shareholders, officers or employees?

Answer 4

The CEO is not aware of any conflict of interest of the Planning Director with Oryx Communities or Dueke Investments Pty Ltd.

Question 5

Can the CEO and Director of Planning & Development please advise if each of them are aware or has reason to believe that any of City of Nedlands staff in the Planning Department or otherwise have any personal, commercial or professional relationship, either past or present, with the developers of the Proposed Development, Oryx Communities, Dueke Investments P/L, any of Oryx or Dueke’s related companies, or any of Oryx or Dueke’s directors, shareholders of officers or employees?

Answer 5

The CEO has no conflict of interest, and is not aware of any planning staff working on the aged care local planning policy and the development application for Oryx Communities, conflict of interest in regard to Oryx Communities or Dueke Investments Pty Ltd.

Question 6

What reports, recommendations and guidelines (either government or private) did the City taken into account in its preparation of the Local Planning Policy: Residential Aged Care Facilities for Nedlands?  If any, please provide details of these.

Answer 6

* WAPCs draft aged care position statement
* Examples of other LG’s LPPs on commercial development within residential areas. This is the mechanism most LG’s use to control built form of residential aged care in residential areas – most LG’s do not have specific controls for residential aged care developments.

Question 7

In preparing the LPP Local Planning Policy: Residential Aged Care Facilities for Nedlands did the City considered and have regard to the Interim Report of the Royal Commission into Aged Care and Safety

(<https://aus01.safelinks.protection.outlook.com/?url=https%3A%2F%2Fagedcare.royalcommission.gov.au%2Fpublications%2Finterim-report&amp;data=02%7C01%7Ccouncil%40nedlands.wa.gov.au%7C8648d97e939f4760296308d82ecd1a4d%7Cd583947c8c4246bd927527ca45e5e84c%7C1%7C0%7C637310805745552932&amp;sdata=CLiW8q%2B0YkYX7ZwrHa%2Fy%2Fl6yrTEqD3qJDQaRP1i4bZc%3D&amp;reserved=0>), 31 October 2019? and WA Government Draft Position Statement: Residential Aged Care, October 2019 (<https://aus01.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.dplh.wa.gov.au%2Fgetmedia%2F1a6f57d1-8057-46aa-bbe6-39a2d602b3f6%2FPOS-Draft-Residential-Aged-Care&amp;data=02%7C01%7Ccouncil%40nedlands.wa.gov.au%7C8648d97e939f4760296308d82ecd1a4d%7Cd583947c8c4246bd927527ca45e5e84c%7C1%7C0%7C637310805745552932&amp;sdata=w0hALzQqlHVNpNIZA%2FEvVSHN9b%2BZDbdziWAYxb8tTXU%3D&amp;reserved=0>).

If so, can it please provide details and the review document.

Answer 7

The document referenced is not part of the WA Planning Framework. Such a document would be suitable for reference if and when the City decided to undertake an Aged Care Strategy.

The Residential Aged Care LPP is a local government planning policy and as such is development in accordance with the Planning and Development Act 2005 and the Planning and Development (Local Planning Schemes) Regulations 2015. The policy is predominantly focussed on land use and built form controls, rather than the services that a provided by the facility nor making value judgments on the suitability of a facility relating to specific aged care needs of an individual. The City is obliged to assess all development against the 10 design principles of State Planning Policy 7.0 Design WA and Clause 67 of the Planning Regulations regarding “matters to be considered”. As such a comprehensive assessment is undertaken of all development applications proposed within the City of Nedlands.

Question 8

Has the City or Council engaged in any discussions or taken any action or steps in regards to the possible disposal of any other Council held land adjacent to or in the area surrounding to or in vincity of the site the subject of Proposed Development, whether on Doonan Road, Betty Street, Melvista Avenue, Hackett Road, Kathryn Crescent or Adelma Road, including the current Child Care site located on the corner of Melvista Avenue and Hackett Road?  If so, can the City and Council each please provide open and frank disclosure of this and details of these discussions and any actions or steps so taken.

Answer 8

Provision for income from disposal of freehold land is included in the City’s 20/21 budget.  Disposal of freehold land at the corner of Melvista Avenue and Hackett Road (the childcare) will be investigated and then considered by Council this financial year.

## Mr Michael Cahill, 65 Melvista Avenue, Nedlands

Question1

Local Planning Policy - Removal of Occupancy Restrictions is unclear in its application to multiple dwellings. The LPP appears to target single residential properties with ancillary dwellings. Section 8.0 of the LPP permits variations to the policy. Attachment 2 Information Sheet contemplates application of the policy to multiple dwellings and references Residential Design Codes Vol 2 (R40 and above). The LPP does not specifically exclude application of the policy to Residential Aged Care Facilities and in particular the proposed Oryx facility at 16-18 Betty St/ 73-75 Doonan Rd.

Is it the Planning Department's intention that a variation under Section 8.0 of the LPP could or would apply to Residential Aged Care facilities?

Answer 1

This policy specifically relates to the change of use from Over 55's dwellings to Residential properties, and the removal of occupancy restrictions on Certificates of Title. This LPP has no impact upon Residential Aged Care Facilities and is not relevant to them.

Question 2

It appears somewhat convenient that the LPP Removal of Occupancy Restrictions is following "hot on the heels" of the LPP Residential Aged Care Facilities.

Answer 2

This appears to be a statement not a question.

Question 3

With reference to Local Planning Policy Residential Aged Care Facilities (LPP) Local Planning Scheme No. 3 (LPS3) and Residential Design Codes Volume 2 (R-Codes Vol 2) are consistent in their objectives:

* “protect and enhance local character and amenity” (LPS3)
* “respect the community vision for the development of the district” (LPS3)
* the height of development responds to the desired future scale and character of the street and local area including existing buildings that are unlikely to change (R-Codes Vol 2)

Any deviations from R-Code Vol 2 must be consistent with the Element Objectives (Sections 2.2 to 2.7). This includes building heights and setbacks which must be consistent with surrounding properties. The LPP may amend or replace any of the Acceptable Outcomes of R-Codes Vol 2 but it must adhere to the Element Objectives (Section 1.2.3).

Answer 3

As applied to 16-18 Betty Street/ 73-75 Doonan Road the LPP Residential Aged Care Facilities deviates from R-Codes Vol 2 and violates Section 1.2.3 of R-Codes Vol 2. Why has the planning department produced an LPP in violation of R-Codes Vol 2 when the LPS3 and R-Codes Vol 2 requires adherence to the existing 10 m height limits and 9m setbacks?

Question 4

LPS3 identifies nine Residential Aged Care sites (A3 to A5 and A7 to A9). All aged care facilities are existing except for A5 and A9. Barring any near-term redevelopment of existing sites, the planning department has therefore produced an LPP that is applicable to only two sites A5 and A9.

Site A5 is a large complex with provision for a hospital, medical centre, residential aged care, commercial, veterinary, and light industrial facilities. By comparison Site A9 is designated as aged care only.

Answer 4

The R-Codes are not applicable to commercial development. Some built form provisions were 'borrowed' from the R-Codes for the purpose of the LPP, in order that the height requirements etc in the LPP would be easier to understand. The R-Codes themselves cannot be applied to a Residential Aged Care Facility and this answers the additional queries regarding Element Objectives/Acceptable Outcomes.

Question 5

On what basis does the planning department think it is appropriate to have an LPP that only covers two sites and why is it appropriate to apply it to two vastly different sites with vastly different contexts?

Answer 5

Residential Aged Care Facilities are permitted as Additional Uses on the sites highlighted by Mr Cahill. However, the Zoning Table states that Residential Aged Care Facilities are an 'A' use in Residential Zones. This means Council can apply its discretion to approving this style of development anywhere in the Residential zone, but that the proposal must first be formally advertised.

Question 6

Did the planning department write the LPP specifically for the proposed Oryx development at 16-18 Betty St/ 73-75 Doonan Road?

Answer 6

The LPP was written to cover the potential for a Residential Aged Care Facility occurring anywhere within the Residential zone in the City and built form provisions were imposed in accordance with the size of an applicant's site.

Question 7

Draft Position Statement: Residential aged care October 2019, section 5.1 requires the Council to assess:

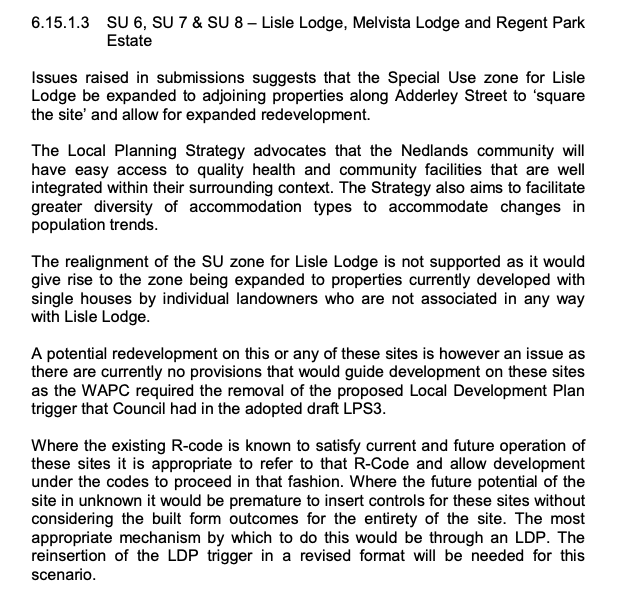
* existing and future projected demographic profiles for aged persons applying WAPC’s WA Tomorrow data
* existing and future projected aged persons’ housing and residential aged care needs across the municipality
* medium to long-term aged persons’ housing and residential aged care

(beds) provision targets aligned to projected future demand

Will the Council please publish the detail of these assessments for residents' information?

Answer 7

* A Position Statement is a document which outlines the WAPC’s interim requirements to support the consideration and provision of Residential Aged Care within the local government planning framework in WA. The Position Statement is still in draft form and was released in October 2019; which was prior to the identification of the Additional Use Zone (A9).
* The City does not have an Aged Care Strategy or a Housing Strategy. The City’s Local Planning Strategy touches on ‘aging in place’.
* DPLH gave no reason to their changes to LPS3 from what was previously identified by the City to be a Special Use Zone (SUZ). It is accounted by the previous Strategic Planning Coordinator that DPLH wanted to reserve the use of the SU zones for things that really didn’t fit into the standard scheme zones / land use categories, rather than use them to just try and control development a little tighter.
* For the purposes of a proposal for Residential Aged Care facility at the Betty Street / Doonan Road site, Special Use vs Residential wouldn’t change applicable development standards (i.e. none for both for non-res development). There was a provision included in the original (Council endorsed) version of LPS3 for an LDP to be requested prior to any redevelopment at this site but was removed by DPLH in their modifications prior to advertising Draft LPS3. The City requested a revised LDP provision to be included for the site when we recommended final modifications of LPS3 to Council in July 2018, However Council did not support LPS3.
* The former Coordinator Strategic Planning also suggested that at one of the Council workshops officers were asked to include the Betty Street Application lots in the same zoning as the aged care site at Melvista Lodge adjacent. However, in the Residential Zone Residential Aged Care is ‘A’ use therefore the use itself could be approved anywhere within the residential zone, the only difference is that this is a ‘P’ use due to the additional use.
* Below was part of the report that went to Council in July 2018 with LPS 3:



Question 8

I refer to the DA for 16-18 Betty St/ 73-75 Doonan Rd.

There have been two Oryx community engagement sessions - one in 2016 for a 2-level development and one recently for a 4-level development at about the time the DA was lodged. Oryx has controlled the process to date by not adequately engaging with the community and hiding its intentions.

How many formal or informal meetings or discussions has the planning department, or any other member of the administration had with Oryx regarding the proposed development during the period 2016-2020?

Answer 8

Not sure for certain but the Director and other staff have had a number of discussions just as we would with any customer who are intending to lodge an application.

Question 9

We have enquired several times during the period 2014-2020 whether anything was happening with the site and each time we were told by council staff that they weren't aware of anything.

Were council staff instructed by the planning department or any other member of the administration not to divulge any information relating to the site to the general public during the period 2014-2020?

Answer 9

No.

## Ms Rebecca Faugno, 74 Doonan Road, Nedlands

Question 1

With reference to recent comments made by the Mayor regarding the current situation of the LPP in the context of the Betty St/Doonan Rd proposed DA being a ‘real mess’ and one that needs to be ‘fixed’, we understand that the City Administration proposes to ‘fix’ the issue by amending the current LPP and amending LPS3 to include additional conditions around height and built form that are more appropriate for the site location.

Given I understand that the implementation of an LPP amendment requires quite some time to process and be effective, including a period of public consultation and comment, and further an LPS amendment must be submitted to WAPC for consideration and approval and typically takes 6-9 months to implement, can the City please provide answers to the following questions:

a. Please confirm whether, if such changes are adopted, they will be in place and effective prior to consideration of the Betty St/Doonan Rd DA either at the scheduled JDAP meeting for that DA, only weeks away, or by any other determining body; and

b. If not – can the City please confirm whether those changes will in fact form

the basis for JDAP assessment of the DA?

c. If not - please explain how such solution proposed by the City, will ‘fix’ the problems and concerns clearly identified as needing to be corrected by the Mayor and all public community concerned in relation to the Betty St/Doonan Road DA.

Answer 1a - c.

Three reports are presented at tonight’s Council meeting to deal with changes to the LPP and bring two scheme amendment forward. These changes will be considered if Council supports the recommendations and they become seriously entertained documents, at which point they are considered in any development assessment.

## Mr John McGuire, 2 Granby Crescent, Nedlands

Question 1

Can the Council please advise the relevant experience and capability of the Planning Department in relation to preparation of a comprehensive planning policy for population healthcare services, and specifically aged care services? Can the council please make particular reference to requisite experience and expertise of the Planning Department with contemporary and emergent models of care for aged care, noting the role delineation between the stages of aged care from independent living, low care, high care, respite care and palliative care.

Answer 1

The City of Nedlands employs University Qualified Urban and Regional Planners many who are accredited by the Planning Institute of Australia.

Local Planning policies are developed with reference to external consultant expertise where and when required. The City’s Local Planning Policy relates to built form, as such urban and regional planners, possibly architects and landscape architects could be engaged.

The state planning framework has not developed specific legislative framework dealing with Residential Aged Care, however there is a draft position statement to assist in guidance to local government in forming local planning responses in accordance with statutory requirements under the Planning and Development Act.

Question 2

Can the Council please advise the relevant expertise and experience of the Planning Department in fully determining the environmental implications of a high care aged healthcare facility to the surrounding environment? Please make specific reference to experience and capability of the Department to determine and assess the impact of both Type A and Type B effluents (reference AS 1668.2 part 3.3.1) on the surrounding environment.

Answer *2*

All commercial applications (such as Aged Care Buildings)  that are submitted to the City are assessed for compliance with the natural ventilation requirements of the National Construction Code, which AS 1668.2-2012 is a pathway for compliance, by private building surveyors registered in WA by the State Government and when submitted to the City applications are provided with a certificate of design compliance by a private building surveyor and taken as compliant by the City and issued accordingly under the requirements of the Building Act.2.0.

All applications submitted to the City are assessed in accordance with the applicable legislative frameworks.  Environmental Health Officers provide technical support the city’s Planning Department.  Environmental Health Officers provide comment regarding the compliance or otherwise of a submission based on the applicable legislation along with any recommended Conditions.  Environmental Health Officers do not certify systems referenced in AS 1668.2.

## Mr Andrew Jackson, Unit 3 / 114 Stirling Highway, Nedlands

Question1

Why, since Local Planning Scheme No. 3 commenced over 15 months ago, has Council not acted prudently and swiftly to redress the absence of a building height limit for the Mixed-Use R-AC1 Zone along Stirling Highway?

Answer 1

The City has contracted the firm Hassell to work on built form modelling and testing for the Nedlands Town Centre and develop localised built form controls which will take the form of a Precinct Plan LPP. To support this, a Scheme Amendment is scheduled to be tabled before Council at its November Council meeting for consent to advertise with details not yet resolved.

Question 2

Given the development proposals for what are known as the Chellingworth and Captain Stirling sites, and other proposals likely to arise, will Council move forthwith to amend the Scheme to introduce appropriate height control to ensure orderly and proper planning and the protection of amenity?

Answer 2

As per answer 1.

Question 3

Will Council commit to doing everything in its power to overcome this critical shortcoming as a top priority – or will Council continue to ignore this most important matter to the peril of Nedlands?

Answer 3

Council has prioritised resourcing in planning in order to get through a backlog of strategic planning issues.

## Mr Andrew Edwards, 14 Doonan Road, Nedlands

Question 1

It is abundantly clear that the City’s planning staff are under-resourced and struggling with the pressure coming from both development applications being lodged and the formulation of necessary planning instruments in response such as LPPs and Scheme Amendments. Rather than keep pointing to these challenges as reasons for being unable to promptly disseminate feedback on advertised LPPs and Scheme Amendments, why doesn’t the City commit more resources to planning staff or/and consultants and spend less money and time on opposing community sourced planning initiatives and pursuing legal opinions in support of its own agendas?

Answer 1

Planning resourcing has increased and continues to do so in the 2020/21 budget.

## Ms Susan Stevens, 65 Melvista Avenue, Nedlands

Question 1

I would like to ask the Council, why the conflict of interest within the planning department has been allowed to continue, where a full time senior planner continues to conduct his own “Western Australian owned and operated Urban Planning and Collective Housing Development Company”, which has been established since 2011, while s/he is in the employ of the City?

Answer 1

This matter has been considered and there is no conflict of interest.

Question 2

When will the Planning Department stop paying lip service to their commitment “…..to providing opportunities for our community to be involved in our decision-making processes. We look forward to hearing your views, concerns, and aspirations to assist in sustainable outcomes on projects and policies that are being developed. This will lead to stronger community cohesion, city amenity and quality of life for the City of Nedlands community.” (Your Voice Nedlands Website)?

Answer 2

The City’s engagement planning policy details the extent and nature of community consultation.

Question 3

When will the Council direct the CEO to regain control of the City’s Planning Department, so that it can rebuild the trust, it has lost over the past 6 months through its lack of meaningful engagement with ratepayers?

Answer 3

The Council and the Planning Department are both bound to act in accordance with the Planning and Development Act 2005 and its subsidiary legislation. Council is considering community engagement in the coming months and will be looking for input from the community on this important matter at this time.

Question 4

When will the community engagement process be changed so that the Planning Department is no longer just ‘ticking boxes’?

Answer 4

The Planning Department’s community engagement process is not simply ticking boxes. Again, Council is considering community engagement in the coming months and will be looking for input from the community on this important matter at this time. The CEO has a view that 3D visualisation software may improve accessibility for the public on planning matters and this is a key results area for focus in the next 12 months.

Councillor Wetherall left the room at 6.45 pm.

Question 5

Since the DA for Aged Care became known 5 weeks ago, ratepayers and residents have invested a lot of time and energy into coming up to speed, by educating themselves about the different state and government responsibilities, policies and regulations regarding aged care building and development. The scrutiny now being endured by the Planning Department will continue until something changes. When will change occur that means rate payers don’t have to keep second guessing the intentions of the administration, that is paid by them, and is supposed to preserve the city amenity and quality of life for the City of Nedlands community?

Answer 5

The Council and the Planning Department are both bound to act and make recommendations on planning applications in accordance with the Planning and Development Act 2005 and its subsidiary legislation as it stands, including LPS3. Where LPS3 is at odds with the wishes of the community, is not within the Council’s or the planning department’s capacity to deviate from LPS3, except to the extent that it is able to make scheme amendments and implement local planning policy which improves design outcomes. To this end the Administration has prepared 10 scheme amendments to date and over 12 planning policies with a schedule for more of both.

Question 6

Having just read the LPP for the removal of ‘Over 55’s’ across properties in Nedlands. It is disturbing reading. Why is there no mention/exemption regarding the Aged Care Village and proposed Oryx Development site? This rush to get LPP’s through leads to errors as we are seeing in respect to the LPP developed and being used to assess the Aged Care Facilitiy being proposed for Betty St and Doonan Rd DA. I recommend we put a ‘pause’ on this LPP immediately.

Answer 6

Council will be considering the Aged Care LPP at tonight’s meeting.

## Mr George Gelavis, 69 Riley Road, Nedlands

Question 1

I would like to understand what the council intends to do with the current parcel of land occupied by Kids galore at 64-66 Melvista Ave, Nedlands WA 6009. Are Council intending to sell this land to developers if so, what is being proposed for the site.

Answer 1

Provision for income from disposal of freehold land is included in the City’s 20/21 budget.  Disposal of freehold land at the corner of Melvista Avenue and Hackett Road (the childcare) will be investigated and then considered by Council this financial year. No decision has been made regarding the type of purchaser who might acquire the land, and no consideration has been made to change the current zoning of the land.

Councillor Wetherall returned to the room at 6.48 pm.

## Mrs Conor Crane, 11 Lovegrove Close, Nedlands

Question 1

Will the city of Nedlands be building a climbing net to replace the popular climbing tree that was cut down on the 30th of June?

The climbing tree located at Directors Garden's on Grainger Drive Mt Claremont provided local children with a priceless resource for nature play.

The climbing tree helped to improve children's gross motor skills whilst teaching them how to assess risks safely and to experience engaging nature play away from screens and electronic devices. I've never seen a tree that was a fun or safe to climb as this one was. One person's life has been improved, but the lives of countless local children and generations of future children have been detrimentally impacted.

Answer 1

Yes, the City will be replacing this tree with a delonix poinciana tree in approximately 6-8 weeks.

# Addresses by Members of the Public

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

Mr Alex Hemsley, 168 Stirling Highway, Nedlands PD31.20

(spoke in support of the officer recommendation)

Ms Danielle Mrdja, 231 Bulwer Street, Perth PD31.20

(spoke in against of the officer recommendation)

Mr Paul Epstein, 20 Robinson Street, Nedlands PD31.20

(spoke in support of the officer recommendation)

Miss Pheobe Woodhead & Olivia Stell,

339 Marmion Street, Cottesloe PD32.20

(spoke in support of the officer recommendation)

Mr Petar Mrjda, Urbanista Planning, 231 Bulwer Street, Perth PD33.20

(spoke in support of the officer recommendation)

Mr Guy Churchill, 67 Hardy Road, Nedlands TS13.20

(spoke in support of the recommendation)

Mr Roger Hunt, 5 Teslin Road, Mt Claremont 13.6

(spoke in opposition to the recommendation)

Mr John McGuire, 2 Granby Crescent, Nedlands 14.6

(spoke in support of the motion)

Mr Matthew McNeilly, 71 Doonan Road, Nedlands 14.6

(spoke in support of the motion)

Mr Ian Love, 70 Kingsway, Nedlands 16.1

(spoke in support of the motion)

Dr Peter Robins, 10 Edward Street, Nedlands 16.1

(spoke in support of the motion)

Mr Andrew Lian, Suite 5, 61 Hampden Road, Perth 16.1

(spoke in opposition to the motion)

Mr Alex McGlue, Lavan, 1 William Street, Perth 13.1, 13.2, 13.3 & 14.6

(spoke in opposition to the motion)

# Requests for Leave of Absence

Nil.

# Petitions

## Mr Andrew Lian, Alda Consultants, Suite 5, 61 Hampden Road, Nedlands – Scheme Amendment No. 7

Councillor Senathirajah presented a petition on behalf of Mr Andrew Lian and 119 others in requesting the City of Nedlands Council resolve to NOT to support Amendment No.7 to Local Planning Scheme No.3, on the grounds that:

* The proposed down coding of properties along Broadway from R-AC3 to R-AC4, and properties along
* Kingsway and Hillway from R60 to R40, is unwarranted and will significantly reduce their development
* potential.
* The proposed down codings are inconsistent with strategic planning objectives as outlined in the City of
* Nedlands Local Planning Strategy and the State Government's Perth and Peel ©3.5m11110n Central SubRegional Planning Framework.
* The existing R-AC3 and R60 densities are entirely appropriate, given the close proximity to the University of
* Western Australia and range of retail/commercial offerings along Broadway.
* The proposed amendment constitutes a significant and unwarranted departure from the statutory planning
* framework and strategic vision for the area, as only recently approved by the Minister for Planning and
* gazetted in April 2019.
* Such a retrograde change to the planning framework will disincentivise development activity and inhibit
* economic recovery activities in response to the COVID-19 pandemic

Moved – Councillor Senathirajah

Seconded – Councillor Smyth

**That Council receives the petition.**

**CARRIED 9/3**

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

# Disclosures of Financial and/or Proximity Interest

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

## Councillor Bennett – Item 16.1 – Urgent Business Councillor Mangano Scheme Amendment No. 7

Councillor Bennett disclosed a financial interest in Item 16.1 – Urgent Business Councillor Mangano Scheme Amendment 7, his interest being that he lives in the scheme area at 133 Broadway, Nedlands. Councillor Bennett declared that he has been granted approval by the Minister to remain in the meeting and vote subject to the following conditions:

1. The approval is only valid for the 28 July 2020 Ordinary Council Meeting when agenda item 16.1 is considered;
2. The abovementioned Councillor must declare the nature and extent of their interests at the abovementioned meeting when the matter is considered, together with the approval provided;
3. The CEO is to provide a copy of the Department’s letter of approval to the abovementioned Councillor;

4. The CEO is to ensure that the declarations, including the approval given and any conditions imposed, are recorded in the minutes of the abovementioned meeting, when the item is considered;

# Disclosures of Interests Affecting Impartiality

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

## Councillor Senathirajah – Confidential Item 17.1 – CEO Performance Review

Councillor Senathirajah disclosed an impartiality interest in Confidential Item 17.1 – CEO Performance Review. Councillor Senathirajah disclosed that when he was the Manager of finance at Nedlands he worked with the CEO when he was the Manager of Finance and the CEO was the Technical Services Director at he time, and as a consequence, there may be a perception that his impartiality on the matter may be affected. Councillor Senathirajah declared that he would consider this matter on its merits and vote accordingly.

## Councillor Mangano – TS13.20 - Underground Power – Hollywood East, Nedlands North and Nedlands West

Councillor Mangano disclosed an impartiality interest in Item TS13.20- Underground Power – Hollywood East, Nedlands North and Nedlands West. Councillor Mangano disclosed that he contracts to Western Power, and as a consequence, there may be a perception that his impartiality on the matter may be affected. Councillor Mangano declared that he would consider this matter on its merits and vote accordingly.

## Councillor Hodsdon – TS13.20 – Underground Power – Hollywood East, Nedlands North and Nedlands West

Councillor Hodsdon disclosed an interest in common in Item TS13.20 – Underground Power – Hollywood East, Nedlands North and Nedlands West. Councillor Hodsdon disclosed that he owns a property in the area being discussed, and as a consequence, there may be a perception that his impartiality on the matter may be affected. Councillor Hodsdon declared that he would consider this matter on its merits and vote accordingly.

## Councillor Wetherall – 13.7 – Nedlands Town Centre – Florence Road Precinct – Update and Direction

Councillor Wetherall disclosed an impartiality interest in Item 13.7 - Nedlands Town Centre – Florence Road Precinct – Update and Direction. Councillor Wetherall disclosed that this Policy may relate to matters before the Metro Inner North JDAP Meetings of which he is a member, as appointed by Council, and as a consequence, there may be a perception that his impartiality on the matters may be affected. Councillor Wetherall declared that he would consider these matters on their merits and vote accordingly.

## Councillor Wetherall – 13.7 – Nedlands Town Centre – Florence Road Precinct – Update and Direction

Councillor Wetherall disclosed an impartiality interest in Item 13.7 - Nedlands Town Centre – Florence Road Precinct – Update and Direction. Councillor Wetherall disclosed that this Policy may relate to matters before the Metro Inner North JDAP Meetings of which he is a member, as appointed by Council, and as a consequence, there may be a perception that his impartiality on the matters may be affected. Councillor Wetherall declared that he would consider these matters on their merits and vote accordingly.

## Councillor Smyth – 13.7 – Nedlands Town Centre – Florence Road Precinct – Update and Direction

Councillor Smyth disclosed an impartiality interest in Item 13.7 - Nedlands Town Centre – Florence Road Precinct – Update and Direction. Councillor Smyth disclosed that this Policy may relate to matters before the Metro Inner North JDAP Meetings of which she is a member, as appointed by Council, and as a consequence, there may be a perception that her impartiality on the matters may be affected. Councillor Smyth declared that she would consider these matters on their merits and vote accordingly.

## Councillor Bennett – 13.7 – Nedlands Town Centre – Florence Road Precinct – Update and Direction

Councillor Bennett disclosed an impartiality interest in Item 13.7 - Nedlands Town Centre – Florence Road Precinct – Update and Direction. Councillor Bennett disclosed that this Policy may relate to matters before the Metro Inner North JDAP Meetings of which he is a member, as appointed by Council, and as a consequence, there may be a perception that his impartiality on the matters may be affected. Councillor Bennett declared that he would consider these matters on their merits and vote accordingly.

## Mayor de Lacy – 13.7 – Nedlands Town Centre – Florence Road Precinct – Update and Direction

Mayor de Lacy disclosed an impartiality interest in Item 13.7 - Nedlands Town Centre – Florence Road Precinct – Update and Direction. Mayor de Lacy disclosed that this Policy may relate to matters before the Metro Inner North JDAP Meetings of which she is a member, as appointed by Council, and as a consequence, there may be a perception that her impartiality on the matters may be affected. Mayor de Lacy declared that she would consider these matters on their merits and vote accordingly.

Councillor McManus left the room at 7.55 pm and returned at 7.57 pm.

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

Nil.

# Confirmation of Minutes

## Ordinary Council Meeting 23 June 2020

Moved – Councillor Hay

Seconded – Councillor Coghlan

**The Minutes of the Ordinary Council Meeting held 23 June 2020 be confirmed.**

**CARRIED UNANIMOUSLY 12/-**

## Special Council Meeting 30 June 2020

Moved – Councillor Wetherall

Seconded – Councillor Hay

**The Minutes of the Special Council Meeting held 30 June 2020 be confirmed.**

**CARRIED UNANIMOUSLY 12/-**

# Announcements of the Presiding Member without discussion

The following has been advised to me by the CEO this evening regarding the Special Electors Meeting:

Under the current state of emergency caused by the COVID-19 crisis I regret to inform you that the planned special electors meeting will not be occurring as scheduled.  It has come to my attention that a Ministerial Order gazetted on 8 May 2020 prohibits the holding of special electors’ meetings during the COVID-19 emergency declaration period.

Section 5.28 of the Local Government Act 1995 deals with the calling of special electors meetings and the requirement to hold them at a time no more than 35 days after which the electors have called the meeting (sub-section 4).

The Ministerial Order overrides sub-section 4 as follows (refer to attached for full details):

**5. Section 5.28 modified (electors’ special meetings)**

(1) Section 5.28 is modified as set out in this clause in relation to a special meeting of the electors of a district that under section 5.28(4) is required or permitted to be held during the COVID emergency period.

(2) The requirements in section 5.28(4) do not apply to the special meeting and are replaced with the requirements in subclauses (3) and (4).

(3) The special meeting is not to be held during the COVID emergency period.

(4) The special meeting is to be held on a day selected by the mayor or president but not more than 35 days after cessation day.

The City will confirm this order with the Department of Local Government, but without an instruction to the contrary, the special electors meeting will be cancelled and rescheduled on a date not more than 35 days after cessation day of the COVID emergency period.

Contact will be made with the members of the public who called the meeting, but it would be appreciated if this information could be read by the presiding member as part of the announcements without notice.

What a difference a month makes!

I don’t think I could have foreseen that at tonight’s meeting we would be gathered at the Bendat Basketball Centre, or that our fellow Australians in Victoria would be in lockdown again as they respond to a second wave of COVID. Despite the issues that we as a community are facing with LPS3, we are very lucky to not be experiencing the tragic consequences of a second COVID wave. Having family and friends in Melbourne I truly feel for what they are enduring.

This month our Council has been putting in the hard yards to address issues associated with LPS3 including the proposed Chellingworth development, refused by the JDAP, and the Woolworths development, deferred for 90 days by the JDAP to address traffic and heritage issues. We continue to churn out the LPP’s and to then mop up the problems as they, and our new planning scheme, continue to be tested by a flurry of complex Development Applications the likes of which our City has never seen. I have had many meetings this month with the community and stakeholders impacted by these DA’s. I appreciate there is a heightened level of anxiety in our community about the new planning scheme, and if I could, I would find the silver bullet to solve all the problems. The reality is there is no silver bullet. So, I simply ask all involved in the planning crisis to remain respectful of one another.

I have a couple of thank yous to make this month. Firstly, to the Cottesloe Golf Club for hosting me recently and sharing with me all the great social and sporting activities that occur at their wonderful club. I also thank CERI (the Centre for Entrepreneurial Research and Innovation) located on Stirling Highway who invited me to the graduation of students from their Concept to Creation Program. Some fantastic business ideas were pitched to the audience including an environmentally friendly way to deal with space junk!

Lastly, I would like to take the opportunity to speak about something I am very passionate about. That is underground power. Since 2016 I have basically become obsessed with getting underground power for Hollywood at a fair price. Working with the City and Council we delivered in partnership with Western Power a very successful project in West Hollywood for which landowners did pay a fair price and have had not one but now two refunds given the success of the project. Our latest estimates from Western Power are showing a 29% contribution from them to the total cost. Huge improvement given in 2014 Hollywood and parts of Coastal Ward residents were asked to pay the full cost with Western Power contributing no funds despite net benefits to them. This is a good news story for us, and we will be pushing hard in the next few months to get a final agreement on underground power at a fair price for the rest of Nedlands.

# Members announcements without discussion

## Councillor Smyth

List of events and meeting attended by Councillor Kerry Smyth during June & July 2020.

Metro Inner North JDAP meeting #21 – 17 July 2020 at 9:00am at the Department of Planning, Lands and Heritage, 140 William Street, Perth to determine the following applications:

Lot 500 (105), Strata Lot 1, 2, 3 & 4 (97), Stirling Highway, Nedlands

Mixed use development comprising of basement car parking, restaurants, offices, motor vehicle sales and 301 multiple dwellings. Attended in person.

The RAR recommendation for REFUSAL was moved and CARRIED 3/2.

The motion incorporated an amendment by the Presiding member which included several additional reasons for refusal CARRIED 3/2.

Metro Inner North JDAP meeting #17 – 9 July 2020 at 9:00am at the Department of Planning, Lands and Heritage, 140 William Street, Perth to determine the following applications:

Lots 143 & 144 (17-19) Louise Street, Dalkeith - Multiple Dwellings (44)

Attended online.

The RAR recommendation for approval was moved with conditions 5 and 11 modified CARRIED 3/2

Amendments:

* To include Council additional conditions as per addendum LOST 3/2
* To include Council 2 for 1 replacement of trees in PMRG CARRIED 5/-

Metro Inner North JDAP meeting #15 – 29 June 2020 at 9:00am at the Department of Planning, Lands and Heritage, 140 William Street, Perth to determine the following applications:

Lot 1 (80) Stirling Highway, Nedlands

Lots 21-23 (2, 4 & 6) Florence Road, Nedlands and

Lots 33 & 33 (9&7) Stanley Street, Nedlands Shopping Centre

Attended online.

The RAR recommendation for refusal was not moved.

An Alternate motion for deferral was CARRIED unanimously 5/-

# Matters for Which the Meeting May Be Closed

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

Confidential Item 17.1 CEO Performance Review

# Divisional Reports

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

## Minutes of Council Committees

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

Moved – Councillor Horley

Seconded – Councillor Wetherall

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

**CEO Performance Review Committee 17 June 2020**

Unconfirmed, Circulated to Councillors on 19 June 2020

**CEO Performance Review Committee 22 June 2020**

Unconfirmed, Circulated to Councillors on 26 June 2020

**CEO Performance Review Committee 3 July 2020**

Unconfirmed, Circulated to Councillors on 16 July 2020

**Council Committee 14 July 2020**

Unconfirmed, Circulated to Councillors on 22 July 2020

**CARRIED UNANIMOUSLY 12/-**

Moved – Councillor Wetherall

Seconded – Councillor Coghlan

**That items 13.1, 13.2 & 13.3 be brought forward.**

**CARRIED UNANIMOUSLY 12/-**

## Amendments to Local Planning Policy Residential Aged Care Facilities

|  |  |
| --- | --- |
| **Council Date** | 28 July 2020 |
| **Director** | Ross Jutras-Minett – Acting Director Planning & Development |
| **Reference** | Nil |
| **Previous Item** | 28 April 2020 OCM - PD11.20 – Local Planning Policy – Residential Aged Care Facilities |
| **Attachments** | 1. Draft Residential Aged Care Facilities LPP with amendments – tracked changes |

**Regulation 11(da) - Council determined that it wished to revoke the existing Aged Care Local Planning Policy prior to adopting a revised policy at a subsequent meeting.**

Moved – Mayor de Lacy

Seconded – Councillor Coghlan

**Council Resolution**

**That Council:**

1. **resolves that the administration recommendations for amendments to the existing Residential Aged Care Facilities Local Planning Policy (RACFLPP) included in the Council Papers under this item 13.1 be endorsed and approved for future applications on all occasions where consideration of the City’s RACFLPP is required or appropriate, and particularly when a decision is required to any residential aged care development in the City;**

1. **instructs the CEO to prepare a new RACFLPP which is to be tabled at a Special Council Meeting on the 4th August 2020 which is to contain the principles and provisions proposed in the amendments to the existing RACFLPP, which the Council has resolved to endorse;**
2. **revokes the RACFLPP in accordance with deemed cl6(b) of the Planning and Development (Local Planning Schemes) Regulations 2015 (Schedule 2) by notice of revocation prepared by the City and published in a newspaper circulating in the Scheme Area;**
3. **resolves that from the time of advertising of the new RACFLPP, the provisions of the new RACFLPP are to be applied in accordance with the principles of a seriously entertained planning proposal; and**
4. **resolves that legal advice regarding the differences between recission motion and the powers to revoke a Local Planning Policy be made available to the public via published Council minutes for July 2020 Council meeting.**

**CARRIED UNANIMOUSLY 12/-**

Recommendation to Council

Council:

Prepares, and advertises for a period of 21 days in accordance with the Planning and Development (Local Planning Schemes) Regulations 2015 Schedule 2, Part 2, Division 2, Clause 5(1) the amendments to the Local Planning Policy – Residential Aged Care Facilities included in Attachment 1.

1. **Executive Summary**

The purpose of this report is for Council to prepare (adopt for advertising) amendments to the Local Planning Policy – Residential Aged Care (LPP). It is proposed that the LPP be modified to include several amendments, consistent with proposed Scheme Amendments No 10 and 11.

The purpose of this policy is to provide guidance and development provisions for operators seeking to establish Residential Aged Care Facilities within the City of Nedlands.

If Council chooses to consider the amendment to the LPP the amended version will be advertised to the community as per the requirements of the City’s Local Planning Policy - Consultation of Planning Proposals and the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015.*

1. **Background**

At the Council Meeting 17 December 2019 Council resolved to prepare and advertise the Local Planning Policy - Residential Aged Care Facilities for a period of 21 days, in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015*Schedule 2, Part 2, Clause 4.

It was noted in a Memo to Council on the 15 April 2020 that during the advertising period errors had been identified in the advertised LPP by Administration. These errors included that where a site was greater than 2000m2, the policy was advertised with provisions that referenced R80, however, incorrectly specified the primary controls as being 3 storeys and plot ratio of 0.8, in lieu of 4 storeys with a plot ratio of 1.0.

At the Council Meeting 28 April 2020 Council resolved to adopt the Local Planning Policy – Residential Aged Care Facilities and include the provisions that had not been advertised, being the 4 storey height limit and plot ratio of 1.0 in the adopted version.

The LPP was first tested against a complex development application with the submission of a Residential Aged Care Facility proposal at 16-18 Betty Street and 73-75 Doonan Road Nedlands. During the application process, several key built form elements that the LPP did not address were identified. Further to this, Administration has recently received legal advice which identified that certain provisions of the adopted Local Planning Policy – Residential Aged Care are not appropriate to be applied in the context of commercial development. Due to this, Administration are proposing amendments to the LPP that apply built form provisions consistent with the proposed Scheme Amendments No 10 and 11.  The amendments are now presented to Council seeking to rectify this.

1. **Design Requirements**

The proposed policy amendments relate to the following clauses:

* 4.2 - Design Requirements
* 4.5 - Visual Privacy
* 4.6 - Landscaping
* 4.7 - Boundary Fencing
* 6.0 - Additional Development Requirements
* 11.0 – Definitions

No changes are proposed to the Policy Objectives or the other Policy measures under in clauses relating to 3.0 or 4.0 respectively.

*Clause 4.2 – Design Requirements*

All existing Design Requirements contained within clause 4.2 are to proposed to be deleted and replaced with the following provisions:

4.2.1  In accordance with clause 32.4(5) of LPS 3, where applied for in the Mixed-Use zone, Residential Aged Care Facilities shall comply with relevant development standards of the R-AC density coding applicable to the subject site.

4.2.2 In relation to applications for Residential Aged Care Facilities on land coded R10, R12.5, R15, R20, R30 and R35, the preparation of Local Development Plan (LDP) may be required in accordance with Part 6 of the Planning and Development (Local Planning Schemes) Regulations 2015 Schedule 2 “Deemed Provisions.” The purpose of the LDP is to provide specific guidance for Residential Aged Care Facilities to ensure the achievement of orderly and proper planning outcomes. The LDP shall be consistent with the requirements below.

4.2.3 Where there is no approved Structure Plan, Local Development Plan, Precinct Plan and/or Activity Centre Plan, non-residential applications are to comply with the R-Codes where relevant except where varied below:

1. In relation to land coded R10 to R35:
2. A maximum building height of two storeys with a maximum external wall height of 8.5m and maximum overall height of 10m as measured from Natural Ground Level. A storey is defined in accordance with R-Codes; and
3. The following setbacks shall apply:

* 6m minimum street setback.
* 6m side and rear boundary setback.

1. Maximum plot ratio of 1.0;
2. A minimum 50 percent of site area provided as open space.

4.2.4 In relation to land zoned Residential, with no resdential density code, Residential Aged Care Facilities are to comply with the following:

1. A Local Development Plan (LDP) is to be prepared in accordance with Part 6 of the *Planning and Development (Local Planning* Schemes*) Regulations 2015 Schedule 2 “Deemed Provisions.”* The purpose of the Local Development Plan is to provide specific guidance for future development on the land affected by A9 and ensure the achievement of orderly and proper planning outcomes.
2. Where there is no approved Local Development Plan, structure plan, and/or activity centre plan, the following development standards apply:
3. An R-Code of R12.5 applies in respect of residential land use and development.
4. The following provisions apply in respect of non-residential land use and development:
5. A minimum 6m street setback;
6. A minimum 6m and side and rear boundary setback;
7. A maximum building height of two storeys with an external wall height of 8.5m and maximum overall height of 10m applies, as measured from natural ground level. A storey is defined in accordance with Residential Design Codes.
8. A maximum plot ratio of 1.0

*Clause 4.5 – Visual Privacy*

All existing Visual Privacy requirements contained within clause 4.5 are to proposed to be deleted and replaced with the following provisions

4.5.1 Where located adjacent to residential properties, Residential Aged Care Facilities are to be designed so that windows to habitable rooms as defined by the National Construction Code - Building Code of Australia and outdoor active habitable space (balconies, decks, verandas and the like) which have a finished floor level more than 0.5 metres above natural ground level and overlook any part of any other residential property behind its street setback line, are to be:

* + - * 1. Setback in accordance with the cone of vision, from the lot boundary, of the residential density code ; or
        2. Where the site is not subject to a residential density code, shall be set back in direct line of sight within the cone of vision from the lot boundary at a minimum distance of 6m for habitable room windows and 7.5m for unenclosed outdoor active habitable space ; or
        3. Where the visual privacy setback cannot be achieved, permanent screening or obscured glazing to a minimum height of 1.6m above finish floor level should be provided to restrict views within the cone of vision from any habitable room window or unenclosed outdoor active habitable space.

*Clause 4.6 – Landscaping*

Modifcation to the wording contained within clause 4.6.5 (Landscaping) and the insertion of an additional clause 4.6.6:

* + 1. Where an open-air car parking facility or area is provided at ground level a landscaping plan shall be provided demonstrating appropriate planting of 1 mature tree per every 6 car parking bays; and
    2. Mature trees and landscaping are encouraged on site to provide buffering between the facility and any adjacent residential properties.

*Clause 4.7 – Boundary Fencing*

Deletion of all existing provisions contained under clause 4.7 (Boundary Fencing) and to renumber the remaining provisions accordingly.

*Clause 6.0 – Additional Development Application Requirements*

Modification to clause 6.2 which includes changes to the existing wording or a new provision added:

* Hours of operation of the Residential Aged Care Facility;
* Hours of visitation and number of visitors permitted at any time;
* Staff numbers;
* Any supplementary or incidental uses, and supporting evidence that those uses are appurtenant to the predominant use of “Residential Aged Care”

All existing provisions are to remain.

*10 – Legislation*

Correct references to Local Planning Policies relating to Parking, Consultation of Planning Proposals and Signs have been included.

*11.0 – Definitions*

Additional definitions included and contained within clause 11.1 as follows:

* Incidental Use (inclusive of footnote 1)
* Plot Ratio

Removal of existing definitions as contained within clause 11.1 as follows:

* Multiple Dwellings
* Resident
* Visitor
* Staff

Additional clause 11.2 added –

A word or expression that is not defined in this policy –

* Has the same meaning it has in Local Planning Scheme No. 3; or
* If it not defined in the Local Planning Scheme No. 3 it has the same meaning it has in the R-Codes.

Justification:

The proposed modifications to Clause 4.2 Design Requirements are intended to achieve the following outcomes:

* As a non-residential-use and where development standards are not otherwise provided for in an approved Structure Plan, Local Development Plan, Local Planning Policy and or activity centre plan, Residential Aged Care Facility developments in the Mixed Use Zone are to be consistent with clause 32.4(5) of LPS3, being subject to the relevant standards of the R-Codes.
* On land coded between R10 and R35, Residential Aged Care Facility development may be subject to the preparation of a Local Development Plan to account for the different operational, access, parking and servicing needs of this commercial use and the sensitive interfacing considerations in surrounding traditional residential areas.
* Where a Local Development Plan is not provided or adopted, Residential Aged Care development is to comply with the relevant R-Code provisions with the exception of Building Height, Setbacks, Plot Ratio and Open Space. The justification for these provisions includes:
* The proposed maximum building height is consistent with the City’s Local Planning Policy Residential Development: Single and Grouped Dwellings, being the typical form and style of development in the City’s traditional residential neighbourhoods.
* A minimum 6m street setback is proposed. The setback applies to all street frontages and although less than the traditional 9m front setback which applies to the surrounding land pursuant to clause 26(1)(a)(i) of LPS3, it strikes a balance between the primary and secondary street setbacks permitted under the LPS3 and R-Codes Vol. 1, noting the affected land has three road abuttals. At 6m, the street setback will likely provide for sufficient landscaping opportunity and streetscape activation generally consistent with the existing character of the area and future expectations for the R12.5 coding.
* Together with proposed setbacks and plot ratio (not currently provided for under R-Codes Vol. 1), it is unlikely that a height above 2 storeys (10m) could be achieved. The proposed maximum height is generally consistent with the City’s Local Planning Policy: Residential Development: single and grouped dwellings and the R-Codes Vol.1 as applicable in the surrounding neighbourhood (coded R10-R12.5) and on the adjoining land to the north (coded 12.5).
* The proposed setbacks are less than the minimum 9m primary street achievable under LPS3 for land coded R10 to R15, but are with primary street setbacks under the R-Codes for land coded R15, R20 and R25, and marginally more generous than land coded R30 to R40 where a 4m setback applies.
* The proposed setbacks are sufficiently dimensioned to achieve a vegetated ‘garden’ interface to the street, allowing for deep soil planting areas that support canopy tree planting. The physical separation to the side and rear will also allow for vegetated side and rear gardens that are consistent with a residential setting and may assist with the buffering and sleeving of a Residential Aged Care Facility’s operational, accessing and servicing needs.
* A maximum plot ratio of 1.0 is proposed. Notwithstanding the affected land area, this plot ratio is considered appropriate to the maximum height, setback standards and a commercial use. The plot ratio applicable to a commercial use under LPS3 is the ratio of the entire floor area of a building to the area of land within lot boundaries i.e. the calculation includes communal or common areas used by aged care residents, service and machinery, air-conditioning and equipment rooms, space below natural ground level, parking below ground, storage areas and lobbies, balconies and courtyards or roof top terraces.

* The proposed open space requirement represents the effective average anticipated for residential development on land coded R10 to R35. It is considered appropriate to achieving a future building envelope within a residential context.
* Land coded R40 will otherwise comply with the relevant provisions of the R-Codes Vol.2.

With respect to the remaining modifications, the proposed changes are intended to address the following issues:

* Clause 4.5 Visual Privacy: These changes have been included to minimise potential adverse impacts on the privacy of adjoining dwellings and private open spaces.
* Clause 4.6 Landscaping: Additional landscaping requirements have been included to ensure an appropriate landscaping buffer interface is achieved for existing and adjoining Residential zoned land.
* Clause 4.7 Boundary fencing: Clauses 4.7.1 to 4.7.3 have been removed as boundary fencing is governed by separate legislation under the *Dividing Fences Act 1961* and the City’s Fill & Fencing Local Planning Policy has been revoked.
* Clause 6 Additional Development Application Requirements: Additional operational items have been included to ensure these are reflected within any prospective application.
* Clause 10 Legislation: Correct references to relevant local planning policies have been included
* Clause 11 Definitions: Additional definitions have been included which reflect incidental uses and plot ratio, which were not previously defined. In addition, Clause 11.2 clarifies where terms are undefined in the Policy, the LPS3 definitions prevail over any definition which may be contained within the R-Codes. Definitions relating to Multiple Dwelling, Resident, Visitor and Staff have been removed.

1. **Consultation**

If Council resolves to prepare the amendments to the LPP it will be advertised for 21 days in accordance with Schedule 2, Part 2, Division 2, Clause 5(1) of the Planning and Development (Local Planning Schemes) Regulations 2015. This will include a notice being published in the newspaper and details being included on the City’s website, YourVoice page and social media pages, in accordance with the City’s Consultation of Planning Proposals LPP.

Following the advertising period, the policy will be presented back to Council for it to consider any submissions received and to:

1. Proceed without the amendments to the policy; or

1. Proceed with the amendments to the policy.
2. **Strategic Implications**

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

The objectives for the Residential zone within the City’s Local Planning Scheme requires non-residential uses and their built form to be compatible with the residential landscape where they are proposed in a residential area. The objectives for the Mixed Use zone includes the requirement that development should be of an appropriate scale to the desired character of the area. The proposed amendments to the LPP provide built form controls that will guide Resdential Aged Care Facilities to sit comfortably within the City’s strategic direction for these zones.

**Who benefits?** 

The community benefits from the amendments to this LPP, as it imposes built form controls for Residential Aged Care Facilities where they are proposed within the Residential and Mixed Use zones.

**Does it involve a tolerable risk?**

This LPP is not considered to pose a strategic risk to the City.

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

Yes.

1. **Budget/Financial Implications**

**Can we afford it?**

The costs associated with this Local Planning Policy are only in relation to advertising.

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

As above.

1. **Conclusion**

The LPP – Residential Aged Care Facilities provides the City with an operative local planning framework in place under LPS3 to adequately address the built form and management requirements associated with the Residential Aged Care Facilities use. The amendments proposed to the LPP provide an improved framework through which the City may seek to control the built form outcomes of future developments proposals for Residential Aged Care Facilities.

It is recommended that Council endorses administration’s recommendation as set out in the resolution.

## Scheme Amendment No. 10 – Amendment to Additional Use 9

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| --- | --- |
| **Council** | 28 July 2020 |
| **Owner** | Various |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under *section 5.70 Local Government Act 1995*** | Nil |
| **Director** | Ross Jutras-Minett – Acting Director Planning & Development |
| **CEO** | Mark Goodlet |
| **Attachments** | 1. Scheme Amendment No. 10 Justification Report |

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

Moved – Councillor Coghlan

Seconded – Councillor Wetherall

**That the Recommendation to Council be adopted.**

(Printed below for ease of reference)

**CARRIED UNANIMOUSLY 12/-**

**Council Resolution / Recommendation to Council**

**Council:**

1. **Pursuant to Section 75 of the *Planning and Development Act 2005*, adopt an Amendment to Local Planning Scheme 3 by modifying the conditions applicable to Additional Use 9 (A9) as follows:**
2. **Residential aged care facility is a ‘P’ use.**
3. **A Local Development Plan (LDP) is to be prepared in accordance with Part 6 of the *Planning and Development (Local Planning Schemes) Regulations 2015 Schedule 2 “Deemed Provisions.”* The purpose of the Local Development Plan is to provide specific guidance for future development on the land affected by A9 and ensure the achievement of orderly and proper planning outcomes.**
4. **Where there is no approved local development plan, structure plan, and/or activity centre plan, the following development standards apply:**
5. **An R-Code of R12.5 applies in respect of residential land use and development.**
6. **The following provisions apply in respect of non-residential land use and development:**

* **A minimum 6m street setback;**
* **A minimum 6m and side and rear boundary setback;**
* **A maximum building height of two storeys with an external wall height of 8.5m and maximum overall height of 10m applies, as measured from NGL. A storey is defined in accordance with Residential Design Codes; and**
* **A maximum plot ratio of 1.0.**

1. **In accordance with *Planning and Development (Local Planning Schemes) Regulations 2015* section 35(2), the City believes that the amendment is a Standard Amendment for the following reasons:**
   1. **Relates to residential zoned land and is consistent with the objectives identified in the scheme for that zone;**
   2. **Is consistent with a local planning strategy for the scheme that has been endorsed by the Commission;**
   3. **Will have a minimal impact on land in the scheme area that is not the subject of the amendment;**
   4. **Does not result in any significant environmental, social, economic or governance impacts on land in the scheme area; and**
   5. **Is not a complex or basic amendment.**
2. **Pursuant to Section 81 of the *Planning and Development Act 2005*, refers Scheme Amendment 10 to the Environmental Protection Authority.**
3. **Subject to Section 84 of the *Planning and Development Act 2005* advertises Scheme Amendment 10 in accordance with Regulation 38 of the *Planning and Development (Local Planning Schemes) Regulations 2015* and Local Planning Policy- Consultation of Planning Proposals.**

**Executive Summary**

The purpose of this report is for Council to provide consent to prepare (adopt) the proposed Scheme Amendment No. 10 to Local Planning Scheme No. 3 (LPS3).

The amendment proposes changes to the conditions of Additional Use 9 (A9). The amendment proposes to include specific built form controls as conditions for Residential Aged Care Facilities where they are proposed at Lot 25 (No.69) Melvista Avenue, Nedlands, Lots 10 (No.16) and 11 (No.18) Betty Street, Nedlands and Lots 19 (No.73) and 18 (No.75) Doonan Road, Nedlands under A9.

The amendment is considered a Standard Amendment as it satisfies the following criteria of Regulation 34 of the *Planning and Development (Local Planning Scheme) Regulations 2015*:

1. Relates to residential zoned land and is consistent with the objectives identified in the scheme for that zone;
2. Is consistent with a local planning strategy for the scheme that has been endorsed by the Commission;
3. Will have a minimal impact on land in the scheme area that is not the subject of the amendment;
4. Does not result in any significant environmental, social, economic or governance impacts on land in the scheme area;
5. Is not a complex or basic amendment.

**Amendment Details**

Additional Use A9 permits Residential Aged Care Facilities to be established on specific sites, being Lot 25 (No.69) Melvista Avenue, Nedlands, Lots 10 (No.16) and 11 (No.18) Betty Street, Nedlands and Lots 19 (No.73) and 18 (No.75) Doonan Road, Nedlands. Currently, A9 proposes no built form controls for Residential Aged Care Facilities proposed on these sites.

This amendment seeks to impose built form provisions for Residential Aged Care Facilities proposed on the lots specified under Additional Use A9. This includes the preference for a Local Development Plan, that would provide the height, setbacks, and design controls for the site, to be approved by the City and the WAPC prior to development. Where a Local Development Plan is not proposed, all residential development would be subject to a density code of R12.5. All non-residential land uses, including Residential Aged Care Facilities, would be required to comply with the following built form provisions:

The following provisions apply in respect of non-residential land use and development:

1. A minimum 6m street setback;
2. A minimum 6m and side and rear boundary setback;
3. A maximum building height of two storeys with an external wall height of 8.5m and maximum overall height of 10m applies, as measured from NGL. A storey is defined in accordance with Residential Design Codes; and
4. A maximum plot ratio of 1.0.

The potential built form achieved under these provisions aligns with the low density, residential built form of the surrounding area, whilst striking a balance to permit reasonable development parameters for commercial development. These built form provisions also align with objectives for the Residential zone under Local Planning Scheme No. 3, including that non-residential development within the Residential zone should be compatible and complementary to residential development and that the built form of non-residential development is compatible with the desired streetscape in terms of bulk, scale, height, street alignment and setbacks.

**Consultation**

If the Scheme Amendment is granted consent to advertise, the City will refer the application to the Environmental Protection Authority (EPA) in accordance with Section 81 of the *Planning and Development Act 2005*.

The application is required to be advertised in accordance with the *Planning and Development* *(Local Planning Schemes) Regulations 2015*(the Regulations) and the City’s Local Planning Policy – Consultation of Planning Proposals. Advertisement of a standard amendment is as follows:

* The City must prepare a notice in a form approved by the West Australian Planning Commission (WAPC) giving details of the purpose, where the amendment may be inspected and to whom and during what period submissions can be made;
* The City must then advertise the amendment by publishing the notice in the newspaper, display the notice in the Administration building, provide a copy to all public authorities which are likely to be affected, send letters to affected landowners within a 100 metre radius of the subject site and publish a copy on the City’s website; and
* The advertising period can be no less than 42 days commencing on the day that the notice is published in a newspaper circulating in the scheme area.

Once submissions are received the City must acknowledge in writing the receipt of each submission.

A 60-day consideration period for a standard scheme amendment applies after the end of the submission period, in which the City must consider all submissions and Council must pass a resolution to support, support with modifications or not support the proposed amendment.

Once Council has made their decision on the scheme amendment, all documents will be referred to the WAPC and they will deliver a recommendation to the Minister for Planning. The Minister will then make the final decision on the proposed scheme amendment.

**Strategic Implications**

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

The City’s Local Planning Scheme identifies the area surrounding the sites specified in A9 as low-density residential lots. This Scheme Amendment seeks to apply built form provisions that are in keeping with this low-density style of development.

**Who benefits?**

The community benefits from this Scheme Amendment, as it controls the potential for commercial development to impact upon the residential amenity of their area.

**Does it involve a tolerable risk?**

This Scheme Amendment is not considered to pose a strategic risk to the City.

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

Yes.

**Budget/Financial Implications**

**Can we afford it?**

The costs associated with this Local Planning Policy are only in relation to advertising.

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

As above.

**Conclusion**

Scheme Amendment 10 is the best mechanism by which to control built form on the sites identified under Additional Use A9.

It is recommended that Council endorses Administration’s recommendation as set out in the resolution.

## Scheme Amendment No. 11 – Residential Aged Care Facilities – Additional Requirements

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| **Council** | 28 July 2020 |
| **Owner** | Various |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under *section 5.70 Local Government Act 1995*** | Nil |
| **Director** | Ross Jutras-Minett – Acting Director Planning & Development |
| **CEO** | Mark Goodlet |
| **Attachments** | 1. Scheme Amendment No. 11 Justification Report |

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

Moved – Councillor McManus

Seconded – Councillor Wetherall

**That the Recommendation to Council be adopted.**

(Printed below for ease of reference)

**CARRIED 11/1**

**(Against: Cr. Mangano)**

**Council Resolution / Recommendation to Council**

**Council:**

1. **Pursuant to Section 75 of the *Planning and Development Act 2005*, adopt an Amendment to Local Planning Scheme 3 by:**

**An addition of a new Clause 32.7 for Residential Zoned land to be added, with the following sub clauses inserted:**

**32.7 (1) In relation to applications for Residential Aged Care Facilities on land coded R10, R12.5, R15, R20, R30 and R35, the preparation of Local Development Plan (LDP) may be required in accordance with Part 6 of the *Planning and Development (Local Planning Schemes) Regulations 2015* Schedule 2 “Deemed Provisions.” The purpose of the Local Development Plan is to provide specific guidance for Residential Aged Care Facilities to ensure the achievement of orderly and proper planning outcomes. The LDP shall be consistent with the requirements of subclause 2 (a).**

**32.7 (2) Where there is no approved Structure Plan, Local Development Plan, Precinct Plan and/or Activity Centre Plan, non-residential applications are to comply with the R Codes where relevant except where varied below:**

1. **In relation to land coded R10 to R35:**
   1. **A maximum building height of two storeys with a maximum external wall height of 8.5m and maximum overall height of 10m as measured from NGL. A storey is defined in accordance with Residential Design Codes.**
   2. **The following setbacks apply:**
      * **6m minimum street.**
      * **6m side and rear boundary setback.**
   3. **Maximum plot ratio of 1.0.**
   4. **A minimum 50 percent of site area provided as open space.**
2. **In accordance with *Planning and Development (Local Planning Schemes) Regulations 2015* section 35(2), the City believes that the amendment is a Standard Amendment for the following** **reasons:**
3. **an amendment relating to a zone or reserve that is consistent with the objectives identified in the scheme for that zone or reserve;**
4. **an amendment that is consistent with a local planning strategy for the scheme that has been endorsed by the Commission;**
5. **an amendment that would have minimal impact on land in the scheme area that is not the subject of the amendment;**
6. **an amendment that does not result in any significant environmental, social, economic or governance impacts on land in the scheme area; and**
7. **any other amendment that is not a complex or basic amendment.**
8. **Pursuant to Section 81 of the *Planning and Development Act 2005*, refers Scheme Amendment 10 to the Environmental Protection Authority.**
9. **Subject to Section 84 of the *Planning and Development Act 2005* advertises Scheme Amendment 7 in accordance with Regulation 38 of the *Planning and Development (Local Planning Schemes) Regulations 2015* and Local Planning Policy – Consultation of Planning Proposals.**

**Executive Summary**

The purpose of this report is for Council to provide consent to prepare (adopt) the proposed Scheme Amendment No. 11 to Local Planning Scheme No. 3 (LPS3).

An addition of a new Clause 32.7 for Residential Zoned land to be added, with the following sub clauses inserted:

32.7 (1) In relation to applications for Residential Aged Care Facilities on land coded R10, R12.5, R15, R20, R30 and R35, the preparation of Local Development Plan (LDP) may be required in accordance with Part 6 of the Planning and Development (Local Planning Schemes) Regulations 2015 Schedule 2 “Deemed Provisions.” The purpose of the Local Development Plan is to provide specific guidance for Residential Aged Care Facilities to ensure the achievement of orderly and proper planning outcomes. The LDP shall be consistent with the requirements of subclause 2 (a).

32.7 (2) Where there is no approved Structure Plan, Local Development Plan, Precinct Plan and/or Activity Centre Plan, non-residential applications are to comply with the R Codes where relevant except where varied below:

1. In relation to land coded R10 to R35:
   1. A maximum building height of two storeys with a maximum external wall height of 8.5m and maximum overall height of 10m as measured from NGL. A storey is defined in accordance with Residential Design Codes.
   2. The following setbacks apply:
      * 6m minimum street.
      * 6m side and rear boundary setback.
   3. Maximum plot ratio of 1.0.
   4. A minimum 50 percent of site area provided as open space.

The amendment is considered a Standard Amendment as it satisfies the following criteria of the Regulation 34 of the Planning and Development (Local Planning Scheme) Regulations 2015:

1. Relates to residential zoned land and is consistent with the objectives identified in the scheme for that zone;
2. Is consistent with a local planning strategy for the scheme that has been endorsed by the Commission;
3. Will have a minimal impact on land in the scheme area that is not the subject of the amendment;
4. Does not result in any significant environmental, social, economic or governance impacts on land in the scheme area; and
5. Is not a complex or basic amendment.

**Amendment Details**

Table 6 imposes additional requirements on development within the City. Currently, Table 6 provides no built form guidance for Residential Aged Care Facilities and does not impose any additional development requirements on Residential zoned land.

The amendment seeks to insert Clause 32.7, which will provide built form controls for development within the Residential zone. Sub-clauses 32.7(1)-(2) will provide additional built form requirements specifically for Residential Aged Care Facilities.

These amendments are in accordance with the planning principles of the City’s Local Planning Strategy, including:

* Protect and enhance local character and amenity

The City’s LPS3 includes the following objectives for the Residential Zone:

* To provide for a range of non-residential uses, which are compatible with and complementary to residential development.
* To ensure development maintains compatibility with the desired streetscape in terms of bulk, scale, height, street alignment and setbacks.

In regards to development of Residential Aged Care Facilities in the Residential zone, it is considered that the potential for intensification of land use that is associated with Residential Aged Care Facilities, including increased noise, traffic, and visitors, has the potential to negatively impact on the amenity of low-density residential areas.A Residential Aged Care Facility with a maximum height equivalent to a three-storey building, generous boundary setbacks and a maximum plot ratio of 1.0 will sit more comfortably within the character of the Residential zone. In addition to this, the requirement for an LDP will allow for development in low density residential areas site to be planned and negotiated between an applicant and the Local Government prior to a Development Application being lodged, providing for greater negotiation and certainty for both parties. The built form outcomes proposed under Clause 32.7 will both protect and enhance the local character and amenity of the Residential zones, in keeping with the intent of the City’s Local Planning Strategy.

**Consultation**

If the Scheme Amendment is granted consent to advertise, the City will refer the application to the Environmental Protection Authority (EPA) in accordance with Section 81 of the *Planning and Development Act 2005*.

The application is required to be advertised in accordance with the *Planning and Development* *(Local Planning Schemes) Regulations 2015*(the Regulations) and the City’s Local Planning Policy – Consultation of Planning Proposals. Advertisement of a standard amendment is as follows:

* The City must prepare a notice in a form approved by the West Australian Planning Commission (WAPC) giving details of the purpose, where the amendment may be inspected and to whom and during what period submissions can be made.
* The City must then advertise the amendment by publishing the notice in the newspaper, display the notice in the Administration building, provide a copy to all public authorities which are likely to be affected, send letters to affected landowners within a 100 metre radius of the subject site and publish a copy on the City’s website.
* The advertising period can be no less than 42 days commencing on the day that the notice is published in a newspaper circulating in the scheme area.

Once submissions are received the City must acknowledge in writing the receipt of each submission.

 A 60-day consideration period for a standard scheme amendment applies after the end of the submission period, in which the City must consider all submissions and Council must pass a resolution to support, support with modifications or not support the proposed amendment.

Once Council has made their decision on the scheme amendment, all documents will be referred to the WAPC and they will deliver a recommendation to the Minister for Planning. The Minister will then make the final decision on the proposed scheme amendment.

**Strategic Implications**

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

The objectives for the Residential zone within the City’s Local Planning Scheme requires non-residential uses and their built form to be compatible with the residential landscape where they are proposed in a residential area. The proposed amendments to the scheme provide built form controls that will guide Residential Aged Care Facilities to sit comfortably within the City’s strategic direction for these zones.

**Who benefits?**

The community benefits from this Scheme Amendment, as it imposes built form controls for Residential Aged Care Facilities where they are proposed within the Residential zone.

**Does it involve a tolerable risk?**

This Scheme Amendment is not considered to pose a strategic risk to the City.

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

Yes.

**Budget/Financial Implications**

**Can we afford it?**

The costs associated with this Local Planning Policy are only in relation to advertising.

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

As above.

**Conclusion**

Scheme Amendment 11 is the best mechanism by which to control where Residential Aged Care Facilities may be considered for development within the City.

It is recommended that Council endorses Administration’s recommendation as set out in the resolution.

Councillor Horley left the meeting at 8.55 pm.

**The Mayor granted a recess for the purposes of a refreshment break.**

The meeting adjourned at 8.55 pm and reconvened at 9.04 pm with the following people in attendance:

**Councillors** Her Worship the Mayor, C M de Lacy (Presiding Member)

Councillor F J O Bennett Dalkeith Ward

Councillor A W Mangano Dalkeith Ward

Councillor B G Hodsdon Hollywood Ward

Councillor P N Poliwka Hollywood Ward

Councillor J D Wetherall Hollywood Ward

Councillor R A Coghlan Melvista Ward

Councillor G A R Hay Melvista Ward

Councillor R Senathirajah Melvista Ward

Councillor N B J Horley (from 9.10 pm) Coastal Districts Ward

Councillor L J McManus Coastal Districts Ward

Councillor K A Smyth Coastal Districts Ward

**Staff** Mr M A Goodlet Chief Executive Officer

Mrs L M Driscoll Director Corporate & Strategy

Mr P L Mickleson Director Planning & Development

Mr J Duff Director Technical Services

Mrs N M Ceric Executive Assistant to CEO & Mayor

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

En Bloc

Moved - Councillor Wetherall

Seconded – Councillor Coghlan

**That all Committee Recommendations relating to Reports under items 12.2, 12.3, 12.4 and 12.5 with the exception of Report Nos. PD31.20, PD32.20, PD33.20, PD35.20, PD36.20, TS13.20 & TS14.20 are adopted en bloc.**

**CARRIED UNANIMOUSLY 11/-**

## Planning & Development Report No’s PD31.20 to PD36.20

Planning & Development Report No’s PD31.20 to PD36.20 to be dealt with at this point (copy attached yellow cover sheet).

|  |  |
| --- | --- |
| **PD31.20** | **No. 20 Robinson St, Nedlands - Additions to a Single House** |
|  | |
| **Committee** | 14 July 2020 |
| **Council** | 28 July 2020 |
| **Applicant** | Rowan Engles |
| **Landowner** | Paul and Verity Epstein |
| **Director** | Peter Mickleson – Director Planning & Development |
| **Employee Disclosure under *section 5.70 Local Government Act 1995*** | Nil |
| **Report Type**  Quasi-Judicial | When Council determines an application/matter that directly affects a person’s right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications and other decisions that may be appealable to the State Administrative Tribunal. |
| **Reference** | DA19/42702 |
| **Previous Item** | Nil |
| **Delegation** | In accordance with the City’s Instrument of Delegation, Council is required to determine the application due to objections being received. |
| **Attachments** | 1. Applicant Justification Letter |
| **Confidential Attachments** | 1. Plans 2. Submissions |

Councillor Horley returned to the meeting at 9.10 pm.

**Regulation 11(da) – Council wished to ensure that no wood heater related health issues might arise for the adjacent resident.**

Moved – Mayor de Lacy

Seconded – Councillor Wetherall

**Council Resolution**

**That the Recommendation to Committee be adopted subject to in advice note a) add in after the first sentence ending in “agency.” This includes Environmental Health regulations and Building Regulations associated with chimney location and design of a proposed wood heater. The applicant is also advised to consider the potential toxic impacts of wood smoke on neighbouring residents before installing a wood heater given the Department of Water and Environmental Regulation advise in its ‘Burnwise’ brochure that “there is no safe level of exposure.” We note the applicant has given an undertaking to install a gas fire in place of the wood fire.**

**CARRIED 9/3**

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

Please note: No Recommendation from Committee was made.

Recommendation to Committee

Council approves the development application dated 3 December 2019 with amended plans received 29 April 2020 for additions to a single house at Lot 299, 20 Robinson St, Nedlands, subject to the following conditions and advice notes:

1. The development shall at all times comply with the application and the approved plans, subject to any modifications required as a consequence of any condition(s) of this approval.
2. This development approval pertains only to additions to a single house as indicated on the plans attached.
3. All footings and structures shall be constructed wholly inside the site boundaries of the property’s Certificate of Title.
4. This approval is limited to additions to a single house only and does not relate to any site works, decking or retaining walls 500mm or greater above the approved ground levels.
5. The existing outbuilding shall not be utilised for habitable or commercial purposes without further planning approval being obtained.
6. Prior to occupation of the development, all external fixtures including, but not limited to TV and radio antennae, satellite dishes, plumbing vents and pipes, solar panels, air conditioners and hot water systems shall be integrated into the design of the building and not be highly visible from the primary street, to the satisfaction of the City of Nedlands.
7. Prior to occupation of the development, all air-conditioning plant, satellite dishes, antennae and any other plant and equipment to the roof of the building shall be located or screened so as not to be highly visible from beyond the boundaries of the development site to the satisfaction of the City of Nedlands.
8. Fences within the primary street setback area shall not exceed 1.8m in height from natural ground level and are to be visually permeable in accordance with the Residential Design Codes (v1, 2019) above 1.2m in height from natural ground level.
9. Prior to the occupation of the development, all structures within the 1.5m visual truncation area abutting vehicle access points shall be truncated or reduced to 0.75m height to the satisfaction of the City of Nedlands.
10. All stormwater from the development, which includes permeable and non-permeable areas shall be contained onsite (refer advice note ‘t’)

Advice Notes:

1. This is a Planning Approval only and does not remove the responsibility of the applicant/owner to comply with all relevant building, health and engineering requirements of the City, or the requirements of any other external agency.
2. This planning decision is confined to the authority of the *Planning and Development Act 2005*, the City of Nedlands’ Local Planning Scheme No. 3 and all subsidiary legislation. This decision does not remove the obligation of the applicant and/or property owner to ensure that all other required local government approvals are first obtained, all other applicable state and federal legislation is complied with, and any restrictions, easements, or encumbrances are adhered to.
3. This decision constitutes planning approval only and is valid for a period of four years from the date of approval. If the subject development is not substantially commenced within the four-year period, the approval shall lapse and be of no further effect.
4. This planning approval has been issued on the basis of the plans hereby approved. It is the responsibility of the applicant to ensure that the approved plans are accurate and are a true representation of all existing and proposed development on the site, and to ensure that development proceeds in accordance with these plans.
5. There may be matters which impact on proceeding with the approved development which are not shown on the approved plans (e.g. verge infrastructure, retaining walls). Such matters may need to be separately addressed before the approved development can proceed. It is the responsibility of the applicant to ensure that these matters are addressed prior to the commencement of the development hereby approved.
6. The applicant is advised that all development must comply with this planning approval and approved plans at all times. Any development, whether it be a structure or building, that is not in accordance with the planning approval, including any condition of approval, may be subject to further planning approval by the City.
7. The applicant is advised that variations to the hereby approved development including variations to wall dimensions, setbacks, height, window dimensions and location, floor levels, floor area and alfresco area, may delay the granting of a Building Permit.  Applicants are therefore encouraged to ensure that the Building Permit application is in compliance with this planning approval, including all conditions and approved plans. Where Building Permit applications are not in accordance with the planning approval, a schedule of changes is to be submitted and early liaison with the City’s Planning Department is encouraged prior to lodgement.
8. A separate development application is required to be submitted to and approved by the City prior to erecting any fencing within the street setback area(s) which is not compliant with the deemed-to-comply provisions of the Residential Design Codes, and/or erecting any fencing behind the primary street setback area which is more than 1.8m in height above approved ground levels.
9. A demolition permit is required to be obtained for the proposed demolition work. The demolition permit must be issued prior to the removal of any structures on site.
10. Prior to the commencement of any demolition works, any Asbestos Containing Material (ACM) in the structure to be demolished, shall be identified, safely removed and conveyed to an appropriate landfill which accepts ACM.
11. Removal and disposal of ACM shall be in accordance with *Health (Asbestos) Regulations 1992*, Regulations 5.43 - 5.53 of the *Occupational Safety and Health Regulations 1996*, *Code of Practice for the Safe Removal of Asbestos 2nd Edition*, *Code of Practice for the Management and Control of Asbestos in a* Workplace, and any Department of Commerce Worksafe requirements.
12. Where there is over 10m2 of ACM or any amount of friable ACM to be removed, it shall be removed by a Worksafe licensed and trained individual or business.
13. All internal water closets and ensuites without fixed or permanent window access to outside air or which open onto a hall, passage, lobby or staircase, shall be serviced by a mechanical ventilation exhaust system which is ducted to outside air, with a minimum rate of air change equal to or greater than 25 litres / second.
14. All street tree assets in the nature-strip (verge) shall not be removed. Any approved street tree removals shall be undertaken by the City of Nedlands and paid for by the owner of the property where the development is proposed, unless otherwise approved by the City of Nedlands.
15. The contractor/developer shall protect the City’s street trees from any damage that may be caused by the scope of works covered by this contract for the duration of the contract. All work carried out under this contract is to comply with the City’s policies, guidelines and Australian Standards relating to the protection of trees on or adjacent to development sites (AS 4870-2009).
16. A new crossover or modification to an existing crossover will require a separate approval from the City of Nedlands prior to construction commencing.
17. Where building works are proposed a building permit shall be applied for prior to works commencing.
18. All car parking dimensions, manoeuvring areas, crossovers and driveways shall comply with Australian Standard AS2890.1 (as amended) to the satisfaction of the City of Nedlands.
19. In relation to condition 10, the applicant is advised that all downpipes from guttering shall be connected so as to discharge into drains, which shall empty into a soak-well; and each soak-well shall be located at least 1.8m from any building, and at least 1.8m from the boundary of the block. Soak-wells of adequate capacity to contain runoff from a 20-year recurrent storm event. Soak-wells shall be a minimum capacity of 1.0m3 for every 80m2 of calculated surface area of the development.

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| **PD32.20** | **No. 150 Stirling Highway, Nedlands - Change of Use – Recreation Private** |
|  | |
| **Committee** | 14 July 2020 |
| **Council** | 28 July 2020 |
| **Applicant** | Olivia Stell |
| **Landowner** | Jonathan Swain |
| **Director** | Peter Mickleson – Director Planning & Development |
| **Employee Disclosure under *section 5.70 Local Government Act 1995*** | Nil |
| **Report Type**  Quasi-Judicial | When Council determines an application/matter that directly affects a person’s right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications and other decisions that may be appealable to the State Administrative Tribunal. |
| **Reference** | DA19-42964 |
| **Previous Item** | Nil |
| **Delegation** | In accordance with the City’s Instrument of Delegation, Council is required to determine the application due to objections being received |
| **Attachments** | 1. Development Proposal (Change of Use) 2. Traffic Report 3. Applicant Justification Letter |
| **Confidential Attachments** | 1. Submissions |

**Regulation 11(da) - Council determined to remove clause 7 after consulting with Administration and being of the view that private parking arrangements could be entered into.**

Moved – Councillor Coghlan

Seconded – Councillor Hay

**That the Recommendation to Council be adopted subject to clause 7 being removed.**

**CARRIED UNANIMOUSLY 12/-**

**Council Resolution**

**Council approves the development application dated 6 December 2019 to change the use of 3/150 Stirling Highway, Nedlands from ‘Office’ to ‘Recreation Private’ (Pilates Studio), subject to the following conditions and advice:**

1. **The development shall at all times comply with the application and the approved plans, subject to any modifications required as a consequence of any condition(s) of this approval.**
2. **This development approval pertains only to a change of use, from Office to Recreation Private (Pilates Studio).**
3. **The development, hereby approved, shall at all times comply with the requirements of ‘Recreation Private’ land use as defined by the City of Nedlands Local Planning Scheme No. 3.**
4. **All customer visits to the hereby approved Recreation Private (Pilates Studio) shall be during the following hours:**

* **6:00am – 7:20pm Monday to Friday**
* **7:30am – 10:00am Saturday and Sunday**

1. **A maximum of 32 staff and patrons (inclusive) shall be permitted on the premises at any one time.**
2. **There shall be a minimum 10-minute break between sessions.**

**Advice Notes specific to this proposal:**

1. **In relation to condition 4, the applicant is advised that the definition of the Recreation Private land use is defined under the City of Nedlands Local Planning Scheme No. 3 as follows:**

**means premises that are -**

**(a) used for indoor or outdoor leisure, recreation or sport; and**

**(b) not usually open to the public without charge.**

1. **In relation to Condition (5) a separate development application is required to be submitted to and approved by the City prior to and increase in the number of staff and patrons.**

1. **In relation to condition 7, the applicant is advised that the shared parking legal agreement and management plan:**
2. **must be to the satisfaction of the local government;**
3. **must be made with the owner of the Shared Site, and any other person specified by the local government (which may include the local government);**
4. **must be prepared (and if necessary, registered and lodged) at the cost of the owner of the development site;**
5. **may, if required by the local government, provide for one or more of an easement, restrictive covenant, right-of-way, reciprocal access and circulation, lease, licence, notification, absolute caveat and any other provision necessary or convenient to ensure the shared parking arrangement is provided and maintained;**
6. **must not be amended, surrendered or terminated without the approval of the local government; and**
7. **must result in a net car parking provision of no less than 16 bays during the time periods where two (2) concurrent sessions are run (6:00am-6:50am and 5:30pm and 6:20pm)**

**A copy of the legal agreement is to be prepared and be provided to the local government and endorsed by the City, prior to applying for an occupancy permit.**

1. **The applicant is advised that a building permit will be required for fit-out prior to proceeding.**
2. **Prior to occupying premises an occupancy permit will be required for a change in class from Class 7b to Class 9b.**
3. **The applicant is advised that the application requires a separate assessment under the Health (Public Buildings) Regulations 1992 including a form 1 Application to Construct, Extend or Alter a Public Building; Form 2 – Application For Certificate of Approval and Form 5 – Certificate of Electrical Compliance.**
4. **The applicant is advised that details will need to be provided to the City’s Environmental Health Department as to the number of patrons (and instructors) to be accommodated on-site at any one time to enable a full assessment of the Public Building requirements to be undertaken.**
5. **This decision constitutes planning approval only and is valid for a period of four years from the date of approval. If the subject development is not occupied within the four-year period, the approval shall lapse and be of no further effect.**

Committee Recommendation / Recommendation to Committee

Council approves the development application dated 6 December 2019 to change the use of 3/150 Stirling Highway, Nedlands from ‘Office’ to ‘Recreation Private’ (Pilates Studio), subject to the following conditions and advice:

1. The development shall at all times comply with the application and the approved plans, subject to any modifications required as a consequence of any condition(s) of this approval.
2. This development approval pertains only to a change of use, from Office to Recreation Private (Pilates Studio).
3. The development, hereby approved, shall at all times comply with the requirements of ‘Recreation Private’ land use as defined by the City of Nedlands Local Planning Scheme No. 3.
4. All customer visits to the hereby approved Recreation Private (Pilates Studio) shall be during the following hours:

* 6:00am – 7:20pm Monday to Friday
* 7:30am – 10:00am Saturday and Sunday

1. A maximum of 32 staff and patrons (inclusive) shall be permitted on the premises at any one time.
2. There shall be a minimum 10-minute break between sessions.
3. Prior to occupation, the landowner/applicant is to enter into a legal agreement with surrounding business/the strata body for the purpose of ensuring the satisfactory provision and maintenance of shared parking through a parking management plan to the satisfaction of the City of Nedlands at the applicants cost in accordance with Clause 32.2 (4) of Local Planning Scheme No.3. (refer advice note ‘c’)

Advice Notes specific to this proposal:

1. In relation to condition 4, the applicant is advised that the definition of the Recreation Private land use is defined under the City of Nedlands Local Planning Scheme No. 3 as follows:

means premises that are -

(a) used for indoor or outdoor leisure, recreation or sport; and

(b) not usually open to the public without charge.

1. In relation to Condition (5) a separate development application is required to be submitted to and approved by the City prior to and increase in the number of staff and patrons.

1. In relation to condition 7, the applicant is advised that the shared parking legal agreement and management plan:
2. must be to the satisfaction of the local government;
3. must be made with the owner of the Shared Site, and any other person specified by the local government (which may include the local government);
4. must be prepared (and if necessary, registered and lodged) at the cost of the owner of the development site;
5. may, if required by the local government, provide for one or more of an easement, restrictive covenant, right-of-way, reciprocal access and circulation, lease, licence, notification, absolute caveat and any other provision necessary or convenient to ensure the shared parking arrangement is provided and maintained;
6. must not be amended, surrendered or terminated without the approval of the local government; and
7. must result in a net car parking provision of no less than 16 bays during the time periods where two (2) concurrent sessions are run (6:00am-6:50am and 5:30pm and 6:20pm)

A copy of the legal agreement is to be prepared and be provided to the local government and endorsed by the City, prior to applying for an occupancy permit.

1. The applicant is advised that a building permit will be required for fit-out prior to proceeding.
2. Prior to occupying premises an occupancy permit will be required for a change in class from Class 7b to Class 9b.
3. The applicant is advised that the application requires a separate assessment under the Health (Public Buildings) Regulations 1992 including a form 1 Application to Construct, Extend or Alter a Public Building; Form 2 – Application For Certificate of Approval and Form 5 – Certificate of Electrical Compliance.
4. The applicant is advised that details will need to be provided to the City’s Environmental Health Department as to the number of patrons (and instructors) to be accommodated on-site at any one time to enable a full assessment of the Public Building requirements to be undertaken.
5. This decision constitutes planning approval only and is valid for a period of four years from the date of approval. If the subject development is not occupied within the four-year period, the approval shall lapse and be of no further effect.

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| **PD33.20** | **No. 35 The Avenue – Five Two Storey Grouped Dwellings** |
|  | |
| **Committee** | 14 July 2020 |
| **Council** | 28 July 2020 |
| **Applicant** | Urbanista, Petar Mrdja |
| **Landowner** | Niche Living Projects Pty Ltd |
| **Director** | Peter Mickleson – Director Planning & Development |
| **Employee Disclosure under *section 5.70 Local Government Act 1995*** | Nil |
| **Report Type**  Quasi-Judicial | When Council determines an application/matter that directly affects a person’s right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications and other decisions that may be appealable to the State Administrative Tribunal. |
| **Reference** | DA19-43081 |
| **Previous Item** | Nil |
| **Delegation** | In accordance with the City’s Instrument of Delegation, Council is required to determine the application due to the application proposing five dwellings. |
| **Attachments** | 1. Site Photos 2. Planning Report 3. Acoustic Report 4. Waste Management Plan 5. Landscape Plan |
| **Confidential Attachments** | 1. Plans 2. Submissions 3. Planning Assessment |

**Regulation 11(da) – Council wished to ensure the protection of the street frontage amenity and ensure that on street car bays and street trees were not removed.**

Moved – Councillor Bennett

Seconded – Councillor Mangano

**That the Recommendation to Council be adopted subject to the addition of the following condition:**

**17. The car parking and vehicle access for the first grouped dwelling with facade frontage to the Avenue shall be consolidated with the communal driveway for all other grouped dwellings so that there is only one consolidated vehicle access driveway crossing over verge, and that the superfluous double driveway be removed and replaced with verge, tree planting and street parking similar to currently exists in this location.**

Amendment

Moved - Councillor Wetherall

Seconded - Councillor Poliwka

That condition 17 be removed.

The AMENDMENT was PUT and was

Lost 5/7

(Against: Mayor Crs. Horley Smyth Bennett   
Mangano Hodsdon & Coghlan)

Councillor Hodsdon left the meeting at 9.55 pm.

**The Original Motion was PUT and was**

**CARRIED 6/5**

**(Against: Crs. Mangano Wetherall Senathirajah Coghlan & Hay)**

**Council Resolution**

**Council approves the development application dated 12 December 2019 with amended plans received 11 June 2020 for five grouped dwellings at No. 35 (Lot 740) The Avenue, Nedlands, subject to the following conditions and advice:**

1. **This approval is for a ‘Residential’ land use as defined under the City’s Local Planning Scheme No.3 and the subject land may not be used for any other use without prior approval of the City.**
2. **The Landscaping plan (Attachment 5) forms part of this approval and shall be installed and maintained in accordance with the approved landscaping plan, or any modifications approved thereto, for the lifetime of the development thereafter, to the satisfaction of the City.**
3. **Waste management for the development shall comply with the approved Waste Management Plan (Attachment 4) prepared by Dallywater Consulting dated June 2020 to the satisfaction of the City of Nedlands.**
4. **The acoustic report (Attachment 2) prepared by Sealhurst dated 2 June 2020 forms part of this development approval and shall be complied with at all times to the satisfaction of the City of Nedlands. Recommendations contained within the acoustic report to achieve compliance with the Environmental Protection (Noise) Regulations 1997 are to be carried out and maintained for the lifetime of the development to the satisfaction of the City of Nedlands.**
5. **The responsible entity (strata/corporate) shall be liable for all bin replacement costs and/or repair costs relating to any damage which may occur as a result of the bin compaction process.**
6. **The location of any bin stores shall be behind the street alignment so as not to be visible from the street or public place and constructed in accordance with the City’s Health Local Law 1997.**
7. **All stormwater generated from the development shall be contained on site.**
8. **All footings and structures shall be constructed wholly inside the site boundaries of the property’s Certificate of Title.**
9. **Prior to occupation of the development all fencing/visual privacy screens and obscure glass panels to major openings and unenclosed active habitable areas as annotated on the approved plans shall be screened in accordance with the Residential Design Codes by either;**
10. **fixed obscured or translucent glass to a height of 1.60 metres above finished floor level;**
11. **Timber screens, external blinds, window hoods and shutters to a height of 1.6m above finished floor level that are at least 75% obscure;**
12. **A minimum sill height of 1.60 metres as determined from the internal floor level; or**
13. **an alternative method of screening approved by the City of Nedlands.**

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

1. **Prior to occupation of the development the finish of the parapet walls is to be finished externally to the same standard as the rest of the development or in:**
2. **Face brick;**
3. **Painted render**
4. **Painted brickwork; or**
5. **Other clean material as specified on the approved plans.**

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

1. **Prior to occupation of the development, the proposed car parking and vehicle access areas shall be drained and paved in accordance with the approved plans and are to comply with the requirements of AS2890.1 to the satisfaction of the City.**
2. **Prior to occupation of the development, all external fixtures including, but not limited to TV and radio antennae, satellite dishes, plumbing ventes and pipes, solar panels, air conditioners, hot water systems and utilities shall be integrated into the design of the building and not be visible from the primary street to the satisfaction of the City.**
3. **Prior to construction or demolition works, a Construction Management Plan shall be submitted to the satisfaction of the City of Nedlands. The approved construction shall be observed at all times throughout the construction process to the satisfaction of the City.**
4. **Prior to the occupation of the development a lighting plan is to be implemented and maintained for the duration of the development to the satisfaction of the City.**
5. **The development shall at all times comply with the application and the approved plans, subject to any modifications required as a consequence of any condition(s) of this approval.**
6. **This decision constitutes planning approval only and is valid for a period of four years from the date of approval. If the subject development is not substantially commenced within the four-year period, the approval shall lapse and be of no further effect.**
7. **The car parking and vehicle access for the first grouped dwelling with facade frontage to the Avenue shall be consolidated with the communal driveway for all other grouped dwellings so that there is only one consolidated vehicle access driveway crossing over verge, and that the superfluous double driveway be removed and replaced with verge, tree planting and street parking similar to currently exists in this location.**

**Advice Notes specific to this proposal:**

1. **This is a Planning Approval only and does not remove the responsibility of the applicant/owner to comply with all relevant building, health and engineering requirements of the City, or the requirements of any other external agency. The City encourages the applicant to speak with each department to understand any further requirements.**
2. **The applicant is advised that in relation to Condition 2, the landscaping plan shall detail the following:**
   1. **Species and maturity of landscaping within the front setback areas which have a minimum pot size of 100L;**
   2. **Species and maturity of landscaping proposed on the nature strip (verge) which have a minimum pot size of 200L;**
   3. **Species and maturity of landscaping within each lot; and**
   4. **Maintenance plan for all proposed landscaping on site and contingencies for replacement of dead and diseased plants.**
3. **The applicant is advised that in relation to condition 3, the maximum number of bins permitted on the verge is eight (8).**
4. **The applicant is advised that in relation to condition 4, as per the recommendations for air conditioning units to comply with the assigned levels of the Regulations at all times of the day, evening and night-time, the current air conditioner condenser unit specification is to be retained and the modified location and screening arrangement schematics detailed within the acoustic report are to be carried through to the Building Permit and construction documentation. Where any changes outside of these recommendations are proposed, assessment by an acoustic consultant is to be completed to confirm compliance with the Regulations.**
5. **The applicant is advised that in relation to Condition 13, the Construction Management Plan is to address but is not limited to the following matters:**
6. **Construction operating hours;**
7. **Contact details of essential site personnel;**
8. **Noise control and vibration management;**
9. **Dust, sand and sediment management;**
10. **Stormwater and sediment control;**
11. **Traffic and access management;**
12. **Protection of infrastructure and street trees within the road reserve and adjoining properties;**
13. **Dilapidation report of adjoining properties;**
14. **Security fencing around construction sites;**
15. **Site deliveries;**
16. **Waste management and materials re-use**
17. **Parking arrangements for contractors and subcontractors;**
18. **Consultation plan with nearby properties; and**
19. **Complaint procedure.**
20. **The responsible entity (strata/corporate body) is responsible for the maintenance of the common property (including roads) within the development.**
21. **Any development in the nature-strip (verge), including footpaths, will require a Nature Strip Works Application (NSWA) to be lodged with, and approved by, the City's Technical Services department, prior to construction commencing.**
22. **Where parts of the existing dwelling/building and structures are to be demolished, a demolition permit is required prior to demolition works occurring. All works are required to comply with relevant statutory provisions.**
23. **Prior to selecting a location for an air-conditioner, the applicant is advised to consult the online fairair noise calculator at www.fairair.com.au and use this as guide to prevent noise affecting neighbouring properties Prior to installing mechanical equipment, the applicant is advised to consult neighbours, and if necessary, take measures to suppress noise.**

Committee Recommendation / Recommendation to Committee

Council approves the development application dated 12 December 2019 with amended plans received 11 June 2020 for five grouped dwellings at No. 35 (Lot 740) The Avenue, Nedlands, subject to the following conditions and advice:

1. This approval is for a ‘Residential’ land use as defined under the City’s Local Planning Scheme No.3 and the subject land may not be used for any other use without prior approval of the City.
2. The Landscaping plan (Attachment 5) forms part of this approval and shall be installed and maintained in accordance with the approved landscaping plan, or any modifications approved thereto, for the lifetime of the development thereafter, to the satisfaction of the City.
3. Waste management for the development shall comply with the approved Waste Management Plan (Attachment 4) prepared by Dallywater Consulting dated June 2020 to the satisfaction of the City of Nedlands.
4. The acoustic report (Attachment 2) prepared by Sealhurst dated 2 June 2020 forms part of this development approval and shall be complied with at all times to the satisfaction of the City of Nedlands. Recommendations contained within the acoustic report to achieve compliance with the Environmental Protection (Noise) Regulations 1997 are to be carried out and maintained for the lifetime of the development to the satisfaction of the City of Nedlands.
5. The responsible entity (strata/corporate) shall be liable for all bin replacement costs and/or repair costs relating to any damage which may occur as a result of the bin compaction process.
6. The location of any bin stores shall be behind the street alignment so as not to be visible from the street or public place and constructed in accordance with the City’s Health Local Law 1997.
7. All stormwater generated from the development shall be contained on site.
8. All footings and structures shall be constructed wholly inside the site boundaries of the property’s Certificate of Title.
9. Prior to occupation of the development all fencing/visual privacy screens and obscure glass panels to major openings and unenclosed active habitable areas as annotated on the approved plans shall be screened in accordance with the Residential Design Codes by either;
10. fixed obscured or translucent glass to a height of 1.60 metres above finished floor level;
11. Timber screens, external blinds, window hoods and shutters to a height of 1.6m above finished floor level that are at least 75% obscure;
12. A minimum sill height of 1.60 metres as determined from the internal floor level; or
13. an alternative method of screening approved by the City of Nedlands.

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

1. Prior to occupation of the development the finish of the parapet walls is to be finished externally to the same standard as the rest of the development or in:
2. Face brick;
3. Painted render
4. Painted brickwork; or
5. Other clean material as specified on the approved plans.

And maintained thereafter to the satisfaction of the City of Nedlands

1. Prior to occupation of the development, the proposed car parking and vehicle access areas shall be drained and paved in accordance with the approved plans and are to comply with the requirements of AS2890.1 to the satisfaction of the City.
2. Prior to occupation of the development, all external fixtures including, but not limited to TV and radio antennae, satellite dishes, plumbing ventes and pipes, solar panels, air conditioners, hot water systems and utilities shall be integrated into the design of the building and not be visible from the primary street to the satisfaction of the City.
3. Prior to construction or demolition works, a Construction Management Plan shall be submitted to the satisfaction of the City of Nedlands. The approved construction shall be observed at all times throughout the construction process to the satisfaction of the City.
4. Prior to the occupation of the development a lighting plan is to be implemented and maintained for the duration of the development to the satisfaction of the City.
5. The development shall at all times comply with the application and the approved plans, subject to any modifications required as a consequence of any condition(s) of this approval.
6. This decision constitutes planning approval only and is valid for a period of four years from the date of approval. If the subject development is not substantially commenced within the four-year period, the approval shall lapse and be of no further effect.

Advice Notes specific to this proposal:

1. This is a Planning Approval only and does not remove the responsibility of the applicant/owner to comply with all relevant building, health and engineering requirements of the City, or the requirements of any other external agency. The City encourages the applicant to speak with each department to understand any further requirements.
2. The applicant is advised that in relation to Condition 2, the landscaping plan shall detail the following:
   1. Species and maturity of landscaping within the front setback areas which have a minimum pot size of 100L;
   2. Species and maturity of landscaping proposed on the nature strip (verge) which have a minimum pot size of 200L;
   3. Species and maturity of landscaping within each lot; and
   4. Maintenance plan for all proposed landscaping on site and contingencies for replacement of dead and diseased plants.
3. The applicant is advised that in relation to condition 3, the maximum number of bins permitted on the verge is eight (8).
4. The applicant is advised that in relation to condition 4, as per the recommendations for air conditioning units to comply with the assigned levels of the Regulations at all times of the day, evening and night-time, the current air conditioner condenser unit specification is to be retained and the modified location and screening arrangement schematics detailed within the acoustic report are to be carried through to the Building Permit and construction documentation. Where any changes outside of these recommendations are proposed, assessment by an acoustic consultant is to be completed to confirm compliance with the Regulations.
5. The applicant is advised that in relation to Condition 13, the Construction Management Plan is to address but is not limited to the following matters:
6. Construction operating hours;
7. Contact details of essential site personnel;
8. Noise control and vibration management;
9. Dust, sand and sediment management;
10. Stormwater and sediment control;
11. Traffic and access management;
12. Protection of infrastructure and street trees within the road reserve and adjoining properties;
13. Dilapidation report of adjoining properties;
14. Security fencing around construction sites;
15. Site deliveries;
16. Waste management and materials re-use
17. Parking arrangements for contractors and subcontractors;
18. Consultation plan with nearby properties; and
19. Complaint procedure.
20. The responsible entity (strata/corporate body) is responsible for the maintenance of the common property (including roads) within the development.
21. Any development in the nature-strip (verge), including footpaths, will require a Nature Strip Works Application (NSWA) to be lodged with, and approved by, the City's Technical Services department, prior to construction commencing.
22. Where parts of the existing dwelling/building and structures are to be demolished, a demolition permit is required prior to demolition works occurring. All works are required to comply with relevant statutory provisions.
23. Prior to selecting a location for an air-conditioner, the applicant is advised to consult the online fairair noise calculator at www.fairair.com.au and use this as guide to prevent noise affecting neighbouring properties Prior to installing mechanical equipment, the applicant is advised to consult neighbours, and if necessary, take measures to suppress noise.

|  |  |
| --- | --- |
| **PD34.20** | **No. 92 Smyth Road, Nedlands - 5 Two Storey Grouped Dwellings** |
|  | |
| **Committee** | 14 July 2020 |
| **Council** | 28 July 2020 |
| **Applicant** | Peter Fryer Design |
| **Landowner** | Allure Property Group WA |
| **Director** | Peter Mickleson – Director Planning & Development |
| **Employee Disclosure under *section 5.70 Local Government Act 1995*** | Nil |
| **Report Type**  Quasi-Judicial | When Council determines an application/matter that directly affects a person’s right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications and other decisions that may be appealable to the State Administrative Tribunal. |
| **Reference** | DA20-44804 |
| **Previous Item** | PD29.20 – 23 June 2020 - Local Planning Policy: Smyth Road, Gordon Street and Langham Street Laneway and Built Form Requirements |
| **Delegation** | In accordance with the City’s Instrument of Delegation, Council  is required to determine the application due to the number of  dwellings and an objection being received |
| **Attachments** | Nil |
| **Confidential Attachments** | * + - 1. Plans       2. Landscaping Plan       3. Waste Management Plan       4. Submissions |

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

Moved – Councillor Wetherall

Seconded – Councillor Coghlan

**That the Recommendation to Council be adopted.**

(Printed below for ease of reference)

**CARRIED UNANIMOUSLY EN BLOC 11/-**

**Council Resolution / Committee Recommendation / Recommendation to Committee**

**Council approves the development application received 10 February 2020 with amended plans dated 28 April 2020 and 15 June 2020 for five (5) two storey grouped dwellings at Lot 17 (No.92) Smyth Road, Nedlands, subject to the following conditions and advice notes:**

1. **This approval is for a ‘Residential’ land use as defined under the City’s Local Planning Scheme No.3 and the subject land may not be used for any other use without prior approval of the City.**
2. **Pursuant to clause 32.3 of the City’s Local Planning Scheme No. 3, the proposed laneway shown on the approved Site Plan, dated 15 June 2020 (Sheet 1 of 4), is to be ceded to the local government free of cost and constructed to the satisfaction of the local government, prior to the occupation of the development.**
3. **The laneway shall be constructed and drained to the specification and satisfaction of the City of Nedlands prior to the occupation of the development.**
4. **The laneway shall include the installation of lighting infrastructure at the cost of the owner, to the specification and satisfaction of the City.**
5. **Prior to the occupation of development, semi-mature trees (with a minimum height of 2.4m and species and pot size to be specified by the City) are to be planted in the laneway to the satisfaction of the City and maintained by the owner for a minimum of 2 years from the commencement of occupation.. Where a tree dies within the two-year establishment period, the tree shall be replaced at the owner’s cost.**
6. **Prior to the issue of a Building Permit, a revised Waste Management Plan for the development shall be submitted to and approved by the City. Waste Management for the development to comply with the approved Waste Management Plan to the satisfaction of the City.**
7. **Prior to the issue of a Building Permit, a revised Landscaping Plan for the development shall be submitted to and approved by the City. Landscaping shall be installed and maintained in accordance with the approved Landscaping Plan, or any modifications approved thereto, for the lifetime of the development thereafter, to the satisfaction of the City.**
8. **All stormwater generated from the development shall be contained on site.**
9. **All footings and structures shall be constructed wholly inside the site boundaries of the property’s Certificate of Title.**
10. **Prior to occupation of the development all fencing/visual privacy screens and obscure glass panels to major openings and unenclosed active habitable areas as annotated on the approved plans shall be screened in accordance with the Residential Design Codes by either;** 
    1. **fixed obscured or translucent glass to a height of 1.60 metres above finished floor level;**
    2. **Timber screens, external blinds, window hoods and shutters to a height of 1.6m above finished floor level that are at least 75% obscure;**
    3. **A minimum sill height of 1.60 metres as determined from the internal floor level; or**
    4. **an alternative method of screening approved by the City of Nedlands.**

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

1. **Prior to occupation of the development the finish of the parapet walls is to be finished externally to the same standard as the rest of the development or in:**
2. **Face brick;**
3. **Painted render;**
4. **Painted brickwork; or**
5. **Other clean material as specified on the approved plans;**

**And maintained thereafter to the satisfaction of the City of Nedlands**

1. **Prior to occupation of the development, all external fixtures including, but not limited to TV and radio antennae, satellite dishes, plumbing ventes and pipes, solar panels, air conditioners, hot water systems and utilities shall be integrated into the design of the building and not be visible from the primary street or secondary street to the satisfaction of the City.**
2. **Prior to the construction or demolition works, a Construction Management Plan shall be submitted to the satisfaction of the City of Nedlands. The approved Construction shall be observed at all times throughout the construction process to the satisfaction of the City.**
3. **Prior to the occupation of the development a lighting plan is to be implemented and maintained for the duration of the development to the satisfaction of the City.**
4. **The development shall at all times comply with the application and the approved plans, subject to any modifications required as a consequence of any condition(s) of this approval.**
5. **This decision constitutes planning approval only and is valid for a period of four years from the date of approval. If the subject development is not substantially commenced within the four-year period, the approval shall lapse and be of no further effect.**

**Advice Notes specific to this proposal:**

1. **The owner and the applicant is advised that in relation to Condition 2, the proposed laneway shown on the approved Site Plan, dated 15 June 2020 (Sheet 1 of 4), is to be ceded free of cost pursuant to Section *152* of *the Planning and Development Act 2005*.**
2. **The owner and applicant is advised that in relation to Condition 6, a revised Waste Management Plan is required to address:**
   1. **Waste management in the event that through-access is achieved between No.92 Smyth Road and No.33 Langham Street, Nedlands.**
3. **The owner and applicant is advised that in relation to Condition 7, a revised Landscaping Plan is required to:**
4. **Relocate plant type number 4 (Pyrus Calleryana Pear) to within the laneway, to the satisfaction of the City.**
5. **The owner and the applicant is advised that in relation to Condition 13 the Construction Management Plan is to address but is not limited to the following matters:**
6. **Construction operating hours;**
7. **Contact details of essential site personnel;**
8. **Noise control and vibration management;**
9. **Dust, sand and sediment management;**
10. **Stormwater and sediment control;**
11. **Traffic and access management;**
12. **Protection of infrastructure and street trees within the road reserve and adjoining properties;**
13. **Dilapidation report of adjoining properties;**
14. **Security fencing around construction sites;**
15. **Site deliveries;**
16. **Waste management and materials re-use;**
17. **Parking arrangements for contractors and subcontractors;**
18. **Consultation plan with nearby properties; and**
19. **Complaint procedure.**
20. **Any development in the nature-strip (verge), including footpaths, will require a Nature Strip Works Application (NSWA) to be lodged with, and approved by, the City's Technical Services department, prior to commencing construction.**
21. **Where parts of the existing dwelling/building and structures are to be demolished, a demolition permit is required prior to demolition works occurring. All works are required to comply with relevant statutory provisions.**
22. **Prior to selecting a location for an air-conditioner, the applicant is advised to consult the online fairair noise calculator at www.fairair.com.au and use this as guide to prevent noise affecting neighbouring properties Prior to installing mechanical equipment, the applicant is advised to consult neighbours, and if necessary, take measures to suppress noise.**

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| **PD35.20** | **Local Planning Scheme 3 – Local Planning Policy: Removal of Occupancy Restrictions** |
|  | |
| **Committee** | 14 July 2020 |
| **Council** | 28 July 2020 |
| **Applicant** | City of Nedlands |
| **Director** | Peter Mickleson – Director Planning & Development |
| **Employee Disclosure under *section 5.70 Local Government Act 1995*** | Nil |
| **Reference** | Nil |
| **Previous Item** | OCM 24 March 2020 – PD07.20 |
| **Attachments** | * 1. Draft Removal of Occupancy Restrictions LPP   2. Draft Planning Information Sheet – Removal of Notifications on Title – Over 55’s Accommodation/Ancillary Dwelling |

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

Moved – Councillor Wetherall

Seconded – Councillor Senathirajah

**That the Recommendation to Council be adopted.**

(Printed below for ease of reference)

Councillor Hodsdon returned to the meeting at 10.02 pm.

**CARRIED 7/5**

**(Against: Crs. Horley Smyth Bennett Mangano & Coghlan)**

**Council Resolution / Committee Recommendation / Recommendation to Committee**

**Council proceeds to adopt the Removal of Occupancy Restrictions Local Planning Policy, as set out in Attachment 1, in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015* Schedule 2, Part 2, Clause 4(3)(b)(i).**

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| **PD36.20** | **Built Form Modelling, Broadway, Waratah Village and Nedlands Town Centre** |
|  | |
| **Committee** | 14 July 2020 |
| **Council** | 28 July 2020 |
| **Applicant** | City of Nedlands |
| **Director** | Peter Mickleson – Director Planning & Development |
| **Employee Disclosure under *section 5.70 Local Government Act 1995*** | Nil |
| **Reference** | Nil |
| **Previous Item** | SCM 30 January 2020 - Item 6  OCM 26 May 2020 - PD18.20 – Local Planning Policy: Interim Built Form Design Guidelines – Broadway Mixed Use Zone |
| **Attachments** | Nil |

**Regulation 11(da) - The recommendation to Council was adopted with a further addition that ensured that the Palassis Architects report is publicly available and that they were thanked for their work.**

Moved – Councillor Mangano

Seconded – Councillor Senathirajah

**That the Recommendation to Council be adopted.**

Amendment

Moved - Councillor Bennett

Seconded - Councillor Coghlan

**That the following clause be added:**

**Instruct the CEO to formally receive the Palassis Architects authored City of Nedlands Municipal Inventory Review Report from 2011/2012 and make it publicly available as a digital reference document for built form/character/heritage, brief Council on the next scheduled Municipal Inventory review, and thank Palassis Architects for their work.**

**The AMENDMENT was PUT and was**

**CARRIED ON THE CASTING VOTE 7/6**

**(Against: Crs. McManus Mangano Poliwka Wetherall Hay & Senathirajah)**

**The Substantive was PUT and was**

**CARRIED UNANIMOUSLY 12/-**

**Council Resolution**

**Council instructs the Chief Executive Officer to:**

* + - 1. **continue with the planned schedule of works relating to built form modelling for the Nedlands Town Centre, Broadway and Waratah Village precincts and that such work is to inform the development of the Draft Precinct Local Plans and a draft report be presented to Council at the August 2020 Council Meeting; and**
      2. **formally receive the Palassis Architects authored City of Nedlands Municipal Inventory Review Report from 2011/2012 and make it publicly available as a digital reference document for built form/character/heritage, brief Council on the next scheduled Municipal Inventory review, and thank Palassis Architects for their work.**

Committee Recommendation

Council instructs the Chief Executive Officer to continue with the planned schedule of works relating to built form modelling for the Nedlands Town Centre, Broadway and Waratah Village precincts and that such work is to inform the development of the Draft Precinct Local Plans and a draft report be presented to Council at the August 2020 Council Meeting.

Recommendation to Committee

Council instructs the Chief Executive Officer to continue with the planned schedule of works relating to built form modelling for the Nedlands Town Centre, Broadway and Waratah Village precincts and that such work is to inform the development of the Draft Precinct Local Plans and be presented back to Council as soon as possible.

## Technical Services Report No’s TS13.20 to TS14.20

Technical Services Report No’s TS13.20 to TS14.20 to be dealt with at this point (copy attached blue cover sheet).

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| **TS13.20 Underground Power – Hollywood East, Nedlands North and Nedlands West** |

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| **Committee** | 14 July 2020 |
| **Council** | 28 July 2020 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under *section 5.70 Local Government Act 1995*** | Nil |
| **Director** | Jim Duff – Director Technical Services |
| **Attachments** | 1. Western Power Works Planning Report – Hollywood East 2. Western Power Works Planning Report – Nedlands North 3. Western Power Works Planning Report – Nedlands West |
| **Confidential Attachments** | Nil |

**Councillor Mangano – Impartiality Interest**

Councillor Mangano disclosed an impartiality interest his interest being that he contracts to Western Power, and as a consequence, there may be a perception that his impartiality on the matter may be affected. Councillor Mangano declared that he would consider this matter on its merits and vote accordingly.

**Councillor Hodsdon – Interest in common**

Councillor Hodsdon disclosed an interest in common, his interest being that he owns a property in the area being discussed, and as a consequence, there may be a perception that his impartiality on the matter may be affected. Councillor Hodsdon declared that he would consider this matter on its merits and vote accordingly.

Councillor Horley left the meeting at 10.34 pm.

**Regulation 11(da) – Council wished to give councillors more time to consider this matter.**

Moved – Mayor de Lacy

Seconded – Councillor Wetherall

**That this item be deferred to Special Council Meeting on 4 August 2020.**

Councillor Horley returned to the meeting at 10.41 pm.

**CARRIED 10/2**

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

**Council Resolution**

**That this item be deferred to Special Council Meeting on 4 August 2020.**

Please note: No recommendation from Committee was made.

Recommendation to Committee

Council:

* + - 1. approves an increase in the operations budget from $180,000 to $983,260 to fund the design of underground power in Hollywood East, Nedlands North and Nedlands West. The additional cost to come from the Underground Power Reserve Fund; and
      2. approves the CEO to authorise Western Power to proceed with the scoping and planning phase of the Hollywood East, Nedlands North and Nedlands West underground power projects as detailed in the Works Planning Reports dated 16 June.

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| **TS14.20 Safe Active Streets Stage 2 – Variation Costs** |

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| **Committee** | 14 July 2020 |
| **Council** | 28 July 2020 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under *section 5.70 Local Government Act 1995*** | Nil |
| **Director** | Jim Duff – Director of Technical Services |
| **Attachments** | Nil. |
| **Confidential Attachments** | Nil. |

**Regulation 11(da) – Council wishes to accommodate the concerns of the adjacent landowners of the Safe Active Street on Elizabeth Street between Viewway and Kingsway.**

Moved – Councillor McManus

Seconded – Councillor Poliwka

**That the Recommendation to Council be adopted.**

(Printed below for ease of reference)

Amendment

Moved - Councillor Coghlan

Seconded - Councillor Bennett

**That the section of Safe Active Street on Elizabeth Street between Viewway and Kingsway is reviewed by the engineers to accommodate adjacent landowner concerns.**

**The AMENDMENT was PUT and was**

**CARRIED 8/4**

**(Against: Crs. McManus Hodsdon Poliwka & Wetherall)**

**The Substantive was PUT and was**

**CARRIED 9/3**

**(Against: Crs. Bennett Mangano Coghlan)**

**Council Resolution**

**Council approves:**

* + - 1. **an increase to the budget for the Safe Active Street project by $200,000 of municipal funds. The funds are now required to enable the completion of Stage 2 works from Dalkeith Road to the agreed termination point at the City boundary near Bay Road; and**
      2. **that the section of Safe Active Street on Elizabeth Street between Viewway and Kingsway is reviewed by the engineers to accommodate adjacent landowner concerns.**

Committee Recommendation / Amended Recommendation to Committee

Council approve an increase to the budget for the Safe Active Street project by $200,000 of municipal funds. The funds are now required to enable the completion of Stage 2 works from Dalkeith Road to the agreed termination point at the City boundary near Bay Road.

Recommendation to Committee

Council approves an increase to the budget for the Safe Active Street project by reinstating $300,000 of municipal funds relinquished as part of the City’s 2019/20 mid-year review and allocating a further $100,000 to enable the completion of Stage 2 works from Dalkeith Road to the agreed termination point at the City boundary near Bay Road.

## Community Development No’s CM05.20

Report No’s CM05.20 to be dealt with at this point (copy attached orange cover sheet).

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| --- |
| **CM05.20 Community Sport and Recreation Facilities Fund Application – Dalkeith Tennis Club and Allen Park Tennis Club** |

|  |  |
| --- | --- |
| **Committee** | 14 July 2020 |
| **Council** | 28 July 2020 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under *section 5.70 Local Government Act 1995*** | Nil |
| **Director** | Lorraine Driscoll – Director Corporate and Strategy |
| **Attachments** | Nil |
| **Confidential Attachments** | Nil |

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

Moved – Councillor Wetherall

Seconded – Councillor Coghlan

**That the Recommendation to Council be adopted.**

(Printed below for ease of reference)

**CARRIED UNANIMOUSLY EN BLOC 11/-**

**Council Resolution / Committee Recommendation / Recommendation to Committee**

**Council:**

1. **advises Department of Local Government, Sport and Cultural Industries (DLGSCI) that it has ranked and rated the application to the Community Sport and Recreation Facilities Fund Small Grant Round as follows:**

1. **Dalkeith Tennis Club – Reconstruction of Four Hard Courts: Well planned and needed by the municipality (A Rating);**
2. **Allen Park Tennis Club – Tennis Court Fence Replacement: Well planned and needed by the municipality (A Rating);**
3. **endorses the above applications to Department of Local Government, Sport & Cultural Industries on the condition that all necessary statutory approvals are obtained by the applicants; and**
4. **approves an amount of $48,799 (ex GST) for Dalkeith Tennis Club, conditional on the project receiving DLGSCI funding.**
5. **approves an amount of $27,324 (ex GST) for Allen Park Tennis Club, conditional on the project receiving DLGSCI funding.**

## Corporate & Strategy Report No’s CPS12.20 to CPS13.20

Report No’s CPS12.20 to CPS13.20 to be dealt with at this point (copy attached green cover sheet).

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| **CPS12.20 List of Accounts Paid – May 2020** |

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| --- | --- |
| **Committee** | 14 July 2020 |
| **Council** | 28 July 2020 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under *section 5.70 Local Government Act 1995*** | Nil. |
| **Director** | Lorraine Driscoll – Director Corporate & Strategy |
| **Attachments** | 1. Creditor Payment Listing May 2020 2. Credit Card and Purchasing Card Payments – May 2020 (28th April – 27th May 2020) |

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

Moved – Councillor Wetherall

Seconded – Councillor Coghlan

**That the Recommendation to Council be adopted.**

(Printed below for ease of reference)

**CARRIED UNANIMOUSLY EN BLOC 11/-**

**Council Resolution / Committee Recommendation / Recommendation to Committee**

**Council receives the List of Accounts Paid for the month of May 2020 as per attachments.**

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| **CPS13.20 Deed of Surrender – Town of Claremont Leases** |

|  |  |
| --- | --- |
| **Committee** | 14 July 2020 |
| **Council** | 28 July 2020 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under *section 5.70 Local Government Act 1995*** | Nil. |
| **Director** | Lorraine Driscoll – Director Corporate & Strategy |
| **Attachments** | 1. Draft Deed of Surrender; 2. Map of Crown Reserve 35569; and 3. Map of Crown Reserve 45054. |

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

Moved – Councillor Wetherall

Seconded – Councillor Coghlan

**That the Recommendation to Council be adopted.**

(Printed below for ease of reference)

**CARRIED UNANIMOUSLY EN BLOC 12/-**

**Council Resolution / Committee Recommendation**

**Council:**

1. **endorses the draft Deed of Surrender as contained in Attachment 1;**
2. **approves the Mayor and CEO to execute the deed and apply the City’s Common Seal; and**
3. **requests the CEO to ensure any operational decisions regarding the future use of the “Surrendered Land” are aligned to the emerging planning framework for NE Mt Claremont Master Plan and Carrington Street Precinct.**

Recommendation to Committee

Council:

1. endorses the draft Deed of Surrender as contained in Attachment 1; and
2. approves the Mayor and CEO to execute the deed and apply the City’s Common Seal.

# Reports by the Chief Executive Officer

## Amendments to Local Planning Policy Residential Aged Care Facilities

Please note: This item was brought forward see page 33 pm.

## Scheme Amendment No. 10 – Amendment to Additional Use 9

Please note: This item was brought forward see page 43 pm.

## Scheme Amendment No. 11 – Residential Aged Care Facilities – Additional Requirements

Please note: This item was brought forward see page 48.

## Deed of Easement and Deed of Agreement former Brockway Landfill Site

|  |  |
| --- | --- |
| **Council** | 28 July 2020 |
| **Applicant** | City of Nedlands  Department of Planning Lands and Heritage  Christ Church Grammar School |
| **Employee Disclosure under *section 5.70 Local Government Act 1995*** | Nil. |
| **CEO** | Mark Goodlet |
| **Previous Item** | PD74.18 – OCM 18 December 2018  PD13.19 – OCM 23 April 2019 |
| **Attachments** | 1. Deed of Easement 2. Deed of Agreement 3. Easement Map |

**Regulation 11(da) - Council determined to add some words of clarification of intention for the easement to be permanent.**

Moved – Councillor Smyth

Seconded – Councillor Horley

**That the Recommendation to Council be adopted subject to including the words “portion of” before the words “the former Brockway Landfill Site” in clauses 1 and 2.**

**In clause 1 add the words “in perpetuity” after the word “easement” and after the word “agreement”.**

**CARRIED 11/1**

**(Against: Cr. Mangano)**

**Council Resolution**

**Council:**

1. **approves the signing of the Deed of Easement in perpetuity and the Deed of Agreement in perpetuity over the portion of former Brockway Landfill Site and instructs Administration to execute the documents; and**
2. **approves the implementation of a Subject to Claim Caveat over the portion of former Brockway Landfill Site and instructs Administration to execute this.**

Recommendation to Council

Council:

1. approves the signing of the Deed of Easement and the Deed of Agreement over the former Brockway Landfill Site and instructs Administration to execute the documents; and
2. approves the implementation of a Subject to Claim Caveat over the former Brockway Landfill Site and instructs Administration to execute this.

**Executive Summary**

In April 2019 Council supported the former Brockway landfill site to be developed for sport and recreation purposes. The Department of Planning Lands and Heritage (DPLH) is currently going through the process of transferring the land to Christ Church Grammar School (the School) for this purpose. During this process, the City has requested an easement near the western boundary of the parcels to provide for a significant portion of the school sports circuit. The City has also requested that a Deed of Agreement been signed between the School and the City to enforce the conditions of the Council’s support in their April 2019 resolution.

The purpose of this report if to gain Council support for the execution of the Deed of Easement and the Deed of Agreement over the former Brockway landfill site.

**Discussion/Overview**

In April 2019 Council supported the proposal put forward by Christ Church Grammar School for the former Brockway landfill site to be redeveloped for sport and recreation. The sites are currently unused and the cost of remediation due to the former landfill operations mean that State Government as landowners have not been able to redevelop the site themselves. The Department of Planning Lands and Heritage (DPLH) are currently going through the process of selling the land to Christ Church Grammar School for the creation of playing fields. This process is estimated to be completed by the end of August 2020.

During the sale of this land the City has asked for two legal documents to be created: a Deed of Agreement between the School and the City and a Deed of Easement between the School, the City and DPLH.

The Deed of Agreement will allow the City to enforce all the conditions of support placed on the April 2019 Council resolution such as public access rights. This document will also contain conditions and liability information in relation to the easement between the City and the School. The School has also offered for the City to register a Subject to Claim Caveat over the land. This would further state the City’s interest in the land. Administration will also be placing a Subject to Claim Caveat over the site as part of the Deed of Agreement.

The Deed of Easement will allow for the City to gain rights to a strip along the western boundary of the lots as shown in Attachment 3. This will form a crucial piece of the School Sports Circuit a project that the City has been working on for some time. The easement document itself is a standard template provided by DPLH. The Easement map has been modelled based on information provided by the City’s Technical Services department based on the desired location from Council and the topography and constraints of the site. The Easement land will be set aside for the City to redevelop when ready to do so for the school sports circuit.

This item is being put to Council as a July CEO item due to the time sensitivity of this project. The Deed of Easement and the Deed of Agreement need to be signed prior to the transfer of the land taking place in August 2020 to secure the easement for the school sports circuit.

Independent legal advice has been sought by the City to ensure that the best interests of the City in relation to the school sports circuit and the April 2019 resolution conditions are protected and met.

**Key Relevant Previous Council Decisions:**

In April 2019 Council resolved the following in relation to Christ Church’s request for support for their proposal to purchase the former landfill site from the State Government.

Council Resolution / Committee Recommendation

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

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

**Consultation**

The City has been working closely with Christ Church Grammar School and the Department of Planning, Lands and Heritage (DPLH) throughout this process. Legal advice has also been sought on all documentation to ensure that the City’s position in relation to the use of the site and the easement are protected.

**Strategic Implications**

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

The Deed of Easement allows for the City to gain a significant piece of the school sports circuit, a project which is a strategic goal of the City. The Deed of Agreement allows for the City to enforce that the site be open to the public allowing for a greater benefit to the wider community.

**Who benefits?**

The City benefits in gaining a significant portion of the school sports circuit. The wider community also benefit due to the public access component of the Deed of Agreement.

**Does it involve a tolerable risk?**

A risk to the City is failure to sign the Deed’s prior to the transfer of the land in August 2020 would result in DPLH being forced to transfer for the land without the easement in place. This would mean that the City would not gain a significant portion of the school sports circuit.

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

All the information required is detailed in this report and attachments.

**Budget/Financial Implications**

**Can we afford it?**

There is no cost to the City at this point in relation to the signing of these documents. The costing to construct this portion of the school sports circuit will progress through the normal budgetary requirements at a later date.

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

There will be no impact upon rates.

**Conclusion**

Given the above and tight timeframes in relation to the matter Administration recommends that the City action the signing of both the Deed of Easement and the Deed of Agreement over the former Brockway landfill site.

Moved – Councillor Mangano

Seconded – Councillor Wetherall

**That item 13.6, 16.1, & 16.2 are brought forward.**

**CARRIED 11/1**

**(Against: Cr. Senathirajah)**

## Winsor Cinema – State Heritage Listing

|  |  |
| --- | --- |
| **Council** | 28 July 2020 |
| **Owner** | Independent Cinemas Pty Ltd |
| **Employee Disclosure under *section 5.70 Local Government Act 1995*** | Nil |
| **Director** | Ross Jutras-Minett – Acting Director Planning & Development |
| **CEO** | Mark Goodlet |
| **Previous Item** | PD07.19 – February 2019 |
| **Attachments** | 1. Windsor Cinema – Draft Heritage Assessment 2. Windsor Theatre – Curtilage Maps |

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

Moved – Councillor Wetherall

Seconded – Councillor McManus

**Council Resolution**

**Council:**

1. **does not support the listing of the Windsor Cinema onto the State Register for Heritage Places; and**
2. **instructs the CEO to advise the State Heritage Council of Council’s position.**

Put Motion

Moved - Councillor McManus

Seconded - Councillor Mangano

**That the Motion be put.**

**CARRIED 8/4**

**(Against: Crs. Horley Smyth Bennett & Coghlan)**

**The Motion was PUT and was**

**CARRIED 9/3**

**(Against: Crs. Horley Bennett & Coghlan)**

Recommendation to Council

Council:

1. does not support the listing of the Windsor Cinema onto the State Register for Heritage Places; and
2. instructs the CEO to advise the State Heritage Council of Council’s position for the potential Heritage Listing of the Windsor Cinema.

Or

Council:

1. supports the listing of the Windsor Cinema onto the State Register for Heritage Places; and
2. instructs the CEO to advise the State Heritage Council of Council’s position for the potential Heritage Listing of the Windsor Cinema.

**Executive Summary**

The Heritage Council of Western Australia (HCWA) recently considered a draft heritage assessment, for the Windsor Theatre, Nedlands that included a proposed statement of significance and resolved that:

* the place is of cultural heritage significance in terms of the *Heritage Act 2018*;
* the place makes an important contribution to understanding the heritage of Western Australia as detailed in the draft proposed statement of cultural heritage significance (draft statement) in the draft register entry; and,
* stakeholders should be consulted on the proposed registration.

The City has been identified as a key stakeholder and as such has been asked by the HCWA to provide comment on the proposed entry of the Windsor Theatre located at No. 100 Stirling Highway, Nedlands onto the State Register of Heritage Places.

**Discussion/Overview**

The Windsor Cinema is located at 100 Stirling Highway Nedlands (the subject site). The Heritage Value of the property has previously been debated by Council within the context of removing the site from being listed on the City’s Municipal Inventory. The property currently continues to operate as a cinema, however, is zoned Mixed-Use (R-AC1) which currently affords provisions that facilitate tall, high-density mixed-use development.

In February 2019, the Council approved the removal of the Heritage Deed which was placed over the property in 1996 to provide an approval for an unauthorised roof sign. The Deed has now been removed by the landowner and the subsequent listing on the City’s Municipal Inventory has also been removed. Therefore, there is currently is no heritage protection over the site.

The owner believes that the property is no longer in its original condition following several renovations over the past years both internally and externally. Despite attempts from the Art Deco Society in the 1990’s the property was not considered to be of significance enough to be entered onto the Register of Heritage Places by the HCWA. Therefore, the owner believes that the potential heritage listing is onerous and irrelevant to the current condition of the property.

The HCWA has stated within its draft assessment of the Windsor Cinema that the property has heritage significance for the following reasons:

* with its distinctive form and central tower, the place is a landmark on Stirling Highway, albeit that much of the fabric has been modified over time;
* the place illustrates the general optimism and popularity of cinema entertainment in Western Australia in the 1930s, following a period of economic depression;
* the place is an austere example of a cinema designed in the Inter-War Functionalist style, that exhibits design elements typical of the style such as contrasting horizontal and vertical motifs, asymmetrical massing of geometric forms, a cantilevered balcony, as well as Art Deco style moulding and floral motifs;
* the place illustrates the design work of architectural firm Baxter Cox in conjunction with William Leighton, who was well known for his many cinema and theatre designs in Western Australia; and,
* the place is valued by the community as a place of cinema entertainment, and by the Art Deco Society and others who have lobbied for its protection.

The lounge area to the western section of the cinema that forms part of the 1987 - 1990 extension works is of no significance.

The City does not have in house Heritage expertise with which to comment on the heritage value of the Windsor Cinema. Council’s current position in relation to Heritage Listings is that owners should have the right to use their private property as they see fit and that those who wish to not have heritage listing over their property should not have it forced onto them. The view being that if the community values places for their heritage value then the community should be prepared to pay for such places.

**Consultation**

The HCWA is undertaking its own consultation with affected stakeholders as part of the potential heritage listing.

The City has until Friday 7 August 2020 to make a comment. When all stakeholder comments have been received, the documentation will be presented to the Heritage Council again where a recommendation as to whether the place should be added to the State Register will be considered.

**Strategic Implications**

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

The Windsor Cinema has been identified as a key landmark site within the Draft Nedlands Town Centre Local Planning Policy. This is a change in policy position from what existed at the time of Council agreeing to the removal of the cinema from the MI. The non-listing provides a potential redevelopment opportunity for the site, and hence the loss of a cultural facility and architectural reference identified in the draft LPP – Nedlands Town Centre Precinct.

**Who benefits?**

The Art Deco Society benefits from the listing of the Windsor Cinema on the State Heritage Register as they have been lobbying for its listing for many years.

It may also be viewed that the City benefits from the listing of the Windsor Cinema as the property and any heritage value will be protected.

**Does it involve a tolerable risk?**

There is no risk to Council from either recommendation.

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

The City does not currently have a Heritage expert therefore administration is unable to fully assess the validity of both the claims made by the owner of the Windsor Cinema and the Heritage Council.

**Budget / Financial Implications**

**Can we afford it?**

Not applicable

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

There will be no impact on rates.

**Conclusion**

With a lack of Heritage expertise within the City and a lack of time to engage Heritage advice on the potential listing Council may decide to remain opposed to the heritage listing of the Windsor Cinema in line with its previous policy position.

Alternatively, Council may resolve to support the State Heritage listing of the Windsor Cinema to ensure the significance of the place remains in its current form.

## Councillor Mangano – Scheme Amendment 7

**Councillor Bennett – Financial Interest**

Councillor Bennett disclosed a financial interest in Item 16.1 – Urgent Business Councillor Mangano Scheme Amendment 7, his interest being that he lives in the scheme area at 133 Broadway, Nedlands. Councillor Bennett declared that he has been granted approval by the Minister to remain in the meeting and vote subject to the following conditions:

1. The approval is only valid for the 28 July 2020 Ordinary Council Meeting when agenda item 16.1 is considered;
2. The abovementioned Councillor must declare the nature and extent of their interests at the abovementioned meeting when the matter is considered, together with the approval provided;
3. The CEO is to provide a copy of the Department’s letter of approval to the abovementioned Councillor;

4. The CEO is to ensure that the declarations, including the approval given and any conditions imposed, are recorded in the minutes of the abovementioned meeting, when the item is considered;

Moved – Councillor Mangano

Seconded – Councillor Bennett

**That Council instructs the Chief Executive Officer to aggregate public submissions for Scheme Amendment No 7 and have the final documentation ready to be presented to Council at the Council Committee Meeting on 11 August 2020.**

**CARRIED 11/1**

**(Against: Cr. McManus)**

Justification

The South Broadway Scheme Amendment is an urgent matter and has been discussed by the Mayor and others with the WAPC Chair. It needs to be presented and voted on by Council as a matter of urgency so that the WAPC can formally receive it.

Administration Comment

Community Engagement comments close on the 25th July 2020 for Scheme Amendment #7.

A petition against the amendment has also been tabled by Cr Senathirajah against the recommendation to adopt Scheme Amendment #7.

Given the Planning Departments’ current strategic planning workload and 10 Planning related Council items being drafted and finalised for August, Scheme Amendment #7 is scheduled to be tabled before Council at its September round of Council meetings. Reallocation of this work will result in other work being delayed such as the PMRG LPP and associated Transition Area Policy work.

Scheme Amendment #7 given the community tension and complexity given its strategic planning context as being within a Specialised Activity Centre Boundary requires careful consideration by administration and therefore should not be rushed. The amendment even if adopted by Council is not considered either certain or imminent until such time as a recommendation has been made by the WAPC to the Minister for Planning. As such, it is unlikely that rushing administration to present a report to Council is going to result in any added weight or certainty to the Scheme Amendment nor any additional weight being applied in decision making of current Development Applications.

## Councillor Coghlan – Public Submission on Proposed Peace Memorial Rose Garden Local Planning Policy

Moved – Councillor Coghlan

Seconded – Councillor Mangano

**That Council instructs the CEO to ensure the following:**

1. **A summary analysis of the public submissions received to the advertising of the PMRG LPP is provided to:**
   1. **Councillors in advance of the Council Workshop on 6 August 2020.**
   2. **The Community Working Group (CWG) community members at the same time.**

1. **Full copies of the public submissions are also provided to Councillors in advance of the Council Workshop on 6 August 2020.**

1. **For all Council planning and other matters where public submissions are received, full copies are made available to Councillors as standard practice, coordinated with the associated Council briefings or workshops, community meetings or workshop, and Committee or Council meetings.**

**CARRIED 8/4**

**(Against: Crs. Senathirajah Wetherall McManus & Poliwka)**

Justification

Public consultation is central to the planning process and all of Council’s business.

Submissions provide vital input to addressing matters and making decisions properly.

For meaningful consultation and effective decision making to occur, submissions must be thoroughly considered.

In addition to summaries and analyses, Council needs to see full copies of submissions for comprehensive, detailed information.

This approach improves accountability, transparency and equality in Council’s deliberations and determinations in the public interest.

It takes community consultation seriously as a driver in shaping the directions that Council pursues.

An unprecedented and ongoing amount of public consultation is of necessity taking place throughout Nedlands for a range a planning matters.

In relation to the PMRG LPP, to date the CWG has received little feedback on the public submissions, despite requesting such.

It is important that Councillors and the CWG are well-informed about the submissions in order to progress the matter.

In this way consultation will be genuine and submissions will have a bearing in addressing the many proposals and issues being dealt with.

Administration Comment

Point 1 & Point 2

A Summary of submissions is usually tabled as a confidential attachment to a Council report / Agenda and Minutes and as such is generally available for Councillor viewing.

Administration have no objection to releasing this to Council for before the Council workshop.

Administration do not believe that this confidential information is suitable for release to the Community Working Group which includes members of the public; however, a summary of submissions can be provided.

As per Point 1, Administration provide this information as confidential attachments to Committee and Council items. Administration do not object to this information being provided to Councillors in advance, for use in workshops / briefings as required.

Councillor Hodsdon left the meeting at 11.51 pm.

Moved – Mayor de Lacy

Seconded – Councillor Wetherall

**That the meeting be adjourned to Thursday 30 July 2020 at 6.00 pm.**

**CARRIED UNANIMOUSLY 11/-**

The meeting adjourned at 11.53 pm on 28 July 2020 and reconvened at 6.08 pm on 30 July 2020 at the Council Chamber, 71 Stirling Hwy, Nedlands, with the following people in attendance:

**Councillors** Her Worship the Mayor, C M de Lacy (Presiding Member)

Councillor F J O Bennett Dalkeith Ward

Councillor A W Mangano Dalkeith Ward

Vacant Dalkeith Ward

Councillor B G Hodsdon Hollywood Ward

Councillor P N Poliwka Hollywood Ward

Councillor J D Wetherall Hollywood Ward

Councillor R A Coghlan Melvista Ward

Councillor G A R Hay Melvista Ward

Councillor R Senathirajah Melvista Ward

Councillor N B J Horley Coastal Districts Ward

Councillor L J McManus Coastal Districts Ward

Councillor K A Smyth Coastal Districts Ward

**Staff** Mr M A Goodlet Chief Executive Officer

Mr P L Mickleson Director Planning & Development

Mr J Duff Director Technical Services

Mrs N M Ceric Executive Assistant to CEO & Mayor

## Local Planning Scheme 3 – Local Planning Policy: Dalkeith Road to Stanley Street Laneway and Built Form Requirements

|  |  |
| --- | --- |
| **Council** | 28 July 2020 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under *section 5.70 Local Government Act 1995*** | Nil |
| **Director** | Ross Jutras-Minett – Acting Director Planning & Development |
| **CEO** | Mark Goodlet |
| **Attachments** | 1. Tracked Changes Local Planning Policy: Dalkeith Road - Stanley Street Laneway and Built Form Requirements 2. Final Local Planning Policy: Dalkeith Road - Stanley Street Laneway and Built Form Requirements 3. Summary of Submissions 4. November 2018 JDAP development approval and endorsed plans for No. 90 Stirling Highway (ALDI Development) 5. June 2020 Woolworths Development Application Plans 6. McLeod’s Legal Advice (3 June 2020). 7. Indicative laneway concept drawing |
| **Confidential Attachment** | 1. Original Submissions |

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

Moved – Councillor Mangano

Seconded – Councillor Hay

**That the Recommendation to Council be adopted.**

(Printed below for ease of reference)

**CARRIED ON THE CASTING VOTE 7/6**

**(Against: Crs. Horley Smyth McManus**

**Hodsdon Wetherall & Senathirajah)**

**Council Resolution / Recommendation to Council**

**That Council resolves to adopt the Dalkeith Road – Stanley Street Laneway and Built Form Requirements Local Planning Policy with modifications as set out in Attachment 2, in accordance with the Planning and Development (Local Planning Schemes) Regulations 2015 Schedule 2, Part 2, Clause 4(3)(b)(ii).**

**Executive Summary**

The purpose of this report to recommend that Council adopt the Dalkeith Road – Stanley Street Laneway and Built Form Requirements Local Planning Policy.

This Policy details the requirements relating to the ceding and construction of a new east-west laneway between Dalkeith Road – Stanley Street. The land affected by the policy includes No.56 (Lots 50 and 51) Dalkeith Road, No.90 Stirling Highway (Lots 4 and 5) and the wider Captain Stirling redevelopment site being (No.80 Stirling Highway (Lot 1) No’s 2-6 Florence Road (Lots 21 to 23) and No’s 7-9 Stanley Street (Lots 32 to 33).

Under this policy, the laneway is located along the southern boundary of No. 56 Dalkeith Road (Lots 50 and 51), No. 90 Stirling Highway (Lots 4 and 5) and No. 4 Florence Road (Lot 22) and No. 7 Stanley Street (Lot 33) (refer Figure 1), unless otherwise agreed to by the City. It also outlines the built form requirements for the proposed laneway.

This Policy has been created as a mechanism to enable the ceding of land in accordance with clause 32.3 of City’s Local Planning Scheme No. 3 (LPS3). Clause 32.3 allows land affected by a right of way or laneway identified by the scheme, or a local planning policy, to be ceded and constructed at the time of developing or subdividing the land.

The creation of the proposed laneway is consistent with the City of Nedlands Local Planning Strategy (LPS) and draft City of Nedlands Town Centre Precinct Plan Local Planning Policy (NTCPP LPP). It aims to provide alternative vehicle, bicycle, and pedestrian access to the future town centre and is intended to help relieve growing traffic volumes and congestion along Stirling Highway. It also supports the realisation of the intended ‘pedestrian focused’ town square environment at the northern end of Florence Road under the draft NTCLPP.

**Discussion/Overview**

**Background**

The land affected by the Dalkeith Road – Stanley Street Laneway and Built Form Requirements Local Planning Policy is No.56 (Lots 50 and 51) Dalkeith Road, No.90 Stirling Highway (Lots 4 and 5) and the wider Captain Stirling redevelopment site being (No.80 Stirling Highway (Lot 1) No. 2-6 Florence Road (Lots 21 to 23) and No. 7-9 Stanley Street (Lots 32 to 33).

Under this policy, the laneway is located along the southern boundary of No. 56 Dalkeith Road (Lots 50 and 51), No. 90 Stirling Highway (Lots 4 and 5) and No. 4 Florence Road (Lot 22) and No. 7 Stanley Street (Lot 33) shown on Figure 1 below. These properties were recently up-coded to a density of R-AC1 under the City’s adopted LPS3.



Figure 1: Properties to the south of Stirling Highway between Dalkeith Road and Stanley Street subject to proposed laneway development

Clause 32.3 of LPS3 allows the ceding and construction of a laneway at the affected landowner’s cost for the purpose of creating rights of way or laneways which are identified in, amongst other things, a local planning policy. Therefore, if Council chooses to adopt this policy, the City will have the head of power under clause 32.3 of LPS 3 to require the affected landowner(s) to cede and construct the laneway to the City’s specifications at the time of subdivision or development.

**Laneway Details**

This Policy details the requirements for the proposed laneway between Dalkeith Road and Stanley Street, including the land identified to be ceded in order to create the laneway and the requirements for the ceding and construction.

The Policy requires the ceding of a 10m wide strip of land on each of the affected properties, measured from the southern boundary line on No. 56 Dalkeith Road (Lots 50 and 51), and No. 90 (Stirling Highway Lots 4 and 5), No. 4 Florence Road (Lot 22) and No. 7 Stanley Street (Lot 33).

The 10m wide strip will facilitate the construction of a 7m wide carriageway and a southern 3m ‘buffer’ zone that will provide opportunity for the construction of a dedicated 2.5m wide shared path, an acoustic barrier where considered appropriate, landscaping treatments in the form of small canopy tree planting and vegetative screening, and lighting/ other servicing requirements.

In relation to the dedicated 2.5m wide shared path, the draft NTCPP LPP indicates a new bicycle route should be established along the proposed rear laneway between Dalkeith Road and Florence Road with further bicycle racks and End of Trip Facilities constructed in the Town Square (page 12).

Planning Administration is advised that either 1.5m wide cycle lanes (in each direction) or a 2.5m wide shared path is necessary to satisfy Department of Transport requirements as 1.5m wide unprotected road cycle lanes are no longer supported. In this instance, a shared path is considered the most appropriate design solution as it will:

* Provide a more efficient and localised bicycle and pedestrian connection to the town centre from the south-west and west, providing a shorter access route and avoiding Stirling Highway.
* Provide an alternative bicycle and pedestrian connection from Dalkeith Road/Stirling Highway as the only signalized pedestrian crossing point on Stirling Highway.
* Rationalise the extent of likely land ceding, noting that the option of 1.5m bicycle lanes in both directions would require the ceding of 3m in addition to the 7m carriageway and any site landscaping/servicing treatments (indicatively approximately 1m), without providing for pedestrians.
* Connect with existing the Dalkeith Road footpath, Florence Road ‘pedestrian focused’ street and town square and Stanley Street, improving southern permeability and legibility in the future Town Centre and between the intended Town Heart components under the draft NTCPP LPP.

The laneway will be wholly operational once each affected property has ceded the 10m strip of land and constructed the laneway to the City’s specifications including being sealed, drained, serviced and landscaped. In the interim, and until full through-access is achieved, individual affected properties may utilise the laneway for servicing needs, as agreed to by the City.

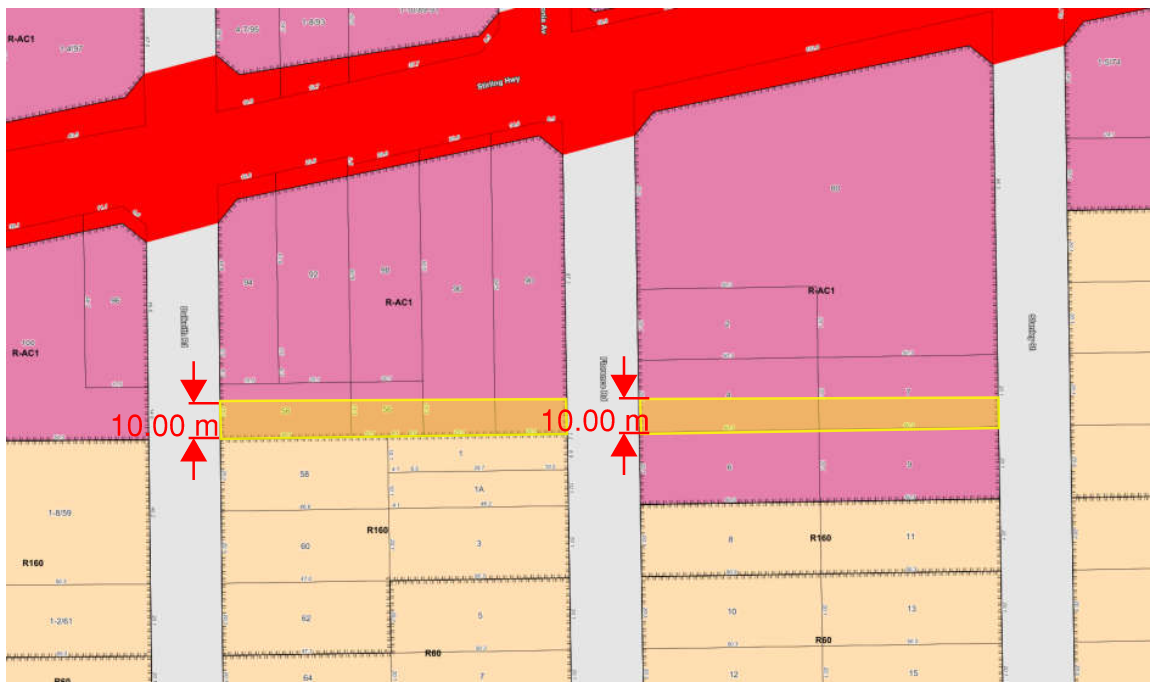


Figure 2: Proposed location of 10m wide laneway

The laneway design requirements are supported by an indicative concept design undertaken by McDowell Affleck civil engineers on behalf of the City (Planning and Technical Services) Administration and is enclosed as Attachment 7.

It should be recognised that the indicative concept design is in its preliminary stages given the evolution of the Nedlands Town Centre via both the draft NTCPP LPP and development applications. That notwithstanding, the concept design was undertaken to ‘test’ the Policy’s design requirements and to demonstrate that safe and functional traffic movements and acceptable amenity and built form outcomes can be ultimately achieved. The concept design takes into consideration the existing development contexts of the landholdings affected by the proposed laneway, in addition to the ambitions of the draft NTCPP LPP.

Planning Administration understands that the concept design, as tested by swept path analysis for a 19m semi-trailer, a 8.8m service vehicle and B85 car, along with further detailed design, will adequately ensure safe and functional traffic movements along the proposed laneway.

**Laneway Creation**

The ceding of the laneway will be given effect once the local planning policy is adopted and at the time the affected lots are developed or subdivided (including amalgamation).

In keeping with common practice, it is intended that the laneway will be created with the legal status of a public Right of Way (ROW) pursuant to section 152 of the *Planning and Development Act 2005*.

Under section 152, a subdivision plan would be approved by the WAPC subject to a condition that one or more portions of land shown on a diagram or plan of survey are vested in the Crown for the purpose of a ROW. The land the subject of the ROW as shown in the plan then vests in the Crown without the need for any other conveyance or transfer, or the payment of any fee.

The ROW then becomes Crown land and is taken to be reserved under section 41 of the Land Administration Act for the purpose of a ROW, after which the Minister will then typically place the care, control and management of the ROW in the City of Nedlands.

Hence, whilst the Dalkeith Road – Stanley Street is referred to as a ‘laneway’ for the purpose of LPS3, draft NTCPP LPP and this Policy, in legal terms it is intended to be a public ROW.

In practical terms, the dimensions of the carriageway (7m) which facilitates two way access, the likely construction specifications (to the satisfaction of the City of Nedlands) and the intended function providing an alternate connection to the Town Centre and relief from Stirling Highway, means that the laneway will be considered equivalent, in appearance and function, to that of a road within a road reserve.

**Land Tenure and Development Considerations**

The land affected by the proposed laneway is held by multiple landowners and affected by differing development contexts, including an existing development approval, a current development application and existing infrastructure constraints.

The laneway land can also be separated into two components: Dalkeith Road to Florence Road and Florence Road to Stanley Road. Time considerations relating to the ceding and construction of the laneway, and the necessity for integration between the landholdings and laneway components are important considerations to the ultimate realisation of the Dalkeith Road – Florence Road laneway.

The unique development contexts associated with each of the affected lots are detailed below.

No. 56 (Lots 50 and 51) Dalkeith Road

The land comprising No. 56 (Lots 50 and 51) Dalkeith Road represents the western entrance of the proposed laneway. The land has an approx. 15.5m eastern and western frontage to Dalkeith Road and to Lot 4 (No. 90 Stirling Highway which forms part of the ALDI redevelopment site) respectively and covers an approximate area of 880sqm. It also has an approx. 36.5m abuttal to No’s 92 and 94 Stirling Highway to the north. These northern lots form part of the Nedlands Town Centre under the draft NTCPP LPP but have not been subject to any redevelopment applications. It is understood the Dalkeith Early Learning Centre operates on the southern abutting land at No. 58 Dalkeith Road.

The land at No. 56 Dalkeith Road accommodates a subterranean drainage sump that services the drainage needs for the broader surrounding residential and commercial area. Lot 50 is owned by the City following the recent acquisition from the Water Corporation in 2019 to enable the future construction of the east-west laneway. Lot 51 was already in ownership of the City as freehold land.

Currently, the City is contemplating development opportunities associated with its R-AC1 coded landholding, including possible options to relocate or redesign the existing drainage sump (whilst continuing to service the drainage needs of the surrounding land).

The indicative laneway concept drawing progressed by the City (Attachment 7) considers the possibility of southern laneway access to No’s 92 and 94 Stirling Highway.

ALDI site – No. 90 Stirling Highway (Lots 3, 4 and 5)

The land comprising Lots 3, 4 and 5 at No. 90 Stirling Highway is known informally as the ALDI redevelopment site. A development approval was granted by the Metro West JDAP (application reference DA18/29611 (DAP/18/01444)) on 14 November 2018 for a supermarket and six (6) shops.

Specifically, the application proposed a small-line (1,213sqm) ALDI supermarket with a rear 347sqm rear storage area and ancillary office and staff facilities (60sqm) as well as additional retail tenancies (624sqm GFA) fronting Florence Road and Stirling Highway independent of the supermarket, landscaping and supermarket signage and a basement car park containing 90 bays (2 disabled bays) that is accessible from Florence Road via a crossover at the south-east corner of the site. The servicing area of the supermarket is located at the southern end of the development site and features a truck turn table at the south-west corner, which is the subject of a development approval condition (Condition 12).

The development approval is valid for three (3) years until 14 November 2021, with an additional 2 years now allowed under the Minister’s Exemption, and is subject to various conditions including the following, which hold implications for the proposed east-west laneway:

Administrative

5. Prior to occupation of the development, the applicant is to enter into a Deed of Agreement with the City of Nedlands to ensure that, should access be made available to Dalkeith Road in the future, the proposed development is able to facilitate public through access from Dalkeith Road to Florence Road. The Deed of Agreement is to be prepared at the applicant’s cost.

Transport

8. A Loading, Servicing and Delivery Management Plan shall be provided to and approved by the City prior to construction commencing and will outline how the servicing of the proposed development will occur including service, delivery, and rubbish collection vehicle routes. The approved plan is required to be complied with at all times.

12. A management plan for the truck turntable shall be submitted and approved by the City of Nedlands prior to the occupation of the development. The approved management plan shall be complied with at all times.

Appearance of development

18. The acoustic barrier wall to the southern lot boundary shall be no more than 2m in height and be constructed of materials to ensure compliance with the relevant noise regulations and the City’s Fill and Fencing Local Planning Policy to the satisfaction of the City of Nedlands.

19. The acoustic barrier wall is to be installed prior to practicable completion of the development, and be maintained thereafter, by the landowner to the City’s satisfaction.

21. The applicant shall provide a revised landscaping plan for the development, prepared to the City’s satisfaction including the species types, maturity and densities of soft landscaping, the proposed reticulation layout and details of the hard landscaping proposed. The revised landscaping plan shall be submitted by the applicant and approved by the City of Nedlands prior to construction commencing.

22. Landscaping shall be installed/planted in accordance with the approved landscaping plan within 60 days of practical completion of the development and maintained thereafter by the landowners to the satisfaction of the City of Nedlands.

Waste Management

26. A waste management plan shall be submitted and approved by the City prior to construction commencing. The approved waste management plan shall be complied with at all times by the landowner to the City’s satisfaction.

Whilst a development approval is in place for the ALDI redevelopment, Condition 5 makes provision for the preparation of a Deed of Agreement prior to occupation of the development, in order to facilitate public through access from Dalkeith Road to Florence Road in the event laneway access is provided to Dalkeith Road.

Clause 32.3 of LPS3 and the proposed Policy can be utilised to facilitate the creation and construction of the east-west laneway across Lots 4 and 5. The ceding of the laneway land pursuant to section 152 of the *Planning and Development Act 2005* is triggered by the future amalgamation of the land as required under Condition 1 of the development, although it is noted that compliance with this condition (and Condition 5) is not technically required until occupancy.

The provision of the proposed east-west laneway across the ALDI site also has implications for Conditions 8, 12, 18, 19, 21, 22 and 26. That notwithstanding, there is scope for the impact of the new laneway to be addressed as part of compliance with these conditions, many of which will need to be addressed with amended plans or strategies prior to construction or occupation of the approved development.

Planning Administration understands that the lodgment of a building permit application for the ALDI development approval could occur within the next 12 months. However, the agreement embodied in Condition 5 and arrangements for the ultimate delivery of the Dalkeith Road – Stanley Street laneway may be hastened in response to the current Captain Stirling (Woolworths) development application, which at this point prefers the future laneway for optimal access in the absence of signalization of the Stanley Street / Stirling Highway intersection.

The indicative concept design indicates that a 19m semi-trailer, a 8.8m service vehicle and B85 car can access the ALDI site via Florence Road south and the laneway, although some large truck movements would likely be ‘non-lane correct.’

**Captain Stirling redevelopment site ‘Nedlands Square’ – No. 80 Stirling Highway (Lot 1) No. 2-6 Florence Road (Lots 21 to 23) and No. 7-9 Stanley Street (Lots 32 to 33).**

An application (Reference DA19/38512 and DAP19/01651) relating to the redevelopment of the Captain Stirling site was lodged in August 2019 and subsequently amended in March 2020 with final amended plans and support documentation lodged in May and June 2020.

The application broadly proposes:

* The demolition of four (4) existing single houses and the bottle shop associated with the Captain Stirling Hotel.
* Minor alterations and additions to the Captain Stirling Hotel.
* A new mixed-use commercial building that incorporates car parking at the basement/undercroft level, ground level and level 1, a full line Woolworths supermarket, medical centre, liquor store, specialty shops, restaurants at ground level, a gymnasium at level 1 and offices at the undercroft/basement level and level 1.

The application was considered by JDAP on 29 June 2020 and deferred for a period of up to 90 days to:

* To provide greater certainty on the traffic, transport and access issues;
* To provide further information on heritage issues; and
* To address the integration of the project in the Nedlands Town Centre.

The proposed development has consistently proposed a 7m wide laneway to the rear of Lots 23 and 32 (No. 6 Florence Road and No. 9 Stanley Road), which sits approximately 20m to the south of the proposed laneway alignment in this policy (on No. 4 Florence Road and No. 7 Stanley Street) and therefore forms a ‘dog leg’ connection to the Dalkeith Road and Florence Road laneway component.

To the south of the 7m wide carriageway, the proposed southern boundary interface comprises a landscape trellis/arbor structure and acoustic wall at the boundary, followed by a row of 29 car bays (90-degree angle (2.4m x 5.6m). These car spaces are intended to comprise employee parking spaces associated with the commercial land uses proposed on site.

The purpose of the laneway within the Captain Stirling development application is to facilitate two way access between Florence Road and Stanley Street for both service vehicles to the retail building, as well as customers and visitors to the retail development and town centre more broadly.

In response to the JDAP’s Regulation 13 direction for an alternate recommendation, the Applicant proposed that the development be conditioned to require the laneway land be the subject of an easement, as follows:

A 7-metre-wide section of land at the rear of the subject lots, for the entire width of the lots, is to be the subject of an easement under sections 195 and 196 of the Land Administration Act 1997. The preparation of the easement shall be at the cost of the proponent to the satisfaction of the City of Nedlands.

As advised in the June RAR, the City’s Planning Administration is of the view that the proposed ‘dog leg’ laneway alignment on the Captain Stirling redevelopment site will result in a preferable built form outcome having weighed the built form costs associated with a consistent laneway alignment. In the absence of adverse and fundamental traffic safety and movement flaws, the proposed southern boundary laneway alignment on No. 6 Florence Road and No. 9 Stanley Street is considered acceptable. In reaching this position, Administration made the following observations:

* The development as proposed is unlikely to be feasible if the laneway over the application site continues on the alignment common to the Dalkeith Road and Florence Road laneway component. The development of a full line supermarket generally requires a large, regular area at ground level for optimised servicing conditions. It would be relatively illogical for the supermarket to be provided at split floor levels or over multiple levels.
* The current plans indicate that the supermarket has depth of approx. 51m, excluding flanking specialty retail tenancies. If the laneway were provided on the common centralised alignment, the current supermarket floorplate would encroach (approx 5m or half way) into the currently proposed town plaza and the main pedestrian stair. Flanking speciality retail tenancies would likely be relocated to the upper levels and at-grade parking may be lost. It is unclear how the street level activation of Florence Road and integration of the retail building with the hotel could work. More detailed scenario planning and information is required to determine whether a more flexibile of full line supernarket floorplan is achieveable.
* If the laneway were to follow the Dalkeith Road to Florence Road alignment, it would leave an approx. 20m wide elongated development parcel along the southern boundary. Although not designed or explored through design scenarios, it is anticipated (based on Element 4.3 Size and layout of dwellings of the R-Codes Vol. 2) that the parcel could support a row of future apartment development with a dwelling depth of 10m, with additional room for circulation and private open space.
* The current design provides significant separation (12.6m) to the rear which will benefit future development on the south-lying abutting land by optimising its northern orientation. If residential development was provided along the rear boundary, building separation would need to be provided consistent with rear setbacks in Table 2.4 and visual privacy setbacks in Table 3.5 of the R-Codes Vol. 2 up to 4 storeys, and otherwise the separation standards within Table 2.7. Compliance would become more challenging above 4 storeys. The land to the south is coded R160 and could support development with a building height of up to 5 storeys.
* Future residential development would interface with the laneway and supermarket ‘back of house’ at ground level. The nature of traffic volumes, modes anticipated along the laneway and the servicing interface would not result in optimal internal amenity outcomes/outlook for these dwellings. The need for acoustic attenuation is highly likely. Amenity impacts may be alleviated at higher levels (beyond the level 1 car park) or if undercroft /garage parking was provided under the dwellings at ground level.
* Although a consistent alignment is ideal, there are no apparent fatal or adverse traffic implications identified with the laneway ‘dog leg’ design. With the amended proposal relying on the laneway in the absence of signlisation at Stanley Street, it is likely that the laneway will appear and function as a public road rather than a lower order ‘lane.’

Whilst the City’s Administration supports the proposed ‘dog leg’ alignment in the Captain Stirling redevelopment, it is not considered necessary to alter the policy to reflect this outcome, noting that for the purpose of the proposed development, the dog-leg alignment can be supported under Clause 4.3 (Variation) of the Policy, the Captain Stirling redevelopment is not yet approved and a consistent laneway alignment would likely be the preferred outcome where the current Captain Stirling redevelopment proposal did not exist.

With respect to land tenure and disposal considerations, the City’s Administration also noted:

* In relation to the creation and construction of the laneway, clause 32.3(1) and (2) of LPS provide the appropriate mechanism by virtue of *Local Planning Policy Dalkeith Road-Stanley Street Laneway Built Form* Requirements, once finally adopted and advertised as such.
* Legal advice provided to the City suggests the laneway land should be ceded to the Crown free of cost as a Right of Way to allow for the City’s optimal control and autonomy over the land. Once ceded, the land will then be reserved under section 41 of the Land Administration Act for the purpose of a Right-of-Way, with the Right-of-Way placed in the care, control and management of the City via an order made under s46 of the Land Administration Act.
* It is Planning Administration’s view that the laneway should be ceded free of cost as a Right-of-Way and vested in the City, and not created as a private easement due to:
* The intended public use of the laneway i.e. it will be used to service the Town Centre and not one specific development;
* The function of the laneway on the Captain Stirling redevelopment site is optimally connected to and co-dependent on the adjoining laneway component between Dalkeith Road and Florence Road;
* The laneway’s purpose to provide alternate access to the Town Centre from Dalkeith Road (north and south of the highway) and Stanley Road;
* The laneway is dimensioned and will appear as a public road. There is likely to be a consequent public expectation that it is a public road and should as such, be maintained by the City;
* There is likely a need for ongoing maintenance and or future works. The ceding of the land as a public right of way will eliminate issues preventing the maintenance of the laneway to the City’s standards.

In light of the above, and in the event of a future development approval, a condition has been recommended requiring the amalgamation of the land and the ceding of the laneway in accordance with clause 32.3 of the LPS. An advice note has also been recommended confirming that the land will be ceded to the Crown and vested in the City as a future condition of subdivision (i.e. amalgamation) pursuant to section 152 of the *Planning and Development Act 2005*.

With respect to traffic safety and on the basis of the traffic peer advice received by the City, the City’s Planning Administration also recommended as part of its response to the Regulation 13 direction that the proposal be conditioned to require:

* The conversion of the 29 x 90-degree rear at-grade parking spaces to 12 x parallel car bays to allow for a shared pedestrian path.

This shared path is intended to be of comparable dimensions and treatment to the shared path proposed between Dalkeith Road and Florence Road. The shared path, together with the 7m wide laneway, parallel car parking and landscape/arbor structure/ acoustic wall would comprise a 10m wide strip of land.

Consistent with the intent for the delivery of a town square and pedestrian focus at the northern end of Florence Road under the draft NTCPP LPP, it is anticipated that access to the supermarket should also be optimised via the laneway rather than Florence Road.

**Consultation**

In line with Council’s March 2020 resolution, the Policy was advertised for 21 days between May and June 2020 in accordance with Schedule 2, Part 2, Division 2, Clause 4 of the *Planning and Development (Local Planning Scheme) Regulations 2015* (P&D Regs.2015) and the City’s *Consultation LPP*. A notice was published in the newspaper, and details were included on the City’s website and the Your Voice engagement portal. The affected and adjoining landowners were notified of the Council report prior to and following the Council Meeting of 28 April 2020.

Overall, a total of 4 submissions were received through public consultation, two on behalf of the directly affected owners (ALDI and Woolworths) and two from residents within the City of Nedlands. The City has also considered laneway related and submissions (where relevant) made by ALDI regarding the second period of public consultation for the Captain Stirling redevelopment.

The submissions have been summarised and provided a detailed response in the Summary of Submissions included at Attachment 3. Full copies of all original submissions are provided as Attachment 5.

Conditional support for the policy was expressed in two of the four submissions, in part related to the current Captain Stirling development application proceeding. It is noted that the submissions were made prior to the June 2020 amendment to the Captain Stirling development application which abandoned the signalisation of Stanley Street and instead focused on the Dalkeith Road – Stanley Street laneway as the preferred traffic movement solution.

Conditional support for the entire Dalkeith Road to Stanley Street component was noted pending:

* The approval of the Captain Stirling redevelopment to relieve traffic pressures along Stirling Highway.
* The provision of effective, unrestricted (24 hour) access from Stanley Street to Dalkeith Road for all as-of-right vehicles (including a 19-metre articulated vehicle).
* Removal of car parking within the laneway connection between Stanley Street and Florence Road, and consequential introduction pedestrian pathway and vegetation for safe and comfortable access for the wider community.
* Relocation of vehicular access into the Woolworths Development from Florence Road into the laneway (as is provided for in the ALDI approval), removing the unsafe conflict point on Florence Road and restoring its potential as a high quality pedestrian friendly ‘main street’ for the Activity Centre.

A summary of key issues and responses raised in the submissions is provided below.

| **Submission** | **City Response** |
| --- | --- |
| The creation of the rear laneway as a secondary circulation system to provide relief for traffic on the Stirling Highway is a critical and effective urban development solution.  These rear laneway connections are essential for the long-term vision of Florence Road to become a significantly improved pedestrian environment. | Submission Noted |
| The policy and public access through the precinct from Stanley Street to Dalkeith Road is supported as it will alleviate the need for a turntable on the ALDI development and improve general functionality of the whole precinct. | Submission Noted |
| Lack of strategic support for laneways generally.  Lack of planning forethought, regard for maintenance costs.  Policy is prematurely attempting to formalise the location and status of the laneway and without proper consideration of public advertising and stakeholder comment.  Changes to the ultimate movement network are proposed in the absence of more detailed planning. | The City considers there is strategic justification for the laneway as per the LPS and draft NTCPP LPP. It also notes that LPS3 makes provision for the ceding of Right of Ways in accordance with an adopted LPP. The City acknowledges that the construction will be subject to detailed design requirements, as informed by the indicative concept design.    Work commenced on the draft NTCPP LPP prior to the lodgement of the Captain Stirling redevelopment in August 2019. The draft NTCPP as presented to Council on 24 September 2019 was underpinned by a large body of strategic planning work, informed by landowner pre-consultation workshops.  It is inaccurate to suggest that the NTCPP was initiated after the Nedlands Square development (Captain Stirling redevelopment) was lodged in August 2019 as work on the NTCPP pre-dated the DA lodgement.  However, it is acknowledged that the laneway alignment over the Captain Stirling development site was amended by Council resolution in September 2019 from the southern boundary of 6 Florence Road and 9 Stanley Street (as per the DA) to the southern boundary of 4 Florence Road and 7 Stanley Street (the current location in the LPP).  There is strategic support for the proposed laneway between Stanley Street and Dalkeith Road and in light of the abandonment of signalisation at Stanley Street, it has become a critical consideration to the optimal functioning of the Nedlands Town Centre and the surrounding road network.  Given the current reliance on the laneway as the preferred movement path for the proposed Captain Stirling redevelopment, and the requirement for third party consent to construct the laneway between Florence Road and Dalkeith Road, consideration of the LPP is considered both timely and necessary, not premature. |
| The laneway alignment is inconsistent with the proposed Captain Stirling development application. Site constraints make it difficult to relocate the laneway further north (consistent with the policy) as it would sever the site and result in a smaller development.  A swept path analysis of Aldi delivery vehicles (19m articulated truck) traversing between Stanley Street and Dalkeith Road via the laneway network shows the movement is both safe and not to the detriment of any other party.  The Woolworth proposal, as per the second public notification period, does not provide the appropriate geometry to enable vehicle movements through the Stanley-Florence laneway into the Florence-Dalkeith laneway, especially for 19 metre (as-of-right) delivery vehicles, that will become reliant on the Stanley Street traffic lights for access from the Stirling Highway.  The introduction of a continuous median from the proposed traffic lights at Stanley Street to a point west of Florence Road that would prevent all existing right-turn movements in and out of Florence Road, upon which the effective operation of the ALDI development is predicated and approved. | The City has considered the proposed ‘dog leg’ laneway alignment in relation to the Captain Stirling redevelopment application. On balance and having regard to built form outcomes and safety considerations, it considered to be acceptable.  The 19m vehicles can access the Florence Road - Dalkeith Road laneway with correction movements and without the enforcement of ‘lane correct’ requirements. At low speed and considering the limited number of daily truck movements that are to be required to occur outside of peak hours under a delivery management plan, the design is considered to be functional and acceptable.  Signalisation of Stanley Street and Stirling Highway has been abandoned. No modifications to Stirling Highway are approved or supported by MRWA at this time (refer to MRWA referral comments in respect of the Captain Stirling development application dated 17 June 2020). Concerns regarding a continuous median and a loss of ‘Right In/and Right Out’ turns on Florence Road/Stirling Highway are noted. |
| The geometries of the laneway at its midpoint at Florence Road does not need to be straight, however must ensure it provides effective, unrestricted (24 hour) access from Stanley Street to Dalkeith Road for all as-of-right vehicles (including a 19 metre articulated vehicle). It should also capitalise on the capacity to remove the major vehicles access point off Florence Road in favour of access off the laneway. The adoption and application of the policy to the Captain Stirling development is requested. | Refer comments above.  The City’s Administration intends that the laneway will be created as a public ‘Right of Way’ (ROW) to be ceded to the Crown and vested in the City’s care, control and maintenance. As such, access will be unrestricted.  In order to address the integration of the ALDI and Captain Stirling redevelopments and achieve the pedestrianisation of Florence Road, it is recommended that vehicle access to both the ALDI and Woolworths developments occur from the future public ROW. This outcome is in line with the draft NTCPP LPP which seeks to create a pedestrian focused environment at the northern end of Florence Road. |
| The Woolworths proposal, as per the second public notification period, does not provide the appropriate geometry to enable vehicle movements through the Stanley-Florence laneway into the Florence-Dalkeith laneway, especially for 19 metre (as-of-right) delivery vehicles, that will become reliant on the Stanley Street traffic lights for access from the Stirling Highway.  There is capacity for the new laneway connection from Stanley Street to Dalkeith Road to be provided in line with the requirements of the draft Local Planning Policy with only minor changes to the advertised Woolworths proposal. The key changes being:   * Removal of car parking within the laneway connection between Stanley Street and Florence Road, and consequential introduction pedestrian pathway and vegetation for safe and comfortable access for the wider community * Relocation of vehicular access into the Woolworths Development from Florence Road into the laneway (as is provided for in the ALDI approval), removing the unsafe conflict point on Florence Road and restoring its potential as a high quality pedestrian friendly ‘main street’ for the Activity Centre. | The City’s Administration supports the proposed alignment of the laneway along the Captain Stirling development’s southern boundary, conditional upon the conversion of the 29x 90 degree bays to 12 x parallel bays in order to provide safe pedestrian access via a 2.5m wide shared path. The proposed location and design of the approx. 5m wide substation at the south-east corner of the site should be reviewed as the 2.5m shared path should continue unobstructed through to Stanley Street. The proposed arbor/acoustic wall and landscaping can be retained as per current development plans.  In order to address the integration of the ALDI and Captain Stirling Hotel and Woolworths development, and achieve the pedestrianisation of Florence Road, it is recommended that vehicle access to both the ALDI and Woolworths developments occur from the future public ROW. This outcome is in line with the draft NTCPP LPP which seeks to create a pedestrian focused environment at the northern end of Florence Road. |
| The location and tenure of these laneways should be considered on an individual basis in consultation with landowners/developers as sites are redeveloped. Not all laneways need to be in the exact location shown and do not need to be public roads, instead they can be private thoroughfares for larger development sites, with public access easements to increase local connectivity. | The City’s administration does not support the creation of the laneway via a private easement on the basis that the laneway will appear and function as a public road, it will likely be expected that the City maintains it, and as a public ROW, the City will have full autonomy and decision making and control over the maintenance of laneway.  Amendments are recommended to the laneway design under the existing Captain Stirling redevelopment including:   * The conversion of 29 x 90-degree bays to 12 parallel car bays (2.4m wide) which would still allow for a 2.5m wide shared path, landscaping and an acoustic wall between the laneway and southern property boundaries. The substation design and location would require review. * The relocation of access to the car park from Florence Road to the laneway in order to preserve the pedestrian environment along Florence Road. |
| The planning framework needs to facilitate and encourage private investment to support our State’s economic growth and prosperity in these particularly difficult times. In its current form, we do not believe this policy will achieve this objective. | The significance of the town centre development is noted particularly in respect of the COVID economic concerns, however, any approved development or works should be consistent with orderly and proper planning outcomes. |
| Lack of policy flexibility | A new clause is proposed at clause 4.3 ‘Variations to this policy’ has been added. It is additionally noted that LPPs are discretionary, not mandatory, ‘due regard’ planning instruments. |
| Laneways policy is redundant due to maintenance costs passed to ratepayers, antisocial behaviour, unnecessary spaces | The laneway is to in practice become a public ROW and will appear and function as a public road. It is appropriate that Council remains responsibility for the care, control, and maintenance of the road. The City has undertaken detailed design consideration and sought technical civil design and traffic advice in respect of the proposed laneway in consultation with affected landowners and applicants to ensure its optimal function. All submissions made during public advertising have been considered. The amalgamation of landholdings affected by the ceding of the laneway land is recommended as a condition of development. |
| Laneway supported between Dalkeith Road and Stanley Street where the Captain Stirling redevelopment proceeds to relieve traffic pressures along Stirling Highway, enable service deliveries via the laneway rather than via local streets, act as a buffer to upcoded sites from Stirling Highway to Edward Street and reduce vehicle crossovers on Florence Road and Stanley Street. If the Captain Stirling redevelopment does not proceed, the laneway is only supported between Dalkeith Road to Florence Road. | The submission is noted. The realisation of the laneway between Dalkeith Road and Florence Road is subject to third party negotiation, detailed design, and funding arrangements. The current proposed Captain Stirling redevelopment prefers the creation of the laneway from Stanley Street to Dalkeith Road for optimal access. The determination of the application has been deferred by JDAP for 90 days pending in part, the resolution of traffic matters. |

**Modifications**

The following modifications to Policy provisions are recommended:

* Clause 2.0: Clarification of the land being affected by the policy; No.56 (Lots 50 and 51) Dalkeith Road, No.90 Stirling Highway (Lots 4 and 5) and the wider Captain Stirling redevelopment site being (No.80 Stirling Highway (Lot 1) No’s 2-6 Florence Road (Lots 21 to 23) and No’s 7-9 Stanley Street (Lots 32 to 33).
* Clause 3.0: Minor changes to expression.
* Clause 4.1.2 and 4.1.3: Further clarification as to procedure and timing for ceding and construction.
* Clause 4.1.4: Modifications to refer specifically to the provision of a 2.5m shared use path (in order to realise the bicycle link identified in the draft NTCLPP between Dalkeith Road and Florence Road) and provide for vegetation screening in addition to small canopy tree planting within the 10m laneway.
* Clause 4.2.1 & 4.2.3: Minor clarifications to vehicle access and pedestrian access arrangements.
* Clause 4.3: A new variation clause has been added, consistent with the City’s other laneway policies, which outlines the requirements for considering variations to policy provisions.

**Assessment of Statutory Provisions**

Planning and Development (Local Planning Schemes) Regulations 2015

*Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations) Schedule 2, Part 2, Clause 4(3), sets out that after the expiry of the 21-day advertising period, the local government must review the proposed Policy in light of any submissions made and resolve to:

a) Proceed with the Policy without modification; or

b) Proceed with the Policy with modification; or

c) Not to proceed with the Policy.

Administration recommends that Council resolves to proceed with the Dalkeith Road – Stanley Street Laneway and Built Form Requirements LPP with modifications as per in Attachment 2.

The proposed modifications, which the public have not had the opportunity to comment on, are considered minor in nature and result in part from submissions made during advertising. They are not considered to warrant a further consultation period.

City of Nedlands Local Planning Scheme No. 3

Under clause 32.3 of the City of Nedlands Local Planning Scheme No. 3 the City requires the ceding of land for laneways identified through a Local Planning Policy. This policy will give effect to this clause and require developers to cede land identified for a laneway at the time of development or subdivision (amalgamation). Clause 32.3 is shown below.

*Clause 32.3 Ceding of rights-of-way and laneway widening.*

1. The owner of land affected by a right-of-way or laneway identified by the scheme, structure plan, local development plan, activity centre plan or local planning policy is to, at the time of developing or subdividing the land:
2. cede to the local government free of cost that part of the land affected by the right-of-way or laneway; and
3. construct the relevant section of the right-of-way or laneway to the satisfaction of the local government.
4. The intention expressed in sub-clause (1) may be reinforced by a condition of subdivision or development approval.

**Policy/Local Development Plan Consideration**

There is considerable and well-established strategic justification for the creation of the proposed laneway under the City of Nedlands Local Planning Strategy (LPS) and the draft NTCPP LPP. Under these documents, the laneway is considered a necessary future requirement for traffic management on land parcels fronting Stirling Highway. The relevant strategic intent is discussed in detail below.

Local Planning Strategy

The LPS was adopted by Council on 16 August 2016 and endorsed by the WAPC on 26 September 2017 and includes strategies advocating rear laneway access along Stirling Highway to allow for ease of movement throughout the city centre.

*Section 5.6 Traffic and Transport* promotes a movement network that foremost enables mobility, and particularly encourages non-car modes. It seeks to locate land uses (particularly higher density residences) and transport networks in a way that maximises efficiency. Relevant strategies include providing direction for the future of laneways throughout the City, maximising their opportunity to contribute positively to the neighbourhood.

The Strategy provided atSection 5.9.10 Stirling Highway is to investigate opportunities to provide rear laneway access as part of development along Stirling Highway.

Nedlands Town Centre Precinct Plan (NTCPP) LPP

The NTCPP LPP was adopted by Council for the purpose of advertising on 24 September 2019 and was advertised as part of a Local Planning Policy between 14 March and 4 April 2020. One of the amendments to the resolution required the modification of the laneway component between Florence Road and Stanley Street to continue the alignment of the Dalkeith Road and Florence Road component.

The NTCPP identifies the Nedlands Town Centre as the land immediately north and south of Stirling Highway, generally located between Louise Street and Martin Avenue to the west and the City of Nedlands Library site and Langham Street to the east.

The NTCPP divides the precinct area in to four (4) Sub-Precincts 1 to 4. The centrally located land parcels between Mountjoy Road and Stanley Street form Sub-Precinct 1 are known as the ‘Town Heart.’ The Precinct Plan shows an east-west laneway on a common alignment running between Mountjoy Road in the west and Stanley Street in the east. Additional laneways are identified in the Town Centre Precinct (Sub-Precinct 2) to the north.

This report addresses the delivery of the laneway component in Sub-Precinct 1, located south of Stirling Highway and between Dalkeith Road and Stanley Street, as envisaged under the NTCPP.

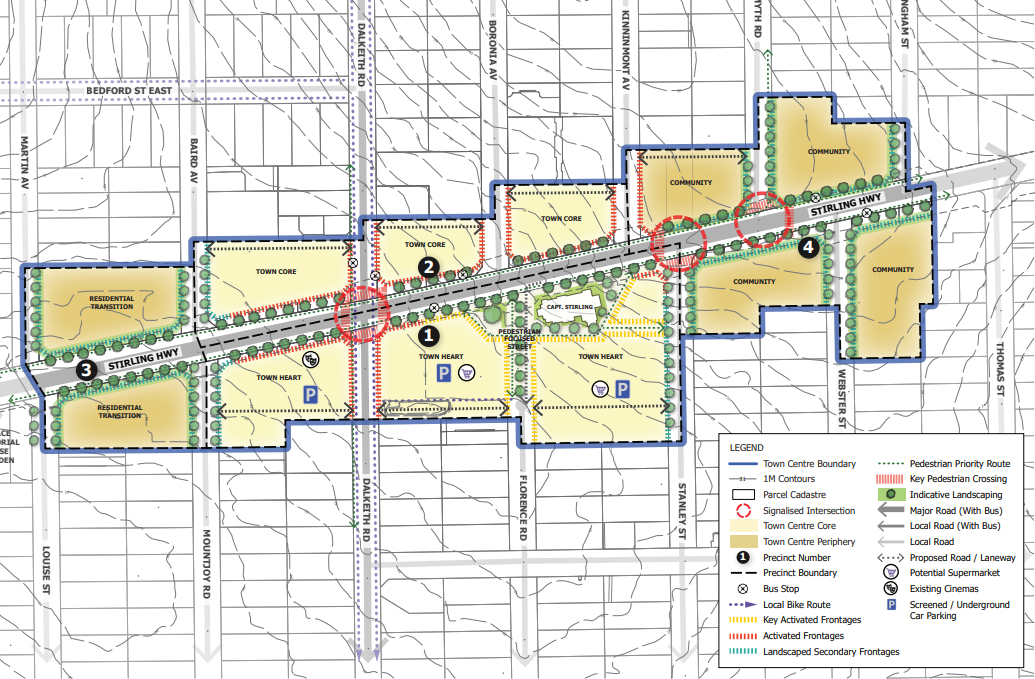


Figure 2: NTCPP – Precinct Plan

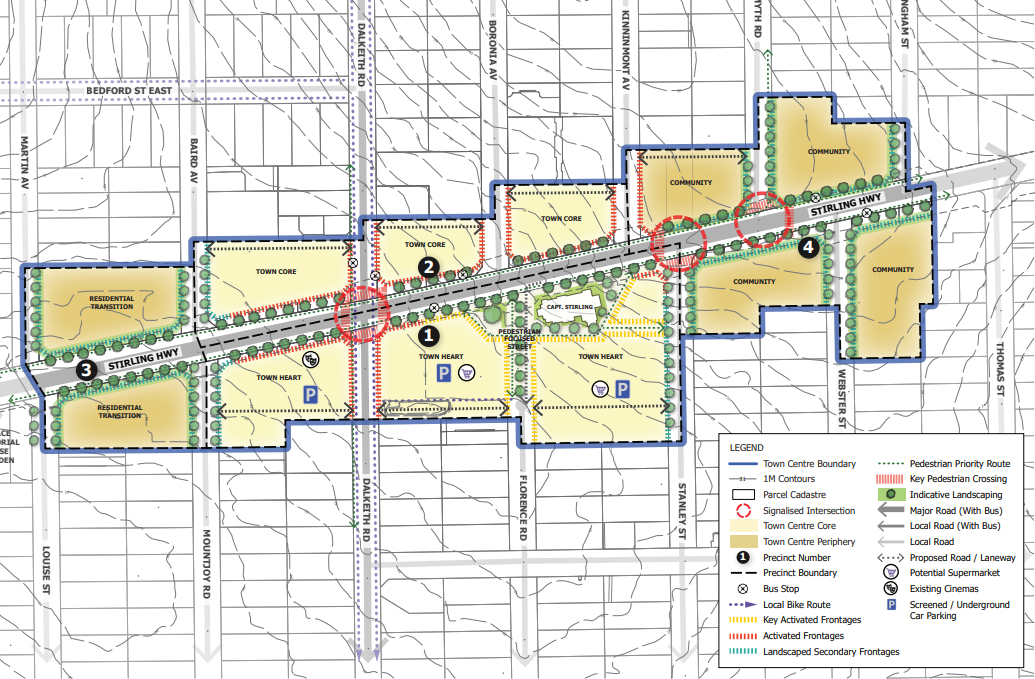


Figure 3: NTCPP – Precinct Plan Excerpt showing proposed laneway connections through Sub-Precinct 1 – Town Heart

The creation of the proposed east-west laneway is foreshadowed under the following objectives and provisions of the NTCPP:

* The Movement Objectives (page 12) seek to, among other things:
  + Facilitate the continued use of Stirling Highway as significant arterial road.
  + Support high frequency public transport throughout the precinct.
  + Ensure safe and efficient vehicular access to the precinct.
  + Provide a permeable, legible, and functional urban structure of blocks and streets.
* Vehicle Movements, access, and loading (page 13) calls for the establishment of a series of laneways located to the south of lots fronting Stirling Highway between Mountjoy Road and Stanley Street as development occurs within the precinct. The purpose of the laneways is to:
  + Support primary vehicle access, removing it from Stirling Highway.
  + Provide key vehicular access points to retail tenancies.
  + Enable loading to occur in areas away from activated pedestrian locations.

The policy further advocates for the progressive removal of access points along Stirling Highway and advises against new access points being provided to Stirling Highway. New access points are to be consolidated with adjacent properties and accessed via laneways or easements at the rear of buildings providing connections to secondary local streets.

In addition, the NTCPP expresses a preference for car park access to occur from rear laneways / easements.

In relation to the land subject to the proposed Policy, the proposed east-west laneway is intended to support the future partial closure of Florence Road to north bound traffic (subject to further technical traffic engineering investigations) and the pedestrianisation of Florence Road to create a pedestrian priority precinct.

**Legal Considerations**

Consideration is to be given to land tenure and disposal. LPS3 provides a mechanism to require the ceding and construction of the laneway at the time of subdividing and developing the affected land in line with the local planning policy. The proponent in respect of the Captain Stirling redevelopment has articulated a request that the laneway over its landholding be managed by way of an easement.

The City’s Administration considers that the most effective and prudent means for retaining control and autonomy over the laneway is to require the land to be ceded to the crown and vested in the City. This position is informed by legal advice provided to the City by Mcleods on 3 June 2020 (refer Attachment 6). An excerpt of the advice relevant to the land tenure and disposal discussion is provided below:

21. From the perspective of the landowner, the possible benefits of retaining ownership of land required for a laneway and creating access rights via easement may include:

* Retaining some additional development potential, if the land area is counted in the assessment of applicable development standards. The proposed new cl.32.3(3) is intended to address this issue.
* It may be possible for the owner to develop over, or under, the easement land, without intruding on or limiting the required public access.
* Retaining ownership may allow a degree of control over future changes to or works on the laneway.
* If for any reason the easement is surrendered by the City in the future, the laneway land would become unencumbered.
* These benefits may be reflected in some additional land value (when compared to the situation of the laneway land being ceded free of cost).

22. The disadvantages to the landowner (of ceding to the crown) may include:

* Increased exposure to risk if an accident occurs on the laneway, with associated insurance costs.
* Responsibility for maintaining the easement.

23. From the perspective of the City, a potential advantage to allowing laneways to be created via an easement is that the easement deed will typically provide for the landowner to be responsible for the construction and maintenance of the easement. If the landowner is made responsible for construction and maintenance of the laneway easement, that may somewhat reduce the City’s public liability risk. However, that ‘advantage’ is often illusory in practice, as mentioned below.

24. The potential disadvantages from the City’s perspective would include:

* The process for the creation of the easement is somewhat more complex, as it requires the preparation of a legal agreement.
* While typically the owner is made responsible for the construction and maintenance of the easement, over time it is common for laneways to take on the character of public road, with the associated expectation that the local government should be responsible for its maintenance. The retention of private ownership can complicate attempts by the local government to itself maintain the laneway, or to improve its standard.
* Similarly, the owner may be resistant to requests by the local government for the owner to maintain or improve the laneway.
* Where the laneway is the subject of multiple adjoining easements (as would be the case for the proposed Doonan Road/Jenkins Avenue laneway, for example), it can be impractical, or at least difficult, to require and coordinate maintenance of the easement between multiple owners.
* If there is a future need to alter the extent of the laneway, private ownership can complicate that process.
* The owner may assert the right to develop over, or under, the laneway. This may also require the preparation of additional legal agreements, to protect the City’s interest (e.g. indemnification of the City with respect to any damage caused to the owner’s development by users of the easement).

25. Essentially, the disadvantages to the City will generally arise from the lack of autonomy in decision-making and control over a laneway which is in private ownership. In practice it is typically easier (and expected) for the local government to be responsible for the care, control and maintenance of laneways.

26. I do not perceive that the public liability risk to the City would be materially different depending on whether a laneway is created via a ROW or via an easement, or that the choice will make any material difference to the cost of the City’s insurance. As mentioned above, the City may have a somewhat reduced risk exposure if the owner is responsible for the maintenance of the laneway.

Provision for the ceding of the laneway is made pursuant to clause 32.3 of LPS3.

In respect of Lots 4 and 5 (No. 90 Stirling Highway), the provision for the ceding and construction of the laneway can be facilitated under the Deed of Agreement as provided at Condition 5, or in accordance with Condition 1 (amalgamation) of the ALDI development approval. The timing for entering into the agreement and or giving effect to the ceding and construction of the laneway may be impacted by the current Captain Stirling development application.

Other relevant and affected conditions of approval (landscaping, acoustic, transport, waste management) can be similarly dealt with in the ordinary course of events and as per conditions (prior to the commencement of construction or occupancy, as appropriate) or address through the Deed of Agreement, where necessary.

The application affecting the Captain Stirling redevelopment site is still live and undergoing assessment. The adoption of the proposed Policy will ensure it can be appropriately applied in the determination of the application.

Further direction from Council has been sought in respect of the laneway construction and redevelopment potential relating to No. 56 (Lots 50 and 51) Dalkeith Road via a separate report to Council.

**Key Relevant Previous Council Decisions:**

The following recent Council decisions are relevant to the proposed Policy:

Council Meeting 22 October 2019, Item TS21.19 Land sale to City of Nedlands and Grant of Easements to Water Corporation.

“Council Resolution

Council:

1. approves the Contract of Sale between the Water Corporation (ABN 28 003 434 917) and the City of Nedlands for Lot 50 Dalkeith Road, Nedlands (Lot 50) at a cost of $1:
2. approves the application of the Council Common Seal (the seal) by the Chief Executive Officer to the Contract in triplicate; and
3. directs the Mayor and Chief Executive Officer to execute the Contract documentation in triplicate by way of signing; and
4. approves the application of the seal by the Chief Executive Officer on the Grant of Easements for:

* 1. Lot 1 on Diagram 24967, No.290 Marine Parade, Swanbourne (Lot 1); and
  2. Lot 116 on Deposited Plan No.80 Melvista Avenue, Dalkeith (Lot 116); and

1. Directs the Mayor and Chief Executive Officer to execute the Grant of Easement documentation in triplicate by way of signing for:
   1. Lot 1, and
   2. Lot 116.
2. The following additional clause be added to the Easement Deeds (under Section 3 – Grantees Covenants)

“Prior to the Grantee’s Work being carried out, the Grantee will seek all relevant approvals relating to the Grantee’s Work, including environmental approvals and any other approval required under the Water Services Act”.

Council Meeting 24 September 2019, Item 13.9 Nedlands Town Centre Precinct Plan Local Planning Policy

“Council Resolution / Amended Administration Recommendation to Council

Council in accordance with Schedule 2, Part 2, Division 2, Clause 4 of the Planning and Development (Local Planning Scheme) Regulations 2015, prepares the Nedlands Town Centre Precinct Plan (Attachment 1) – Local Planning Policy and advertises the Local Planning Policy for a period of 21 days following the amendments being made to Attachment 1 as following:

1. Delete reference to Precinct 2 as being ‘Central Core’ and replace with ‘Town Core’;
2. Amend ‘Movement (proposed)’ map on page 11 to show the proposed laneway to the south of the Captain Stirling Hotel as being in line with the proposed laneways to the west, consistent with the ‘Precinct Plan’ map shown on page 7; and
3. Amend the ‘Built Form Requirements’ table on page 20 to modify the plot ratio requirements as follows:

* Precinct 1: plot ratio of 4.0
* Precinct 2: plot ratio of 6.0”

**Strategic Implications**

There is well-established strategic justification for the creation of the proposed laneway under the City of Nedlands Local Planning Strategy (LPS) and the City of Nedlands Town Centre Precinct Plan (NTCPP) which underpins the Draft NTCPP LPP.

The benefits of the laneway will be to the community at large; those utilising Stirling Highway, travelling to and from the Nedlands Town Centre and on the surrounding street network.

The Policy was advertised for 21 days and four submissions were received in total, two from directly affected landowners. These submissions have been discussed earlier in this report and it is noted that there is adequate scope to address the concerns raised relevant to the establishment of the laneway either via existing, recommended, or proposed conditions.

Concept design work has been undertaken since Council’s 28 April 2020 resolution to advertise the policy which informs the proposed built form requirements. Further detailed design and specific traffic engineering review may be required at a future date to ensure the laneway is constructed to the City’s specifications and requirements.

**Budget/Financial Implications**

There are no external financial implications associated with the adoption of the proposed Policy, other than costs associated with the advertisement of the adopted policy.

The need for technical civil and traffic engineering input may be required in the preparation of more detailed design for the proposed laneway to ensure it is constructed to the City’s specifications and detailed design requirements for the laneway. These associated costs should be considered in respect of the Technical Services budget and the on-going maintenance of the laneway (as a City asset) should be considered in the City’s long-term budgetary planning in the event the laneway is constructed.

**Conclusion**

The Dalkeith Road – Stanley Street Laneway and Built Form Requirements Local Planning Policy is the preferred mechanism to enable the enforcement of clause 32.3 in the City’s LPS3 to create an east-west laneway through the properties at No. 56 (Lots 50 and 51) Stanley Road, No. 90 Stirling Highway (Lots 4 and 5) and No.4 (Lot 22) Florence Road and No. (Lot 33) Stanley Street.

The creation of the proposed laneway is consistent with and informed by the relevant objectives and strategies of the City of Nedlands Local Planning Strategy (LPS) and draft City of Nedlands Town Centre Precinct Plan (NTCPP) Local Planning Policy (LPP).

The primary purpose of the Policy is to provide an alternative means of access to Stirling Highway for the affected lots, their future users and the surrounding residential neighbourhoods. The alternative access is intended to provide alternative vehicle, bicycle, and pedestrian access to the future town centre and is intended to help relieve growing traffic volumes and congestion along Stirling Highway. It also supports the realisation of the intended ‘pedestrian focused’ town square environment at the northern end of Florence Road under the draft NTCLPP.

Without a local planning policy, the City lacks the mechanism to require the provision of a laneway on the affected lots. Therefore, this Policy has been prepared for imminent adoption to avoid sub-optimal built form outcomes.

As such, it is recommended that Council endorses Administration’s recommendation to adopt the Dalkeith Road – Stanley Street Laneway and Built Form Requirements Local Planning Policy.

## Winsor Cinema – State Heritage Listing

Please note: This item was brought forward see page 96.

## Nedlands Town Centre – Florence Road Precinct – Update and Direction

|  |  |
| --- | --- |
| **Council** | 28 July 2020 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under *section 5.70 Local Government Act 1995*** | Nil |
| **A/Director** | Ross Jutras-Minett – Acting Director Planning & Development |
| **CEO** | Mark Goodlet |
| **Attachments** | Nil |
| **Confidential Attachments** | Nil |

**Councillor Wetherall – Impartiality Interest**

Councillor Wetherall disclosed an impartiality interest, his interest being that this Policy may relate to matters before the Metro Inner North JDAP Meetings of which he is a member, as appointed by Council, and as a consequence, there may be a perception that his impartiality on the matters may be affected. Councillor Wetherall declared that he would consider these matters on their merits and vote accordingly.

**Councillor Smyth – Impartiality Interest**

Councillor Smyth disclosed an impartiality interest, her interest being that this Policy may relate to matters before the Metro Inner North JDAP Meetings of which she is a member, as appointed by Council, and as a consequence, there may be a perception that her impartiality on the matters may be affected. Councillor Smyth declared that she would consider these matters on their merits and vote accordingly.

**Councillor Bennett – Impartiality Interest**

Councillor Bennett disclosed an impartiality interest, his interest being that this Policy may relate to matters before the Metro Inner North JDAP Meetings of which he is a member, as appointed by Council, and as a consequence, there may be a perception that his impartiality on the matters may be affected. Councillor Bennett declared that he would consider these matters on their merits and vote accordingly.

**Mayor de Lacy – Impartiality Interest**

Mayor de Lacy disclosed an impartiality interest, her interest being that this Policy may relate to matters before the Metro Inner North JDAP Meetings of which she is a member, as appointed by Council, and as a consequence, there may be a perception that her impartiality on the matters may be affected. Mayor de Lacy declared that she would consider these matters on their merits and vote accordingly.

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

Moved – Councillor Senathirajah

Seconded – Councillor Hay

**That the Recommendation to Council be adopted.**

(Printed below for ease of reference)

**CARRIED UNANIMOUSLY 12/-**

**Council Resolution / Recommendation to Council**

**Council:**

1. **authorises the CEO to investigate and prepare costed concepts for:**
   1. **development of the laneway connection between Dalkeith Road and Florence Road, Nedlands;**
   2. **future use and development of the Lots 50 and 51 (Number 56) Dalkeith Road and resolution of the drainage function;**
   3. **traffic, engineering and urban design works associated with the proposed Florence Road ‘main street’; and**
2. **requests the concepts and costings for Dalkeith - Florence Road laneway, future use of lots 50 and 51 Dalkeith Road, drainage, and Florence Road ‘main street’ be presented to Council in September;**
3. **allocates funds of $70,000 to enable concepts and costings to be prepared, with the budget adjustment to be made in the 2020-21 mid-year budget review; and**
4. **instructs the CEO to provide a further report to Council on the development of a contribution framework/plan for public and community infrastructure associated with Local Planning Scheme No 3 by October 2020.**

**Executive Summary**

This report provides an update to Council on the current status of the Woolworths Development Application (recently deferred by the JDAP) and seeks Council’s direction on several important matters relating to the public realm and traffic access in the Nedlands Town Centre.

This report also seeks Council’s direction to progress an urban design proposal which is needed for Florence Road (located between the approved Aldi development and the proposed Woolworths development) and progress the proposed Dalkeith Road – Florence Road laneway.

A separate, but associated item is also included on this agenda for final Council adoption of the Local Planning Policy (Dalkeith Road – Stanley Street Laneway and Built Form Requirements) which needs to be adopted to enable establishment of laneways associated with these developments.

**Discussion/Overview**

**Background**

On 29 June 2020 the Metro Inner-North JDAP (the JDAP) unanimously deferred consideration of the Woolworths Development Application for 90 days for the following reasons:

1. To provide greater certainty on the traffic, transport and access issues;
2. To provide further information on heritage issues; and
3. To address the integration of the project in the Nedlands Town Centre.

The JDAP considered that there was insufficient information on three key items to decide on the proposal and deferred the matter to allow time for further information to be provided. The matter will need to be represented to the JDAP no later than 29 September 2020.

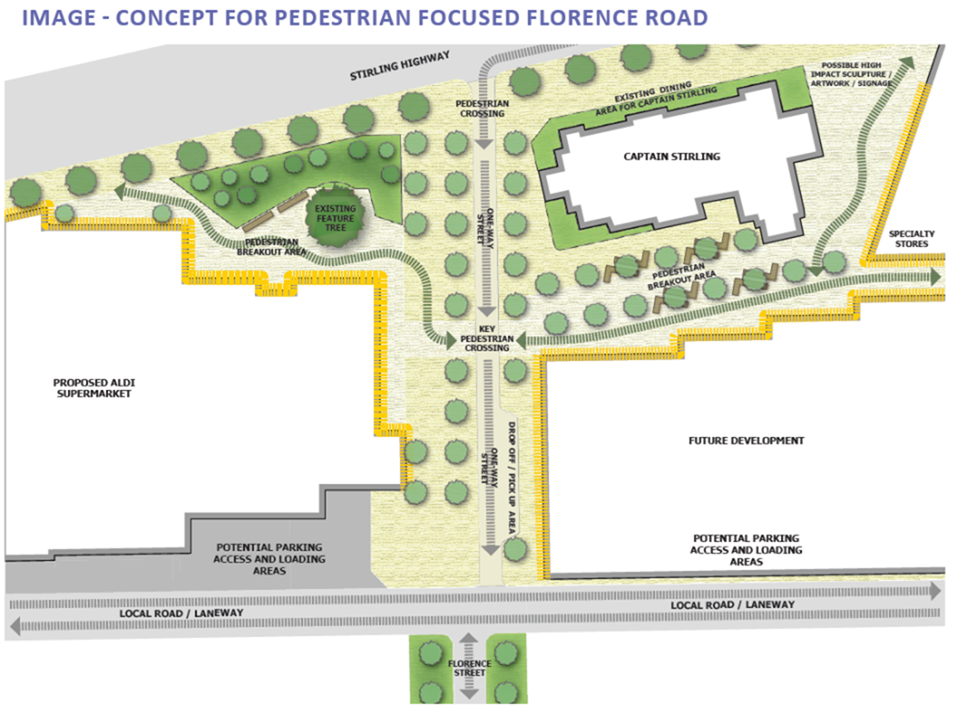
It is therefore necessary for the City’s administration to urgently undertake further work to provide advice back to the JDAP and importantly for Council to provide direction in respect two public realm aspects for the development of this precinct:

* The laneway between Florence Road and Dalkeith Road, and the use of City land, Lot 50 and 51 (Number 56) Dalkeith Road (the sump), recently acquired by the City as part of a land-swap for this purpose from Water Corporation.
* The urban design treatment of Florence Road between the proposed Woolworth development and the proposed Aldi development.

For the City to impose valid planning conditions for these works and for existing planning conditions to be optimally satisfied, it is necessary for Council to have plans, together with a cost estimate, for the works.

Previously, on 14 November 2018 (under the previously Local Planning Scheme) Aldi received development approval for their supermarket proposal located on the west side of Florence Road, at 90 Stirling Highway. This approval included a condition which required a Deed to ensure that the development facilitates public through access from Dalkeith Road to Florence Road should future access from the west be made available via the City’s Lots 50 and 51 (Number 56) Dalkeith Road.

The City of Nedlands has developed the draft Nedlands Town Centre Precinct Plan (NTCPP) to guide the future development of the Nedlands Town Centre under the new Local Planning Scheme. This document (currently in draft) contains a concept for urban design improvements in the precinct, most relevantly for this project, to Florence Road, to create a ‘main street’ with a shared vehicle and pedestrian place which can be activated by the community (Refer - Figure 1 below).



**Figure 1 - Florence Road Concept Plan – from the Draft Nedlands Town Centre Precinct Plan**

The City has also developed a Local Planning Policy (Dalkeith Road – Stanley Street Laneway and Built Form Requirements) to facilitate laneways at the rear of the proposed Aldi and Woolworths developments. This Local Planning Policy has been advertised and is separately listed on the agenda for adoption by Council. It is important this local planning policy is adopted by Council to enable appropriate and informed planning conditions to be applied to the Woolworths development application and for existing planning conditions relating to the ALDI development approval to be optimally satisfied.

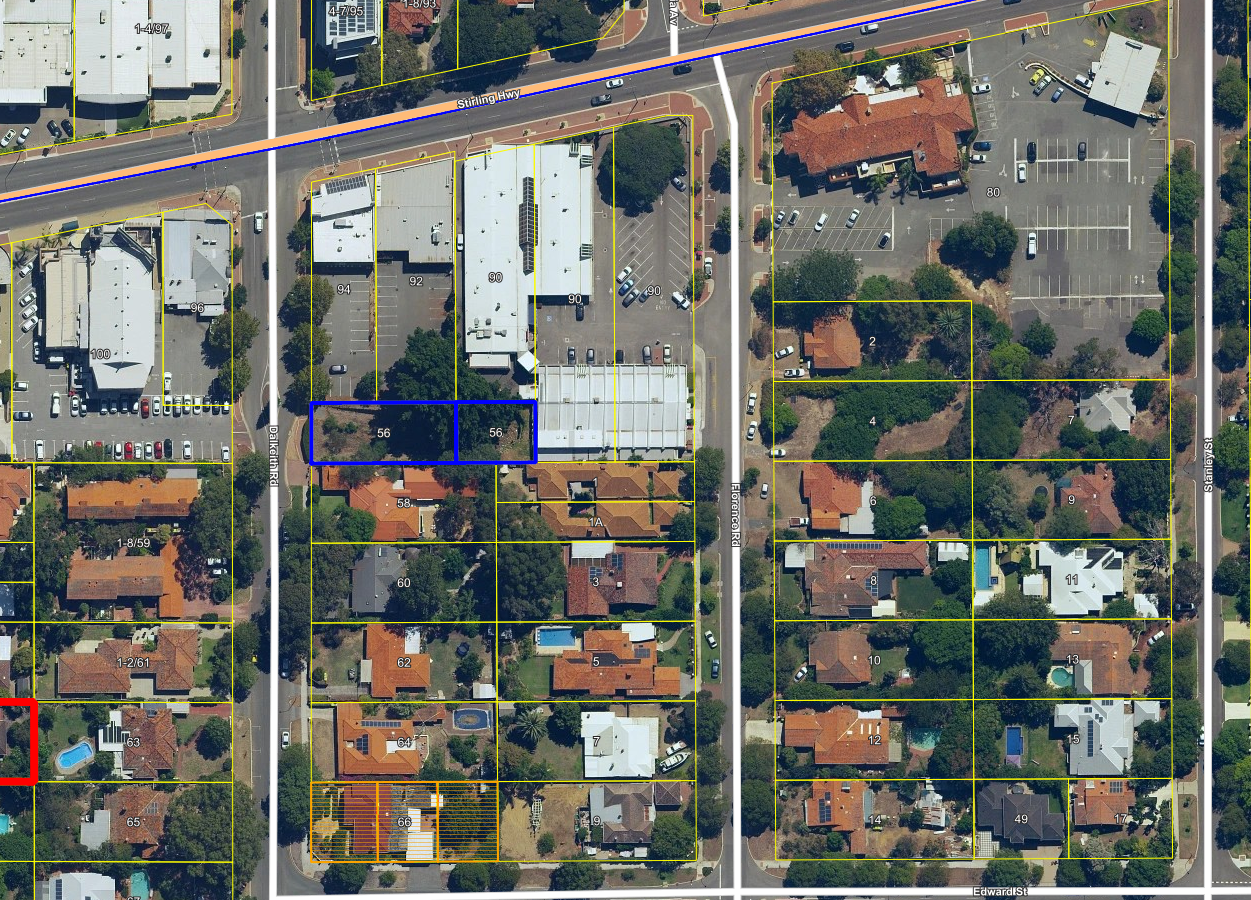
**Comment**

In this report Council is being asked to support the progress of these concepts as the JDAP has deferred consideration of the Woolworth development application pending further key items of information. This will require Council to agree a position on public realm and transport/access matters before the JDAP reconsiders the Woolworths development application in late September 2020. A further report will be presented to Council in September to enable adoption of a formal position on the matters detailed below:

**Laneway - Dalkeith Road to Florence Road**

It is apparent from the previous Aldi development approval and the current Woolworths development application that the laneway proposed between Dalkeith Road to Florence road (at the rear of the Aldi site) is required for the effective operation of both developments and to facilitate a new ‘main street’ environment in Florence Road, all consistent with the draft Nedlands Town Centre Precinct Plan. Note there is no current immediate requirement for Council to develop this laneway. It is only necessary to facilitate the obvious optimal solution to a number of traffic related issues associated with the development of firstly, the Woolworths site, and secondly the Aldi site and the timing for the construction of the laneway will likely need to align with these developments.

Lots 50 (Number 56) Dalkeith Road was recently acquired by the City, as freehold property, as part of a land-swap for this purpose from Water Corporation. Lot 51 (also number 56) Dalkeith Road was already in freehold ownership of the City. The lots effectively abut the Aldi site to the west and are intended to be used to facilitate the final part of the laneway connection between Aldi and Dalkeith Road, and also to provide laneway access for the proposed Woolworths development. While this site is currently a drainage sump, this function is proposed to be relocated, either partially or fully if feasible, and the site used for the required laneway. Under the City’s Local Planning Scheme 3 the site is zoned R-AC1, and therefore, as freehold City land, has potential commercial value, and the September report to Council would also consider options for future development of these lots.



**Figure 2 – Aerial Photo of Number 56 Dalkeith Road required for future laneway connecting Dalkeith Road and Florence Road**

As the Woolworths development proposal effectively requires this laneway connection between Florence Road and Dalkeith Road to operate optimally, it is important for the City to develop concepts and costings to enable appropriate cost contributions to be considered as part of any proposed conditions of approval. Approval is sought from Council to progress the concepts and costing for the laneway works and to examine options for dealing with the drainage and development of 56 Dalkeith Road.

**Urban Design - Florence Road ‘Main Street’**

The draft Nedlands Town Centre Precinct Plan also shows a new ‘main street’ proposed for the section of Florence Road located between the proposed Aldi and Woolworths developments (Refer – Figure 1).

As the Woolworths development proposal will also need to integrate and interface with the future Florence Road ‘main street’ it is important that the City develop design concepts and costings to enable appropriate cost contributions for these works to be considered as part of possible conditions of approval.

Approval is also sought from Council to progress the urban design concepts and costing for the urban design works for Florence Road. This will include an examination of the traffic movement in the precinct as well as civil works and an urban design plan.

**Key Relevant Previous Council Decisions:**

Council previously considered the Nedlands Town Centre when it considered the draft Nedlands Town Centre Precinct Plan for advertising on 24 September 2019. The recommendations in this report are consistent with the public realm works identified in the draft plan.

**Consultation**

Initial consultation on the draft Nedlands Town Centre Precinct Plan has been conducted (concluding on 4 April 2020). This plan identified the laneways and the urban design enhancements to Florence Road. This plan was initially developed with community and stakeholder input. The policy is currently under review pending built form modelling in the Nedlands Town Centre. No additional consultation is proposed as part of this current phase; however, may this occur pending the outcomes of the built form modelling review. Further consultation may also be undertaken for the detailed design of the Florence Road ‘main street’ upgrade.

**Strategic Implications**

The actions outlined in the report will progress the development of the Nedlands Town Centre and in particular the public realm and traffic relates matters associated with redevelopment of adjoining key sites in the Centre. These actions are fully aligned with key strategic outcomes which will benefit the City of Nedlands community.

Should Council not proceed with these actions at this time, it is likely the City will need to undertake and fully fund these works in the future, without contributions that may be possible as part of a development approval.

To provide a strategic and coordinated approach to infrastructure contributions, Council needs to develop a contributions framework to support the new local planning scheme and specific contributions plans for individual precincts, such as the Nedlands Town Centre. The draft State Planning Policy 7.2 - Precinct Design Guidelines confirms “Precinct plans should also consider funding models for the development of precincts that best suit the economic opportunities and likely development outcomes”. The draft State Planning Policy identifies options available to support the redevelopment of precincts which include development contributions (through a development contributions plan), impact mitigation payments, inclusionary zoning/provisions and value capture. A recommendation is provided for a report to Council outlining the work involved to establish this important framework for contributions to public and community infrastructure, required due to the significant increases in development potential provided under Local Planning Scheme 3.

**Budget/Financial Implications**

No specific budget allocation has been provided in the 2020-21 Budget to enable these investigations and design concepts. However, given the current development proposal and recent JDAP deferral there is a need to urgently progress these concepts to ensure the future development of the Woolworths site aligns with the Council’s vision for this part of the Nedlands Town Centre.

It is estimated funding of up to $70,000 will be required and Council will need to authorise this unbudgeted expenditure. The necessary budget adjustments will be made at mid-year budget review, based on utilization of the 20/21 adopted surplus budget.

It is necessary to progress this work to enable design concepts and cost estimates for public realm works to be developed and appropriate cost contributions to be considered as part of conditions of potential approval associated with the adjoining Woolworths development proposal.

## Local Planning Scheme 3 – Local Planning Policy Waste Management Guidelines

|  |  |
| --- | --- |
| **Council Date** | 28 July 2020 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under *section 5.70 Local Government Act 1995*** | Nil |
| **Director** | Ross Jutras-Minett – Acting Director Planning & Development |
| **CEO** | Mark Goodlet |
| **Reference** | Nil |
| **Previous Item** | PD38.19 – OCM 24 September 2019  PD53.19 – OCM 17 December 2019  PD06.20 – OCM 31 March 2020 |
| **Attachments** | 1. Tracked Changes Draft Waste Management Local Planning Policy (LPP) 2. Tracked Change Draft Waste Management Guidelines 3. Draft Waste Management Local Planning Policy (LPP) and Guidelines |

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

Moved – Councillor McManus

Seconded – Councillor Poliwka

**That the Recommendation to Council be adopted.**

(Printed below for ease of reference)

**CARRIED 9/3**

**(Against: Crs. Horley Bennett & Coghlan)**

**Council Resolution / Recommendation to Council**

**Council prepares, and advertises for a period of 21 days, in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015* Schedule 2, Part 2, Clause 4, the Waste Management and Guidelines Local Planning Policy.**

**Executive Summary**

The City’s Waste Local Planning Policy (Waste LPP) and Guidelines were adopted in March 2020 by Council. One of the key objectives of the Waste LPP is to reduce the impact of waste collection on the streetscape. Since adoption of this policy, however, planning applications have been received that demonstrate the policy’s requirement for ‘inside-servicing’ for development applications exceeding 5 dwellings has resulted in proposed adverse built form outcomes. In consultation with Council, the City has made minor changes to the policy to be in line with best practice and encourage better built form outcomes.

Administration have reviewed the Waste Management Local Planning Policy and Guidelines and is recommending that the proposed changes be adopted by Council to advertise. Administration are suggesting minor changes be made to the policy, such as allowing for larger bin sizes, and flexibility where the City sees appropriate for medium scale development with larger verge area, whilst still achieving the objectives of safety and amenity. Administration have discussed the proposed changes with Council prior to the August 2020 meeting at the 7 July 2020 briefing.

The policy may require West Australian Planning Commission (WAPC) approval. Once the policy is adopted by Council following readvertising, if required it will be forwarded to the WAPC for approval.

**Background**

Prior to the adoption of LPP – Waste Guidelines, Waste Management Plans were required by the City on an ad hoc basis for development applications which are considered to generate surplus waste above the normal household. Prior to Local Planning Scheme No.3 (LPS 3) there were fewer opportunities to develop grouped or multiple dwellings, therefore the waste management of development of that nature was dealt with on a case-by-case basis. To develop a more holistic approach to waste management Council adopted the Waste Management LPP and Guidelines in March 2020.

Development applications which have been received by the City since the adoption of the Waste Management LPP and Guidelines have shown that the policy is creating proposed undesired and unforeseen built form outcomes. These include large plate heights of the first floor, and wide vehicle access points on medium size developments to allow the 2.8m high and 8m long waste trucks to access and egress the site.

Administration have proposed minor modifications to the Policy and Guidelines in an effort to create better built form outcomes whilst maintaining aspects of amenity and safety in relation to waste services.

**Detail**

All aspects of waste management should be considered in the initial design stage of a development. This includes, but is not limited to waste generation, recycling, storage, truck accessibility and collection options.

Early consideration of waste management requirements will ensure effective integration of facilities into the design of the development, so that visual amenity, convenience, efficiency and health and safety is maintained at a high standard.

The policy details when a waste management plan is required and the overall objectives of waste management within the City. The guidelines component (Appendix One) provides the technical information in relation to the City’s specifications for waste management and what must be included in the waste management plan.

**Modifications to the Policy**

Modifications to the Policy and Guidelines can be viewed through Attachments 1 and 2. Majority of the changes made are minor and nature and were discussed with Council at the July Council Briefing.

The three major changes to the policy are:

1. Allowance of ten bins instead of eight on the verge;
2. Allowance of 360L bins as well as 240L bins on the verge; and
3. Allowance for more bins on verge if the development has a dual frontage or amalgamated lots where appropriate to do so.

Ten bins on the verge is in line with other local governments and best practice. Also permitting both 360L and 240L bins will allow for more medium size developments to be able to place bins on the verge, thus creating better built form outcomes. The 360L bins and the 240L bins as shown below in Figure 1 are relatively similar in size but allow for a greater volume of waste to be placed in the bin, therefore the amenity impact minimal based on the bin size.



*Figure 1: 360L bin and 240L bin size*

Often developments which amalgamate multiple lots can create a better built form outcome which can result in less crossovers and a better utilisation of space. If two lots were developed separately, they would each be allowed to locate the maximum number of bins on the verge. Administration is of the view that where low-to-medium intensity development takes place over two lots there should be discretion available to allow for more bins on the verge as there is more unobstructed bin space. The allowance for more bins would again like all circumstances be on a case-by-case basis and would only apply to those developments which would be of a medium-scale where an inside service is not needed. Properties which have a dual frontage may also be allowed more bins on the verge, with the idea of allowing bins on both verges. In certain circumstances where one of the verges is a safe active street or a main road such as stirling highway this may not be appropriate and therefore will be assessed on a case by case basis.The proposed changes do not seek to alter the City’s requirements for high-intensity developments to have internal servicing.

The provisions of the Waste LPP conflict with several streetscape elements of the R-Codes Volume 2. Legal advice has been provided to the City which confirms that applicants can seek Private Collection. Rather than the City collecting waste on assigned days and times, private collection would result in waste collection of infill developments occurring in a haphazard manner. In light of this advice the City beleives that the recommended changes will allow the flexibility needed so that the City retains control of its waste management, whilst maintaining the core objectives of safety and amenity. Not only is waste management a large revenue stream for the City but by having the City maintain control over waste management it can be run more efficiently and monitored by the City in relation to noise and hours of collection.

All other changes are minor in nature and are bringing other clauses in line with the above-mentioned changes.

**Consultation**

If Council resolves to prepare the draft LPP, it will be advertised for 21 days in accordance with Schedule 2, Part 2, Division 2, Clause 4 of the Planning and Development (Local Planning Scheme) Regulations 2015 (P&D Regs.2015) and the Citys Consultation LPP. This will include a notice being published in the newspaper, details being included on the City’s website and the Your Voice engagement portal.

Following the advertising period, the policy will be presented back to Council for it to consider any submissions received and to:

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

The Waste Managament LPP may be referred to WAPC should the policy be adopted by Council.

**Strategic Implications**

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

The modifications, LPP and Guidelines fit with the City’s strategic direction of having a robust planning framework under Local Planning Scheme No. 3.

**Who benefits?**

The City benefits from having a clear and robust Waste Management LPP and Guidelines which is an agreed position by the City. Developers also benefit because they can clearly see the expectations of the City when designing their developments to incorporate waste.

**Does it involve a tolerable risk?**

There is no risk involved.

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

All information required is provided within this report and attachments.

**Budget/Financial Implications**

**Can we afford it?**

There is no cost involved in the modifications to the Policy.

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

There is no impact on rates.

**Statutory Provisions**

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

Under Schedule 2, Part 2, Clause 3(1) of the Planning Regulations the City may 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 a local planning policy is must publish a notice of the proposed policy in a newspaper circulating in the area for a period not less than 21 days.

**Conclusion**

The suggested modifications to the Waste Management LPP and guidelines will create opportunities for better built form outcomes as opposed to the current policy provisions adopted in March 2020. The minor modifications to the Policy and Guidelines seek to create better built form outcomes whilst maintaining aspects of amenity and safety in relation to waste services.

As such, it is recommended that Council endorses administration’s recommendation to prepare (adopt to advertise) the Waste Management LPP and Guidelines with suggested modifications.

## Carry Forward of Woodchipper Replacement

|  |  |
| --- | --- |
| **Council** | 28 July 2020 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under *section 5.70 Local Government Act 1995*** | Nil. |
| **Director** | Jim Duff – Director Technical Services |
| **CEO** | Mark Goodlet |
| **Attachments** | Nil. |
| **Confidential Attachments** | Nil. |

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

Moved – Councillor Wetherall

Seconded – Councillor Mangano

**That the Recommendation to Council be adopted.**

(Printed below for ease of reference)

**CARRIED UNANIMOUSLY 12/-**

**Council Resolution / Recommendation to Council**

**Council approves the inclusion of a line item within the 2020/21 plant and equipment capital budget for the replacement of the woodchipper, funded through the deferral of two 2019/20 budget line items for Hino truck replacements into the 2021/22 capital budget.**

**Executive Summary**

Administration reported to Council at its meeting on 26 May 2020 seeking approval to replace the City’s aging wood chipping machine (Chipper). At the meeting, Council resolved to approve the purchase of a replacement Chipper within the 2019/20 budget.

The City was unable to complete the procurement process prior to 30 June 2020 and the capital acquisition was not carried forward. Administration is subsequently seeking to carry forward this purchase as a capital acquisition in the 2020/21 capital budget.

**Discussion/Overview**

**Background**

The City’s current Chipper is 12 years old and is routinely used by Parks operations to remove tree debris generated during the maintenance of trees in parks, reserves and streetscapes. A recent assessment of the Chipper identified it is in poor condition and it has been rendered non operable as it poses a safety risk. The Chipper is an essential piece of equipment that enables the City to provide a core maintenance service to its community. Ensuring wood chipping operations can be conducted safely is imperative and addressing the poor condition of the Chipper should be considered a budget priority.

Options were investigated for restoring wood chipping operations including repair of the Chipper, leasing a Chipper and replacing the Chipper. Replacement of the Chipper is the recommended option as it aligns with the City’s approach to owning plant and equipment and represents best long-term value as the asset has an anticipated asset life of eight (8) years.

**Consultation**

Nil.

**Strategic Implications**

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

Regarding strategic priorities as set out in the Strategic Community Plan 2018-2028, a replacement Chipper would ensure continuity of services in support of the following:

* Provide, retain and maintain public trees in streets and on reserves to at least maintain the urban forest canopy.
* Optimise reuse of recyclable or compostable materials.
* Maintain parks and other green spaces.
* Maintain the level of service for parks, ovals and associated equipment.

**Who benefits?**

The primary benefits of replacing the Chipper are to ensure continuity of services and to protect the welfare of City staff and the community by fulfilling relevant workplace, equipment and road safety obligations. With an anticipated asset life of eight (8) years, replacing the Chipper represents good value for the City’s rate payers.

**Does it involve a tolerable risk?**

To allow continued use of the current Chipper would represent an unacceptable risk in terms of safety to operators, the community and liability as the City would not meet statutory safety obligations. To have the existing Chipper remain out of service also represents a risk to the City delivering core services to its community. Procuring a new Chipper will mitigate the above safety and service delivery risks.

The recommended option is considered low risk overall as a formal RFQ process was undertaken to ensure good governance and best value in the procurement process. From a whole of asset life perspective, if operational needs or the City’s approach to plant and equipment ownership changes in the future, the chipper would still be available for disposal in the same manner as all other plant and equipment.

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

Information in relation to the condition of the current Chipper is based on recurrent inspection reports from the repairer/servicing agent. All cost information is based on up to date market analysis.

**Budget/Financial Implications**

The Chipper is not currently included as a capital expenditure item in the 2020/21 capital budget. There was, however, an allocation of $120,000 in the 2019/2020 capital budget allocated to the replacement of two Hino trucks. Replacement of these trucks are considered less a priority than replacing the Chipper. The Hino truck assets are in excellent condition with low kilometers. Extending the asset life of these trucks by 24 months represents good value to the City. There are no negative financial, operational or safety impacts in deferring asset replacement of the two trucks into 2021/2022.

**Can we afford it?**

It is recommended that the new chipper be funded from the 2019/2020 plant and equipment capital budget without any budget increase by deferral of the two Hino trucks into 2021/2022. An increase in operating costs for repair and maintenance of the two trucks across the additional 24 months of service life is not anticipated based on condition and usage.

The existing chipper has been utilised over an extended asset life and a new chipper would have an allocated asset life of eight years. The existing chipper has been requiring frequent repairs and maintenance and a new chipper would not be anticipated to have such high operating costs.

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

Allocating the budgeted $120,000 to the procurement of a new Chipper represents roughly 0.5% of rates. The deferral of the replacement of two Hino trucks for 24 months will extend the life of those trucks and will offset any impact on rates.

In the broader context, a review of all fleet assets has been recently undertaken to identify all replacements that can be deferred safely based on condition, kilometers and utilisation, leading to a substantially reduced plant and equipment capital works budget proposal for 2020/2021. This is to ensure there is no upward pressure on rates from a fleet perspective. Within this context, the chipper was still identified as needing immediate replacement and considered a priority one budget item due to safety and legislation.

## Associates Rugby Union Football Club – Application to Vary Liquor Licence

|  |  |
| --- | --- |
| **Council** | 28 July 2020 |
| **Applicant** | Ms Ellen Tolmie, on behalf of the Associates Rugby Union Football Club |
| **Employee Disclosure under *section 5.70 Local Government Act 1995*** | Nil |
| **CEO** | Mark Goodlet |
| **Attachments** | Nil |
| **Confidential Attachments** | Nil |

Councillor Mangano left the meeting at 7.02 pm

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

Moved – Councillor Hay

Seconded – Councillor Poliwka

**That the Recommendation to Council be adopted.**

(Printed below for ease of reference)

Councillor Mangano returned to the meeting at 7.04 pm.

**CARRIED 8/4**

**(Against: Crs. Smyth Bennett Mangano & Coghlan)**

**Council Resolution / Recommendation to Council**

**Council:**

1. **endorses the Associates Rugby Union Football Club application to vary the liquor licence trading hours as detailed below:**

|  |  |  |
| --- | --- | --- |
| **Day** | **Existing Trading Hours** | **Proposed Trading Hours** |
| **Monday** | 5:30 pm – 10 pm | 5:30 pm – 10 pm |
| **Tuesday** | 6:00 pm – 11 pm | 6:00 pm – 11 pm |
| **Wednesday** | 5:30 pm – 10 pm | 5:30 pm – 10 pm |
| **Thursday** | 6:00 pm – 11 pm | 5:00 pm – 11 pm |
| **Friday** | 7:00 pm – 12 am | 5:00 pm – 12 am |
| **Saturday** | 12:00 pm – 12 am | 12:00 pm – 12 am |
| **Sunday** | 12:00 pm – 8 pm | 12:00 pm – 8 pm |

1. **requests the CEO to provide a letter of consent to Department of Racing Gaming and Liquor.**

**Executive Summary**

This item is now presented to Council for consideration as the lessor of the facility known as Allen Park Upper Pavilion at Allen Park Swanbourne, to the Associates Rugby Union Football Club (ARUFC).

ARUFC have applied to the Department of Racing Gaming and Liquor to vary the club’s liquor licence trading hours.

As the Club lease the premises from the City, the Department of Racing Gaming and Liquor require a letter of consent from the owner of the premises confirming there are no objections to the proposed variation and that the club has unrestricted access to the licenced venue during these times. (*Liquor Control Act 1988, Section 72(1)*).

**Discussion/Overview**

ARUFC was established in 1948 and has been based at Allen Park since 1988. ARUFC have approximately 500 playing members across senior, colts and juniors’ teams. The Club leases the upper pavilion, changerooms and toilets from the City.

The lease entitles the Club to exclusive use of the facility however they also make their facilities available to hire to the community. The Club hire the oval during the week for training and all day on Saturdays for fixtures.

The variation to the licenced trading hours has been requested by the Club to allow the club to offer refreshments to parents and supporters on a Thursday afternoon during training and games, and to allow trade earlier on Friday evenings.

Section 72(1) of the *Liquor Control Act 1988* states the licensing authority must not grant an application for approval unless the owner and lessor has consented to the application. As the licenced premises is leased by the ARUFC from the City, the Club requires a letter of consent be provided by the City to the Department of Racing Gaming and Liquor for the proposed variation.

**Key Relevant Previous Council Decisions:**

N/A

**Consultation**

Upon receiving an application from the Associates Rugby Union Football Club to vary their liquor Licence trading hours, consultation was completed between the City’s Community Development, Health and Planning Services to confirm there are no objections to the application and propose variation. The Council now considers this application.

**Planning Service**

The City’s Planning Services have reviewed the application and confirmed there are no objections to the proposed extension of the liquor trading hours.

**Community Development**

Community Development Services have reviewed the proposed variation and confirmed there are no objections to this change.

**Leased Assets**

The City’s Leased Assets Coordinator has confirmed there are no objections to the proposed variation. The City’s Lease with the Associates Rugby Union Football Club indemnifies the City from any risk associated with the Liquor Licence and ensures compliance to any conditions that DRGL impose on them (such as a House Management Policy etc.). The applicant is to provide a copy of the Liquor Licence and any related Plans to the City, once approved.

**Environmental Health Service**

The City’s Environmental Health Service has reviewed the application and confirm there are no objections to the proposed variation. The Associates Rugby Union Football Club holds a current Public Building approval under the *Health (Public Building) Regulations 199*2 for the Clubroom - Bar with a capacity of 200 persons and is registered under the *Food Act 2008* as a Medium Risk Food Business.

The variation is expected to have minimal impact on the surrounding residents. As the change is for an earlier start time for casual refreshments, as opposed to a later closing time, the potential for noise disturbances for surrounding residences is minimal.

**Strategic Implications**

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

Consenting to this application supports the ARUFC, a local sporting club within the district, in providing a facility for community engagement among parents of young players. This is in line with the Community Development KFA of providing opportunities for community interaction and supporting local community organisations and sporting clubs.

**Who benefits?**

The Associates Rugby Union Football Club Community benefits from this change in hours. This assist the club in encouraging members, parents of members, and supporters to engage socially within the Club, allows for the raising revenue, and promotes sustainable sporting club.

**Does it involve a tolerable risk?**

There is minimal risk associated with this application for a variation. The variation to the trading hours is only one hour earlier on a Thursday afternoon, and two hours earlier on a Friday afternoon. There is no change to the closing time for the licensed facility, and minimal impact on the surrounding residences.

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

Yes.

**Budget/Financial Implications**

There is no expected impact on the City’s financial position with regard to this application.

**Can we afford it?**

Nil cost to the City.

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

Nil impact on rates.

## Liquor License Extension Request – Old Collegians Football Club

|  |  |
| --- | --- |
| **Council** | 28 July 2020 |
| **Applicant** | Mr Jack Dowland, on behalf of Collegians Amateur Football Club |
| **Employee Disclosure under *section 5.70 Local Government Act 1995*** | Nil |
| **CEO** | Mark Goodlet |
| **Attachments** | Nil |
| **Confidential Attachments** | Nil |

**Regulation 11(da) - Council determined that an Extended Trading Permit was not appropriate in this location.**

Moved – Councillor Mangano

Seconded – Councillor Bennett

**Council Resolution**

**That Council does not support the application for an Extended Trading Permit to Collegians Amateur Football Club.**

**CARRIED 7/5**

**(Against: Mayor de Lacy Crs. McManus**

**Hodsdon Poliwka & Wetherall)**

Recommendation to Council

That Council supports the ongoing approval being sought for the Extended Trading Permit application to Collegians Amateur Football Club to consume alcohol in the designated area on David Cruickshank Reserve subject to the following conditions:

1. Collegians Amateur Football Club (the Club) indemnifies the City against any claims for compensation and costs which may arise from the Club hosting sporting games and events on David Cruickshank Reserve.
2. The Club agrees to keep current Public Liability Insurance cover for the extended alcohol consumption on City land in the amount of $20,000,000.  The Club will provide a copy of this certificate to the City noting the City as an interested party.
3. The Club agrees to provide the City with a schedule of dates for the sporting season at the beginning of each calendar year.
4. The Club agrees to obtain Public Building Approval from the City’s Environmental Health Service.
5. That the City reserves its right to review this decision at its discretion.

**Executive Summary**

Collegians Amateur Football Club (CAFC) has lodged a request with the City to support an Extended Trading Permit application, which they have applied to the Department of Racing, Gaming and Liquor.  This will allow alcohol to be consumed in a fenced off area on David Cruickshank Reserve, adjacent to Adam Armstrong Pavilion.

CAFC currently has an approved liquor license from Racing, Gaming and Liquor to consume alcohol inside Adam Armstrong Pavilion however due to player expansion of the Club, a need for a greater area for spectators to consume alcohol is required. A permanent variation to their liquor license is not possible as the Club does not have exclusive tenure to the area being used, given it is City managed land.

Therefore, the Club has applied for an ongoing approval for Extended Trading Permits, thereby reducing the administrative burden on the Club and the City, which requires the further endorsement of council.

**Discussion/Overview**

Collegians Amateur Football Club (CAFC) was established in 1948. The Club has approximately 220 members, 90% of which are from the Western Suburbs. The Club is based at David Cruickshank Reserve in Dalkeith and operates from Adam Armstrong Pavilion. CAFC has a management licence for the facility for the winter sporting season, 1 April – 30 September. The Management Licence commenced on 1 April 2016 for a term of 21 years and will expire on 30 September 2036. The Club hire the oval for training four nights a week and all day on Saturdays for game fixtures.

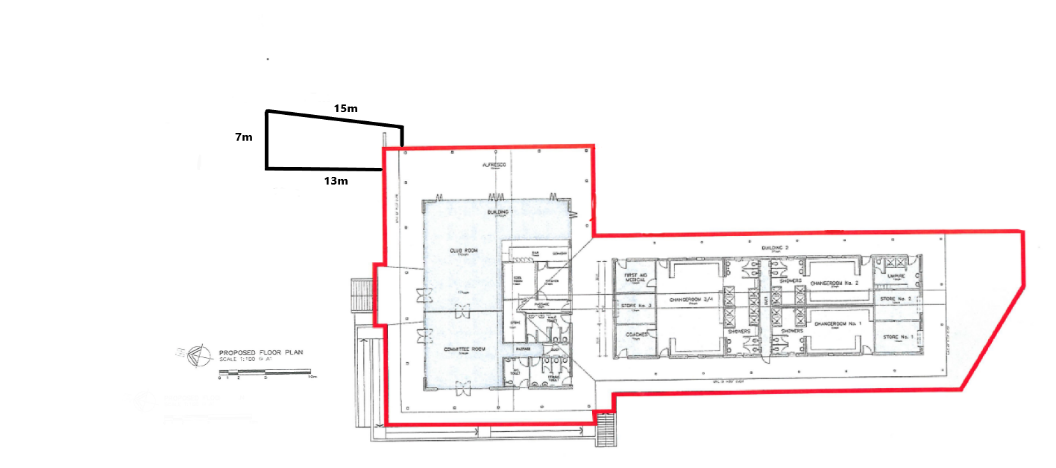
CAFC has experienced growth over the last few years. The Club has advanced into the ‘A Grade’ competition and has introduced two new teams this year, one being their first women's team, bringing their total number of teams to six. The Club anticipate the increase in teams will result in an increase of supporters and families attending the home fixtures.

On game days, the current Licenced Area can become crowded as people want to watch the games on the oval. An extension to the Licensed Area would allow spectators some more room to enjoy the game day experience. The proposed extension covers an area (as per below - Image 1) and would allow spectators to spread out from the Clubrooms. The extended area would be sectioned off with bunting from 12-6pm only on game days.

Image 1: Proposed area for extension of liquor license – David Cruickshank Reserve



Image 2: Dimensions of proposed extended area



Section 61 of the *Liquor Control Act 1988* provides a direct power for Local Governments to influence any application for the grant of an extended trading permit to allow the sale of liquor in an extended area outside of the licensed premises.

Furthermore, Section 72 of the Act states that the Licensing Authority must not grant an application for approval of a proposed alteration to Licensed Premises unless the applicant satisfies the Licensing Authority that where the Licensed Premises are occupied under a lease, the Lessor, have consented to the application.

**Consultation**

Upon receiving an application from CAFC to vary the area of the Liquor License, consultation was sought from the City’s Community Development, Environmental Health and Planning Services. Furthermore, there were no objections to the application from each of the departments for the proposed variation.

**Environmental Health Service**

Adam Armstrong Pavilion is an approved Public Building with the City of Nedlands and has a maximum accommodation number of 235 persons. An alteration to the Public Building approval would be required with the proposed extended area and the Club would need to submit a Form 1 – Application to Construct, Extend or Alter a Public Building to the City’s Environmental Health Service for assessment. Furthermore, this building is inspected by an Environmental Health Officer on an annual basis to ensure compliance with the *Health (Public Building) Regulations 1992*.

**Planning Services**

The City’s Planning Services have reviewed the application and confirmed that they do not object to the proposed extension of the liquor trading hours.

**Community Development**

The City’s Community Development Service have reviewed the proposed variation and confirmed that they have no objections to this application.

**Leased Assets**

The City’s Leased Assets Coordinator has confirmed they do not object to the proposed variation.The City’s Lease with the Collegians Amateur Football Club indemnifies the City from any risk associated with the Liquor License, and ensures compliance to any conditions that Racing, Gaming and Liquor impose on the Club. The applicant is to provide a copy of the Liquor License and any related Plans to the City, once approved.

**Key Relevant Previous Council Decisions**

PD07.16 – 23 February 2016 – Collegians Amateur Football and Sporting Club Inc. Management Licence at Adam Armstrong Pavilion – David Cruickshank Reserve

**Strategic Implications**

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

Consenting to this application supports the CAFC, a local sporting club within the district, in providing a facility for community engagement among young adults in the area. This is in line with the Community Development KFA of providing opportunities for community interaction and supporting local community organisations and sporting clubs.

**Who benefits?**

The Collegians Amateur Football Club benefits from the increased area for alcohol consumption due to a rapidly expanding club including the addition of the women’s football league. This would allow spectators and club members to enjoy a larger area to consume alcohol and watch football games.

**Does it involve a tolerable risk?**

There is minimal risk associated with this application for a variation as it is a small area extension from the current liquor license approved at Allen Park Pavilion to cater for an increased number of spectators and football participants.

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

Yes.

**Budget/Financial Implications**

There is no expected impact on the City’s financial position with regard to this application.

**Can we afford it?**

Nil cost to the City.

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

Nil impact on rates.

## Monthly Financial Report – June 2020

|  |  |
| --- | --- |
| **Council** | 28 July 2020 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act** | Nil |
| **Director** | Lorraine Driscoll – Director Corporate & Strategy |
| **Attachments** | 1. Financial Summary (Operating) by Business Units – 30 June 2020 2. Capital Works & Acquisitions – 30 June 2020 3. Statement of Net Current Assets – 30 June 2020 4. Statement of Financial Activity – 30 June 2020 5. Borrowings – 30 June 2020 6. Statement of Financial Position – 30 June 2020 7. Operating Income & Expenditure by Reporting Activity – 30 June 2020 8. Operating Income by Reporting Nature & Type – 30 June 2020 |

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

Moved – Councillor Wetherall

Seconded – Councillor Senathirajah

**That the Recommendation to Council be adopted.**

(Printed below for ease of reference)

**CARRIED 10/2**

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

**Council Resolution / Recommendation to Council**

**Council receives the Monthly Financial Report for 30 June 2020.**

**Executive Summary**

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

**Discussion/Overview**

The financial impact of COVID-19 is reflected with effect from April, the Hardship policy endorsed at the Special Council Meeting of 14 April 2020 introduced measures to support the City’s many stakeholders these are also reflected in the financials.

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

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

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

The operating revenue at the end of June 2020 was $34.50m which represents $244k favourable variance compared to the year-to-date budget.

The operating expense at the end of June 2020 was $29.01m, which represents $2.24m favourable variance compared to the year-to-date budget.

The attached Operating Statement compares “Actual” with “Budget” by Business Units. The budget figures for May onwards are the mid-year budget revision figures as approved by the Council in March. Variations from the budget of revenue and expenses by Directorates are highlighted in the following paragraphs.

The monthly financial report for 30 June 2020 is based on transactions recorded until 30 June 2020 and does not represent the final figures of the 2019/20 financial year.

The City will continue to receive supplier invoices for the financial year 30 June 2020 throughout July 2020. Invoices received after the year end have not been included in this report due to the timing of the production of this report. However, for final audited accounts, these invoices and other final journal adjustments as required by Accounting Standards will be included.

The final 7 days of June (22 June to 30 June) salaries were paid in July and therefore not shown as expenses in June 2020. These are being computed to be accrued for the financial year 2019/20. The current effect is a slightly lower salaries cost for the the financial year 2019/20 which will be adjusted in the final financial statements for 30 June 2020.

**Governance**

Expenditure: Favourable variance of $336,684

Revenue: Unfavourable variance of $ (7,731)

The favourable expenditure variance is mainly due to savings on:

* professional fees of $208k in Governance,
* office expenses of $28k in Communications,
* other employee cost of $78k in HR
* ICT Expenses of $21k in HR

**Corporate and Strategy**

Expenditure: Favourable variance of $318,509

Revenue: Favourable variance of $486,449

The favourable expenditure variance is mainly due to:

* Savings on finance and rates professional fees of $110k
* ICT expenses of $130k.
* Favourable salaries of $59k is partly due to savings due to staff not back-filled and partly to June salaries not accrued yet as stated above.

Favourable revenue variance is due to:

* higher rates income of $90k mainly arising from higher interest income
* Advance payment of 2020/21 FAG grant income of $415k

**Community Development and Services**

Expenditure: Favourable variance of $363,257

Revenue: Unfavourable variance of $ (37,601)

The favourable expenditure variance is mainly due to:

* Savings in salaries of $65k in library due to COVID-19 closure and Tresillian $15k due to staff not back-filled and $20k due June salaries not accrued yet as stated above.
* Savings on community donations, special projects and operational activities of $48k
* Lower Tresillian tutor fees of $54k and small savings on Tresillian office expenses of $10k due to COVID-19
* Other and office expense of $99k not expensed due to COVID-19 and some savings.
* ICT expenses of $20k not expensed

The unfavourable income variance is mainly due to COVID-19:

* Lower income from community facilities, Tresillian, Positive Aging of $62k and Community grant income of $6k, offset by
* Higher income from PRCC and NCC Fees & Charges of $45k.

**Planning and Development**

Expenditure: Favourable variance of $401,913

Revenue: Unfavourable variance of $ (1,987)

The favourable expenditure variance is mainly due to:

* Savings on operational activities in sustainability and environmental health and conservation of $121k
* Lower cost of strategic projects of $139k
* Savings on ranger services other expenses of $65k
* Salaries of building services are lower by $101k due to delay in back-filling vacant positions and staff on long service leave.

Small Unfavourable revenue variance is mainly due to timing issues.

**Technical Services**

Expenditure: Favourable variance of $ 816,841

Revenue: Unfavourable variance of ($ 194,540)

The favourable variance is mainly due to:

* Underground power project cost lower by $146k deferred to next financial year and Western power refund of $485k
* Salaries lower by $173k due to vacancies not back-filled and June salaries not accrued yet as stated above.

The unfavourable revenue variance is mainly due to:

* Lower waste charges of $13k
* Lower income on council property and fees and charges of $106k mainly due to COVID-19
* Deferred underground power charge of $100k due to deferment of expense.

**Borrowings**

At 30 June 2020, we have a balance of borrowings of $5.86 M as budgeted. There were no additional borrowings for the year in 2019/20 budget.

**Net Current Assets Statement**

At 30 June 2020, net current assets was $4.8 M compared to $2.5 M as at 30 June 2019. Current assets are higher by $4.7M offset by higher liabilities $2.3 M.

Cash & cash equivalents are higher by $3.1m due to refunds from Western Power of $1.1m and lower operating and capital works by $2.6 M off-set by higher creditors of $700k.

Rates outstanding as at 30 June 2020 is $781k being 3% of rates revenue compared to 30 June 2019 of $440k being 2% of rates revenue. The increase of 1% is due to a slight delay in commencing debt recovery action due to vacancy in the Rates Officer position and further delay during the initial period of the COVID-19 pandemic. Debt recovery has recommenced since the first week of May. $488k has been collected up until June. There is an amount outstanding of $155k as at 30 June 2020 from the Office of the State Revenue for pensioner rebate claims submitted by the City, compared to $25k as at 30 June 2019.

Sundry debtors outstanding as at 30 June 2020 is $786k compared to $1.3 M as at 30 June 2019. Included in the $1.3m was the refund of $700k from Western Power for the Underground Power Project.

**Capital Works Programme**

As at 30 June, the expenditure on capital works were $6.99M with additional capital commitments of $2.11 M which is 88% of a total budget of $10.40 M.

**Reclassification of On-cost - Budget 2020/21**

The following projects on-cost are reclassified to align with the correct projects with a small cost savings of $7,076 to the capital works budget 2020/21:



**Employee Data**

|  |  |
| --- | --- |
| **Description** | **Number** |
| Number of employees (total of full-time, part-time and casual employees) as of the last day of the previous month | 175 |
| Number of contract staff (temporary/agency staff) as of the last day of the previous month | 4 |
| \*FTE (Full Time Equivalent) count as of the last day of the previous month | 156.09 |
| Number of unfilled staff positions at the end of each month | 18 |

There is an increase by 4 in total active employee numbers (175) compared to previous month (171). There is a small increase in occupied FTE with the filling of substantive roles and the increase in hours against established FTE with the return of parental leave employee to increased hours and a small increase in casual FTE, with the resumption of services post COVID-19 phase 1 and 2 lockdown.

**Conclusion**

The statement of financial activity for the period ended 30 June 2020 indicates that operating expenses are under the year-to-date budget by 7% or $2.2m, while revenue is above the Budget by 0.71% or $244k.

**Key Relevant Previous Council Decisions:**

Nil.

**Consultation**

N/A

**Strategic Implications**

The 2019/20 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 2019/20 approved budget ensured that there is an equitable distribution of benefits in the community

The 2019/20 budget was prepared in line with the City’s level of tolerance of risk and it is managed through budgetary review and control.

The approved budget was based on zero based budgeting concept which requires all income and expenses to be thoroughly reviewed against data and information available to perform the City’s services at a sustainable level.

**Budget/Financial Implications**

As outlined in the Monthly Financial Report.

The approved budget is prepared taking into consideration the Long-Term Financial Plan and current economic situation. The approved budget was in a small deficit position of $12,000 and the City is able to manage the cost.

The approved 19/20 budget included a rates increase of 2.95%.

## Monthly Investment Report – June 2020

|  |  |
| --- | --- |
| **Council** | 28 July 2020 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act** | Nil. |
| **Director** | Lorraine Driscoll – Director Corporate & Strategy |
| **Attachments** | Investment Report for the period ended 30 June 2020 |

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

Moved – Councillor Mangano

Seconded – Councillor Senathirajah

**That the Recommendation to Council be adopted.**

(Printed below for ease of reference)

**CARRIED UNANIMOUSLY 12/-**

**Council Resolution / Recommendation to Council**

**Council receives the Investment Report for the period ended 30 June 2020.**

**Executive Summary**

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

**Discussion/Overview**

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

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

The Investment Summary shows that as at 30 June 2020 and 30 June 2019 the City held the following funds in investments:

|  |  |  |
| --- | --- | --- |
|  | 30-June-2020 | 30-June-2019 |
| Municipal Funds | $ 3,915,352 | $ 3,091,076 |
| Reserve Funds | $ 5,898,917 | $ 6,109,065 |
| Total investments | $ 9,814,269 | $ 9,200,141 |
|  |  |  |
| Cash & Bank balance | $ 6,678,307 | $ 3,830,777 |
|  |  |  |
| Total cash and cash equivalent | $ 16,492,576 | $ 13,030,918 |

The total interest earned from investments as at 30 June 2020 was $223,962

The Investment Portfolio comprises holdings in the following institutions:

|  |  |  |  |
| --- | --- | --- | --- |
| **Financial Institution** | **Funds Invested** | **Interest Rate** | **Proportion of Portfolio** |
| NAB | $3,227,639 | 0.85% - 0.92% | 32.89% |
| Westpac | $2,494,929 | 0.85% - 1.05% | 25.42% |
| ANZ | $1,201,123 | 0.40% - 0.47% | 12.24% |
| CBA | $2,890,578 | 0.48% - 0.76% | 29.45% |
| **Total** | **$9,814,269** |  | **100.00%** |

**Conclusion**

The Investment Report is presented to Council.

**Key Relevant Previous Council Decisions:**

Nil.

**Consultation**

Required by legislation: Yes  No

Required by City of Redlands policy: Yes  No

**Strategic Implications**

The investment of surplus funds in the 2019/20 approved budget is in line with the City’s strategic direction.

The 2019/20 approved budget ensured that there is an equitable distribution of benefits in the community

The 2019/20 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 2019/20 approved budget was based on economic and financial data available at the time of preparation of the budget.

**Budget/Financial Implications**

Due to lower interest rates, the June YTD Actual interest income from all sources is $268,938 compared to the annual budget of $300,000.

The approved budget is prepared taking into consideration the Long-Term Financial Plan and current economic situation. The approved budget was in a small surplus position and the City is able to manage the cost.

The approved budget had an increase of 2.95% increase on the rates.

## List of Delegated Authorities – June 2020

Moved – Councillor Senathirajah

Seconded – Councillor Poliwka

**The attached List of Delegated Authorities for the month of June 2020 be received**.

**CARRIED UNANIMOUSLY 12/-**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Date of use of delegation of authority** | **Title** | **Position exercising delegated authority** | **Act** | **Section of Act** | **Applicant / CoN / Property Owner / Other** |
| **June 2020** | | | | | |
| 2/06/2020 | BA56399 Certified Building Permit - Pool and Barrier | Manager Building Services | Building Act 2011 | s20.1 | Freedom Pools and Spas |
| 3/06/2020 | BA56484 Uncertified building permit - Carport | Manager Building Services | Building Act 2011 | s20.1 | Great Aussie Patios |
| 3/06/2020 | BA56409 Demolition Permit - Full site | Manager Building Services | Building Act 2011 | s21.1 | Brajkovich Demolition and Salvage Pty Ltd |
| 3/06/2020 | BA56333 Certified building permit - Refurbishment | Manager Building Services | Building Act 2011 | s20.1 | Budo Group Pty Ltd |
| 4/06/2020 | BA51515 Building Approval Certificate - Garage | Manager Building Services | Building Act 2011 | s58.1 | Mrs D Jones |
| 4/06/2020 | BA54050 Uncertified building permit - Fireplace | Manager Building Services | Building Act 2011 | s20.1 | Bauen Projects WA Pty Ltd |
| 4/06/2020 | BA56556 Certified building permit - Additions and Alterations | Manager Building Services | Building Act 2011 | s20.1 | Dale Alcock Homes Pty Ltd |
| 5/06/2020 | BA55709 Uncertified building permit - Internal Alterations | Manager Building Services | Building Act 2011 | s20.1 | S T Culloty |
| 5/06/2020 | BA56201 Deomlition Permit - Full Site | Manager Building Services | Building Act 2011 | s21.1 | Bellaluca Construction & Stone Pty Ltd |
| 5/06/2020 | BA55897 Certified building permit - Dwelling and Pool | Manager Building Services | Building Act 2011 | s20.1 | Create Homes Pty Ltd |
| 5/06/2020 | 3043270 - 3043347 - 3041537 - Withdrawn Parking Infringement Notice - Compassionate Grounds | Manager Health and Compliance | Local Government Act 1995 | 9.21\6.12(1) | Rim Yohannes |
| 5/06/2020 | BA56510 Demolition Permit - Full Site | Manager Building Services | Building Act 2011 | s21.1 | Civil Con Holdings Pty Ltd |
| 8/06/2020 | BA50649 Uncertified building permit - Patio | Manager Building Services | Building Act 2011 | s20.1 | Softwoods Timberyards Pty Ltd |
| 8/06/2020 | BA56058 Certified building permit - Dwelling and Pool | Manager Building Services | Building Act 2011 | s20.1 | Formview Building Pty Ltd |
| 3/06/2020 | BA56484 Uncertified building permit - Carport | Manager Building Services | Building Act 2011 | s20.1 | Great Aussie Patios |
| 3/06/2020 | BA56409 Demolition Permit - Full site | Manager Building Services | Building Act 2011 | s21.1 | Brajkovich Demolition and Salvage Pty Ltd |
| 3/06/2020 | BA56333 Certified building permit - Refurbishment | Manager Building Services | Building Act 2011 | s20.1 | Budo Group Pty Ltd |
| 4/06/2020 | BA51515 Building Approval Certificate - Garage | Manager Building Services | Building Act 2011 | s58.1 | Mrs D Jones |
| 4/06/2020 | BA54050 Uncertified building permit - Fireplace | Manager Building Services | Building Act 2011 | s20.1 | Bauen Projects WA Pty Ltd |
| 4/06/2020 | BA56556 Certified building permit - Additions and Alterations | Manager Building Services | Building Act 2011 | s20.1 | Dale Alcock Homes Pty Ltd |
| 5/06/2020 | BA55709 Uncertified building permit - Internal Alterations | Manager Building Services | Building Act 2011 | s20.1 | S T Culloty |
| 5/06/2020 | BA56201 Deomlition Permit - Full Site | Manager Building Services | Building Act 2011 | s21.1 | Bellaluca Construction & Stone Pty Ltd |
| 5/06/2020 | BA55897 Certified building permit - Dwelling and Pool | Manager Building Services | Building Act 2011 | s20.1 | Create Homes Pty Ltd |
| 5/06/2020 | 3043270 - 3043347 - 3041537 - Withdrawn Parking Infringement Notice - Compassionate Grounds | Manager Health and Compliance | Local Government Act 1995 | 9.21\6.12(1) | Rim Yohannes |
| 5/06/2020 | BA56510 Demolition Permit - Full Site | Manager Building Services | Building Act 2011 | s21.1 | Civil Con Holdings Pty Ltd |
| 8/06/2020 | BA50649 Uncertified building permit - Patio | Manager Building Services | Building Act 2011 | s20.1 | Softwoods Timberyards Pty Ltd |
| 8/06/2020 | BA56058 Certified building permit - Dwelling and Pool | Manager Building Services | Building Act 2011 | s20.1 | Formview Building Pty Ltd |
| 9/06/2020 | BA55840 Certified building permit - Alterations | Manager Building Services | Building Act 2011 | s20.1 | Addstyle Constructions Pty Ltd |
| 9/06/2020 | BA55946 Certified building permit - Pool and Fence | Manager Building Services | Building Act 2011 | s20.1 | S L Tafti |
| 9/06/2020 | BA55553 Certified building permit - 3 Dwellings | Manager Building Services | Building Act 2011 | s20.1 | Webb and Brown Neaves |
| 9/06/2020 | (APP) DA19-42231 - 16 Viking Road, Dalkeith - Single House | Manager Planning | Planning and Development (Local Planning Schemes) Regulations 2015 | Regulation 82 | Element Advisory Pty Ltd |
| 9/06/2020 | (APP) DA19-42705 9 Watkins Road, Dalkeith - Additon (Lift) to Single House | Manager Planning | Planning and Development (Local Planning Schemes) Regulations 2015 | Regulation 82 | AJ & PL Thompson |
| 9/06/2020 | (APP) DA19-40129 22 Wattle Avenue, Dalkeith - Additions to Single House | Manager Urban Planning | Planning and Development (Local Planning Schemes) Regulations 2015 | Regulation 82 | Darklight Design |
| 10/06/2020 | (APP) DA19-41771 38 Doonan Road, Nedlands - Pool Fence | Manager Planning | Planning and Development (Local Planning Schemes) Regulations 2015 | Regulation 82 | Quality Dolphin Pools |
| 10/06/2020 | (APP) DA19-41557 38 Doonan Road, Nedlands - Garage & Garage Outbuilding | Manager Urban Planning | Planning and Development (Local Planning Schemes) Regulations 2015 | Regulation 82 | I M Vella |
| 11/06/2020 | 3041168 - Withdrawn Parking Infringement Notice - Compassionate Grounds | Manager Health and Compliance | Local Government Act 1995 | 9.21\6.12(1) | Julian Lake |
| 11/06/2020 | BA56419 Certified buidling permit - Shed | Manager Building Services | Building Act 2011 | s20.1 | Abel Patios and Roofing |
| 12/06/2020 | 3042289 - Withdrawn Parking Infringement Notice - Officer Error | Manager Health and Compliance | Local Government Act 1995 | 9.21\6.12(1) | Amy Begadon |
| 12/06/2020 | BA55964 Certified building permit - Alterations | Manager Building Services | Building Act 2011 | s20.1 | Anthony Pty Ltd |
| 12/06/2020 | 3043364 - Withdrawn Parking Infringement Notice - Compassionate Grounds | Manager Health and Compliance | Local Government Act 1995 | 9.21/6.12(1) | Toby Pearce |
| 12/06/2020 | 3042272 - Withdrawn Parking Infringement Notice - Officer Error | Manger Health and Compliance |  | 9.21/6.12(1) | Kristen Schmook |
| 15/06/2020 | 3042273 - Withdrawn Parking Infringement Notice - Officer Error | Manager Health and Compliance | Local Government Act 1995 | 9.20/6.12(1) | Jennifer Veldman |
| 15/06/2020 | 3042270 - Withdrawn Parking Infringement Notice - Officer Error | Manager Health and Complaince | Local Government Act 1995 | 9.20/6.12(1) | Vivienne Nyugen |
| 15/06/2020 | 3042255 - Withdrawn Parking Infringement Notice - Officer Error | Manager Health and Compliance | Local Government Act 1995 | 9.20/6.12(1) | Glenda McMurtrie |
| 16/06/2020 | BA56168 Extension to Building Permit BA8782 | Manager Building Services | Building Act 2011 | s32.3 | Mr G C Dunthorne |
| 16/06/2020 | BA56029 Demolition Permit - Dwelling | Manager Building Services | Building Act 2011 | s21.1 | Hazelton Property Group Pty Ltd |
| 16/06/2020 | BA51589 Demolition Permit - Dwelling | Manager Building Services | Building Act 2011 | s21.1 | Brajkovich Demolition and Salvage Pty Ltd |
| 17/06/2020 | BA54209 Uncertified building permit - Internal Renovation | Manager Building Services | Building Act 2011 | s20.1 | Y Liu |
| 17/06/2020 | (APP) - DA 19-40966 - 24 Viewway, Nedlands - Single House | Manager Planning | Planning and Development (Local Planning Schemes) Regulations 2015 | Regulation 82 | Welink Group Pty Ltd |
| 17/06/2020 | BA55471 Uncertified building permit - Dwelling | Manager Building Services | Building Act 2011 | s20.1 | Mitchell Construction (WA) Pty Ltd |
| 18/06/2020 | BA50670 Certified building permit - Dwelling | Manager Building Services | Building Act 2011 | s20.1 | Coast Homes WA Pty Ltd |
| 18/06/2020 | (APP) DA19-41724 - 25 Louise Street, Nedlands - Additions to Single House | Manager Planning | Planning and Development (Local Planning Schemes) Regulations 2015 | Regulation 82 | Nash & Ghersinich Architects |
| 18/06/2020 | (APP) DA19-41864 - 2 Alfred Road, Mt Claremont - Amendment to DA18-33580 | Manager Planning | Planning and Development (Local Planning Schemes) Regulations 2015 | Regulation 82 | Macri Builders Pty Ltd |
| 18/06/2020 | (APP) DA19-40930 - 78 Kirwan Street, Floreat - Amendment to DA 18 33156 | Manager Planning | Planning and Development (Local Planning Schemes) Regulations 2015 | Regulation 82 | Coast Homes WA Pty Ltd |
| 19/06/2020 | (APP) - (DA19-41245) - 22 Florence Road, Nedlands - Carport | Manager Urban Planning | Planning and Development (Local Planning Schemes) Regulations 2015 | Regulation 82 | J F Elliott |
| 19/06/2020 | (APP) - (DA19-41872) - 4B James Road, Swanbourne - Carport | Manager Urban Planning | Planning and Development (Local Planning Schemes) Regulations 2015 | Regulation 82 | Great Aussie Patios |
| 22/06/2020 | BA56122 Demolition Permit | Manager Building Services | Building Act 2011 | s21.1 | AAA Demolition & Tree Service |
| 22/06/2020 | BA53567 Certified building permit - Pool | Manager Building Services | Building Act 2011 | s20.1 | Quality Dolphin Pools |
| 22/06/2020 | BA54454 Certified building permit - Pool | Manager Building Services |  | s20.1 | Aquatic Lesuire Technologies |
| 23/06/2020 | 3041930 - Withdrawn Parking Infringement Notice - Officer Error | Acting Manager health and Compliance | Local Government Act 1995 | 9.20\6.12(1) | Garry Herron |
| 24/06/2020 | [BA55867 Building Approval Certificate - Fence](https://nedlands365.sharepoint.com/sites/compliance/governance/delegations_register/Forms/Active_Doc_Sets.aspx?RootFolder=/sites%2Fcompliance%2Fgovernance%2Fdelegations%5Fregister%2FBA55867%20Building%20Approval%20Certificate%20%2D%20Fence&View=%7B0388EA9D%2DE183%2D4EAB%2D860E%2D1E5EF37282C8%7D) | Manager Building Services | Building Act 2011 | S58.1 | I Ayoub |
| 24/06/2020 | [BA54299 Certified building permit - Store room](https://nedlands365.sharepoint.com/sites/compliance/governance/delegations_register/Forms/Active_Doc_Sets.aspx?RootFolder=/sites%2Fcompliance%2Fgovernance%2Fdelegations%5Fregister%2FBA54299%20Certified%20building%20permit%20%2D%20Store%20room&View=%7B0388EA9D%2DE183%2D4EAB%2D860E%2D1E5EF37282C8%7D) | Manager Building Services | Building Act 2011 | s20.1 | Seabreeze outdoor |
| 25/06/2020 | [BA55699 Certified building permit - Patio](https://nedlands365.sharepoint.com/sites/compliance/governance/delegations_register/Forms/Active_Doc_Sets.aspx?RootFolder=/sites%2Fcompliance%2Fgovernance%2Fdelegations%5Fregister%2FBA55699%20Certified%20building%20permit%20%2D%20Patio&View=%7B0388EA9D%2DE183%2D4EAB%2D860E%2D1E5EF37282C8%7D) | Manager Building Services | Building Act 2011 | s20.1 | Sunwise Outdoor Living |
| 25/06/2020 | [3041590 - Withdrawn Parking Infringement Notice - Other Compassionate Grounds](https://nedlands365.sharepoint.com/sites/compliance/governance/delegations_register/Forms/Active_Doc_Sets.aspx?RootFolder=/sites%2Fcompliance%2Fgovernance%2Fdelegations%5Fregister%2F3041590%20%2D%20Withdrawn%20Parking%20Infringement%20Notice%20%2D%20Other%20Compassionate%20Grounds&View=%7B0388EA9D%2DE183%2D4EAB%2D860E%2D1E5EF37282C8%7D) | Manager Health and Compliance | Local Government Act 1995 | 9.20/6.12(1) | Robbie Haines |
| 25/06/2020 | [BA55399 Certified building permit - Alterations](https://nedlands365.sharepoint.com/sites/compliance/governance/delegations_register/Forms/Active_Doc_Sets.aspx?RootFolder=/sites%2Fcompliance%2Fgovernance%2Fdelegations%5Fregister%2FBA55399%20Certified%20building%20permit%20%2D%20Alterations&View=%7B0388EA9D%2DE183%2D4EAB%2D860E%2D1E5EF37282C8%7D) | Manager Building Services | Building Act 2011 | s20.1 | Ezydoesit Pty Ltd |
| 25/06/2020 | [BA55427 Certified building permit - Dwelling](https://nedlands365.sharepoint.com/sites/compliance/governance/delegations_register/Forms/Active_Doc_Sets.aspx?RootFolder=/sites%2Fcompliance%2Fgovernance%2Fdelegations%5Fregister%2FBA55427%20Certified%20building%20permit%20%2D%20Dwelling&View=%7B0388EA9D%2DE183%2D4EAB%2D860E%2D1E5EF37282C8%7D) | Manager Building Services | Building Act 2011 | s20.1 | Averna Pty Ltd |
| 26/06/2020 | [BA55413 Uncertified building permit - Pool barrier](https://nedlands365.sharepoint.com/sites/compliance/governance/delegations_register/Forms/Active_Doc_Sets.aspx?RootFolder=/sites%2Fcompliance%2Fgovernance%2Fdelegations%5Fregister%2FBA55413%20Uncertified%20building%20permit%20%2D%20Pool%20barrier&View=%7B0388EA9D%2DE183%2D4EAB%2D860E%2D1E5EF37282C8%7D) | Manager Building Services | Building Act 2011 | s20.1 | Mr S Browne |
| 28/06/2020 | [BA55683 Certified building permit - Dwelling](https://nedlands365.sharepoint.com/sites/compliance/governance/delegations_register/Forms/Active_Doc_Sets.aspx?RootFolder=/sites%2Fcompliance%2Fgovernance%2Fdelegations%5Fregister%2FBA55683%20Certified%20building%20permit%20%2D%20Dwelling&View=%7B0388EA9D%2DE183%2D4EAB%2D860E%2D1E5EF37282C8%7D) | Manager Building Services | Building Act 2011 | s20.1 | Ricciardello Nominees |
| 29/06/2020 | [3041151 - Withdrawn Parking Infringement Notice - Other Compassionate Grounds](https://nedlands365.sharepoint.com/sites/compliance/governance/delegations_register/Forms/Active_Doc_Sets.aspx?RootFolder=/sites%2Fcompliance%2Fgovernance%2Fdelegations%5Fregister%2F3041151%20%2D%20Withdrawn%20Parking%20Infringement%20Notice%20%2D%20Other%20Compassionate%20Grounds&View=%7B0388EA9D%2DE183%2D4EAB%2D860E%2D1E5EF37282C8%7D) | manager Helath and Compliance |  | 9.20/6.12(1) | Peter Anticich |
| 29/06/2020 | [BA55322 Certified building permit - Dwelling](https://nedlands365.sharepoint.com/sites/compliance/governance/delegations_register/Forms/Active_Doc_Sets.aspx?RootFolder=/sites%2Fcompliance%2Fgovernance%2Fdelegations%5Fregister%2FBA55322%20Certified%20building%20permit%20%2D%20Dwelling&View=%7B0388EA9D%2DE183%2D4EAB%2D860E%2D1E5EF37282C8%7D) | Manager Building Services | Building Act 2011 | s20.1 | S S Xing |
| 30/06/2020 | [BA55312 Certified building permit - Dwelling](https://nedlands365.sharepoint.com/sites/compliance/governance/delegations_register/Forms/Active_Doc_Sets.aspx?RootFolder=/sites%2Fcompliance%2Fgovernance%2Fdelegations%5Fregister%2FBA55312%20Certified%20building%20permit%20%2D%20Dwelling&View=%7B0388EA9D%2DE183%2D4EAB%2D860E%2D1E5EF37282C8%7D) | Manager Building Services | Building Act 2011 | s20.1 | S S Xing |
| 30/06/2020 | [BA55335 Certified building permit - Dwelling](https://nedlands365.sharepoint.com/sites/compliance/governance/delegations_register/Forms/Active_Doc_Sets.aspx?RootFolder=/sites%2Fcompliance%2Fgovernance%2Fdelegations%5Fregister%2FBA55335%20Certified%20building%20permit%20%2D%20Dwelling&View=%7B0388EA9D%2DE183%2D4EAB%2D860E%2D1E5EF37282C8%7D) | Manager Building Services | Building Act 2011 | s20.1 | S S Xing |
| 24/06/2020 | [BA54299 Certified building permit - Store room](https://nedlands365.sharepoint.com/sites/compliance/governance/delegations_register/Forms/Active_Doc_Sets.aspx?RootFolder=/sites%2Fcompliance%2Fgovernance%2Fdelegations%5Fregister%2FBA54299%20Certified%20building%20permit%20%2D%20Store%20room&View=%7B0388EA9D%2DE183%2D4EAB%2D860E%2D1E5EF37282C8%7D) | Manager Building Services | Building Act 2011 | s20.1 | Seabreeze outdoor |
| 25/06/2020 | [BA55699 Certified building permit - Patio](https://nedlands365.sharepoint.com/sites/compliance/governance/delegations_register/Forms/Active_Doc_Sets.aspx?RootFolder=/sites%2Fcompliance%2Fgovernance%2Fdelegations%5Fregister%2FBA55699%20Certified%20building%20permit%20%2D%20Patio&View=%7B0388EA9D%2DE183%2D4EAB%2D860E%2D1E5EF37282C8%7D) | Manager Building Services | Building Act 2011 | s20.1 | Sunwise Outdoor Living |
| 25/06/2020 | [3041590 - Withdrawn Parking Infringement Notice - Other Compassionate Grounds](https://nedlands365.sharepoint.com/sites/compliance/governance/delegations_register/Forms/Active_Doc_Sets.aspx?RootFolder=/sites%2Fcompliance%2Fgovernance%2Fdelegations%5Fregister%2F3041590%20%2D%20Withdrawn%20Parking%20Infringement%20Notice%20%2D%20Other%20Compassionate%20Grounds&View=%7B0388EA9D%2DE183%2D4EAB%2D860E%2D1E5EF37282C8%7D) | Manager Health and Compliance | Local Government Act 1995 | 9.20/6.12(1) | Robbie Haines |

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

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

## Councillor Smyth – Design Review Panel Reinstatement

At the Council meeting on 23 June 2020 Councillor Smyth gave notice of her intention to move the following at this meeting.

Moved – Councillor Smyth

Seconded – Councillor Wetherall

**That Council:**

* 1. **resolves to establish a Design Review Panel; and**
  2. **instructs the CEO to; Review and revise the City of Nedlands Previously Draft Design Review Panel Terms of Reference in light of the Advice Notes below;**
  3. **reviews and revise the Previously Draft Design Review Panel Local Planning Policy in light of the Advice Notes below;**
  4. **reviews and reschedules a call for expressions of interest members for the City of Nedlands Design Review Panel, with appointments to the Panel made by Council following its adoption of the Design Review Panel Local Planning Policy;**
  5. **refers Design Review Panel funding options to a Councillor Workshop;**
  6. **refers Design Review modes and thresholds options to a Councillor Workshop, that is based on “Design Review Guide Chapter 7” where levels of escalation and the role of a City Architect are contemplated;**
  7. **Makes arrangements, where appropriate, for complex planning proposals to be considered by another Western Suburbs Design Review Panel or the State Design Review Panel at the proponent’s cost as an interim measure prior to the establishment of the City of Nedlands Design Review Panel; and**
  8. **Gives due regard to the following Advice Notes concerning the implementation and management of a Design Review Panel for the City of Nedlands.**

**Advice Notes:**

* 1. **Council requires a Design Review Panel member to be connected to the City as either a ratepayer, resident or elector;**
  2. **Council expects the Design Review Panel presiding member to be highly regarded in their profession and respected by the community;**
  3. **Council requires Councillors and Staff to be disqualified from being a Design Review Panel member for a period of 2 years after leaving office;**
  4. **Council requires funding options (Clause 4) to include:**

1. **100% cost recovery for development applications, from the applicant; and**
2. **100% subsidy for strategies, policies, master plans, precinct plans, local development plans, structure plans, activity centre plans, local planning schemes and amendments or other matters when requested, by the City. and**
   1. **Council requires modes and thresholds options (Clause 5) to include:**
3. **a tiered approach to Design Review Panel involvement diminishing with large, medium and small developments;**
4. **consideration of a part-time City Architect role; and**
5. **consideration of Community Reference Group role.**
   1. **presents a re-scoped recommendation to the September 2020 Council meeting.**

Councillor Mangano left the meeting at 7.52 pm and returned a 7.55 pm.

Amendment

Moved - Councillor Horley

Seconded - Councillor Bennett

**That advice note c be replaced with the following:**

**Council requires final approval of panel members.**

**The Amendment was PUT and was**

**CARRIED 7/5**

**(Against: Crs. Smyth McManus Poliwka Wetherall & Hay)**

Councillor Coghlan left the meeting at 8.04 pm.

Amendment

Moved - Councillor McManus

Seconded - Councillor Mangano

**That clause 5. be replaced with advice note d. i. and delete advice note d. ii and renumber following as required.**

**The AMENDMENT was PUT and was**

Councillor Coghlan returned to the meeting at 8.06 pm.

**CARRIED 7/5**

**(Against: Mayor de Lacy Crs. Horley Smyth Hodsdon & Senathirajah)**

**The Substantive was PUT and was**

**CARRIED 10/2**

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

**Council Resolution**

**That Council:**

1. **resolves to establish a Design Review Panel; and**
2. **instructs the CEO to; Review and revise the City of Nedlands Previously Draft Design Review Panel Terms of Reference in light of the Advice Notes below;**
3. **review and revise the Previously Draft Design Review Panel Local Planning Policy in light of the Advice Notes below;**
4. **review and reschedule a call for expressions of interest members for the City of Nedlands Design Review Panel, with appointments to the Panel made by Council following its adoption of the Design Review Panel Local Planning Policy;**
5. **Council requires funding options (Clause 4) to include 100% cost recovery for development applications, from the applicant; and**
6. **refer Design Review modes and thresholds options to a Councillor Workshop, that is based on “Design Review Guide Chapter 7” where levels of escalation and the role of a City Architect are contemplated;**
7. **Make arrangements, where appropriate, for complex planning proposals to be considered by another Western Suburbs Design Review Panel or the State Design Review Panel at the proponent’s cost as an interim measure prior to the establishment of the City of Nedlands Design Review Panel; and**
8. **Give due regard to the following Advice Notes concerning the implementation and management of a Design Review Panel for the City of Nedlands.**

**Advice Notes:**

1. **Council requires a Design Review Panel member to be connected to the City as either a ratepayer, resident or elector;**
2. **Council expects the Design Review Panel presiding member to be highly regarded in their profession and respected by the community;**
3. **Council requires final approval of panel members.**
4. **Council requires modes and thresholds options (Clause 5) to include:**
5. **a tiered approach to Design Review Panel involvement diminishing with large, medium and small developments;**
6. **consideration of a part-time City Architect role; and**
7. **consideration of Community Reference Group role.**
8. **present a re-scoped recommendation to the September 2020 Council meeting.**

Justification

1. A majority of Councillors have expressed a view that the benefits of a modified Design Review Panel Policy and Terms of Reference would outweigh their previous concerns.
2. An adjusted resolution is needed as we cannot simply re-instate the previous motion of the 30th January 2020, because a number of matters have changed including timeframe, budget and scope.
3. It has become apparent that since the gazettal of Local Planning Scheme 3 the number and complexity of Development Applications being lodged in the City requires reinforcement of the structures that underpin the planning support framework. One such structure being the Design Review Panel.
4. Design Review Panels (DRP) are a legitimate part of the Planning Framework and by implication strengthens the City’s claims within the Responsible Authority Report (RAR) prepared for the Development Application Panel (DAP).
5. Access to a DRP would greatly improve City Planners’ ability to prepare a strong RAR based on sound planning principles and allow engagement with the DRP as an early intervention measure.
6. The Design Review Panel Local Planning Policy, Terms of Reference and Panel appointees are all within the power of Council as the elected body.
7. City of Nedlands could collaborate with other neighbouring Local Government DRPs in shared Precincts such as Perth and Subiaco.
8. Other small Councils such as Claremont and Peppermint Grove may be interested in utilizing the City’s DRP.
9. Council Resolution 15.5 DAP Related Development Application Cost & Income dated 31 March 2020 provides for open transparency understanding the costs related to Development Applications and related DRP involvement. Copied below for reference:

“That Council requests the CEO provides a monthly summary of DAP Applications costs and income on a project basis at the completion of each case.”

1. Council has expressed its concerns with DRP being:

* potential for cost escalation;
* inequitable distribution of costs;
* inappropriate distribution of power to an unelected body;
* outside interference with the City’s expressed Strategic direct;
* ideologically, to consider the extent by which the community’s right to influence design is balanced against the aspirations of an individual property owner.

Most of these concerns are manageable given reasons 1-7 above. Only the last point is a matter for conscience for the elected members.

Administration Comment

Council is advised that the City has already completed item 3 of Resolution7.0 from January 30th 2020, however, given the decision being rescinded would advise Council to instruct the CEO to re-advertise the Design Review Panel LPP and Expressions of Interest again for a period of 21 days.

Administration advise that a cost sharing model should be used to encourage the use of the DRP by smaller proponents with an emphasis on pre-lodgement design consultation. Post lodgement DRP should be funded by the applicant as in most cases if the DRP has not provided support prior to lodgement there are generally overall concerns with a project that the designer or applicant has failed to resolve.

Administration would predict approximately 2-3 items would be required to be brought to the DRP per month (1-2 meetings). Each DRP would cost in the order of approximately $4000 (excluding staff resourcing) with a cost of $48,000 - $96,000 per annum. Partial funding by the City in a cost sharing model would be a cost of approximately $60,000 if for example the first DRP was free and any subsequent DRP’s would be at the applicants cost. \*Assumption DRP requiring 2 reviews, 1 pre lodgement and 1 post lodgement with half needing the second review. We therefore recommend a budget item of $60,000 to be added.

If re-advertising were to occur Council is advised that subject to ordinary council report cycle the earliest this could be brought back to Council is October unless a Special Council meeting is called in September.

Administration are supportive of working with other local governments, including other Western Suburbs Local Governments to share our services and costs.

Response to Point 6 Advice Notes

1. Review and revise the City of Nedlands Design Review Panel Terms of Reference in light of the Advice Notes;

Administration advise that based on these advice notes a revised terms of reference and expressions of interest would need to be finalised and calls for Design Review Panel members would need to be readvertised.

1. Review and revise the Design Review Panel Local Planning Policy in light of the Advice Notes;

Administration advise that the DRP LPP would need to be re-drafted and re-advertised.

1. Review and reschedule a call for expressions of interest members for the City of Nedlands Design Review Panel, with appointments to the Panel made by Council following its adoption of the Design Review Panel Local Planning Policy;

Administration advise no objections to this task.

1. Refer Design Review Panel funding options to a Councillor Workshop;

Administration advise no objections to this task.

1. Refer Design Review modes and thresholds options to a Councillor Workshop, that is based on “Design Review Guide Chapter 7” where levels of escalation and the role of a City Architect are contemplated;

Administration advise that a City Architect would not replace a Design Review Panel. Architecture forms just one component of the existing Design Review process and also includes other specialists as required.

1. Give due regard to these Advice Notes concerning the implementation and management of a Design Review Panel for the City of Nedlands.

Advice Notes

1. Council requires a Design Review Panel member to be connected to the City as either a ratepayer, resident or elector.

Administration believe that DRP members should be selected based on their technical qualifications and experience rather than based on where they live or whether they are paying rates to the City of Nedlands.

1. Council expects the Design Review Panel presiding member to be highly regarded in their profession and respected by the community.

Administration agree.

1. Council requires Councillors and Staff to be disqualified from being a Design Review Panel member for a period of 2 years after leaving office.

Administration do not have an objection to this however question the reasoning behind this requirement.

1. Council requires funding options (Clause 4) to include:
2. 100% cost recovery for development applications, from the applicant,

Administration believe that in order to incentivise the use of a Pre-lodgement Design Review Panel that those DRP meetings should be either free or subsidised, and that any post lodgement DRP’s, assuming that most of the design issues should be resolved prior to lodgement, that those meetings are fully cost recovered from the applicant.

1. 100% subsidy for strategies, policies, master plans, precinct plans, local development plans, structure plans, activity centre plans, local planning schemes and amendments or other matters when requested, by the City.

Administration agree.

1. Council requires modes and thresholds options (Clause 5) to include:
2. a tiered approach to Design Review Panel involvement diminishing with large, medium and small developments,
3. consideration of a part-time City Architect role,
4. consideration of Community Reference Group role.

Administration do not object to having an on- staff City Architect, however do not support the replacement of a DRP with a City Architect as it will not capture the same level of expertise and collaboration that a DRP would provide.

1. Present a re-scoped recommendation to the September 2020 Council meeting.

Given the current schedule of work and Council priorities, the earliest that this revised package of LPP and deliverables will be the October 2020 Council meeting.

## Councillor Horley – New Options for Community Events

On the 2 July 2020 Councillor Horley gave notice of her intention to move the following at this meeting.

Moved – Councillor Horley

Seconded – Councillor Bennett

That Council:

1. instructs the CEO to proceed with the planning and delivery of an eclectic mix of community entertainment programs and initiatives for local residents and ratepayers, in addition to the City’s special events and community third-party activation and event grants; and
2. approves for inclusion into the 2020/21 annual budget process funds of $64,000 and where possible reallocated in the next Budget financial review including any operating surplus, subject to the following:
   1. planning to be of an appropriate scale, process and structure to include local residents and ratepayers of each ward within the City of Nedlands at the most advantageous period and time in which to deliver the local community events;
   2. comprehensive and appropriate risk assessment, preparation, management planning, limitations relating to overcrowding, flexible logistics and appropriate responses to government health guidelines including those relating to Covid related hygiene, wellness and physical distancing;
   3. the procurement of goods and services to be cognizant of the possibility of event cancellation and where possible favour suppliers that are willing to enter into contractual arrangements that will reasonably share the financial risks of event cancellation between City and supplier;
   4. a public education campaign being undertaken at the event communicating key messages on COVID related hygiene, wellness and physical distancing awareness; and
   5. regular liaison with the appropriate authorities until either the delivery or cancellation of the event, and regularly reporting to Council.

Lost on the CASTING VOTE 6/7

(Against: Mayor de Lacy Crs. McManus Mangano Wetherall Hay Poliwka)

**ABSOLUTE MAJORITY REQUIRED**

Justification

New options for community events of a smaller and flexible scale 3 oriented towards local residents and ratepayers; with the aim of fostering community wellbeing, cohesion and capacity building, in alignment with the objectives of the City’s Strategic Community Plan.

Administration Comment

**Safety**

Administration is confident that the City can hold the Summer Concerts in a way that is COVID safety compliant. A full, detailed risk assessment will be undertaken, and all the necessary measures taken to ensure appropriate social distancing and hygiene measures.  Measures that will be considered include marked areas for discreet family groups; possible ticketing of a fenced event; sanitizing stations; and a public awareness campaign in the lead-up to the concerts and at the events themselves.

**Timing**

There is a long lead-time for organising the Summer Concerts. If the Concerts are to go ahead, a decision needs to be made by 1 August 2020.  This is to enable the booking of bands, equipment, and suppliers in time to secure them for the peak events season of summer.  The concerts are held in summer, but the contractors, bands and equipment are all booked in the preceding August, to secure them for the following February.

**Community Valuing of Concerts**

The Summer Concerts in the Parks series is this community’s largest and most highly valued community get-together.  Total attendance over the 4 concerts is generally between 4,000 – 7,000.  These numbers (average of around 1,500 people per concert) can be safely managed because these are outdoor events with excellent sound quality, and therefore audience members can be appropriately socially distanced. Line markings for family groups can be considered, depending on the state of the pandemic by February 2021. The community consistently rates their satisfaction with the Summer Concerts to be > 90%. In particular, an opportunity to socialise outdoors in the City’s beautiful parks is highly valued.

**Budget**

The budget for the Summer Concerts could be reduced from $64,000 to $60,000, by cutting out some of the ancillary activities at the Concerts.  This would still allow the community to enjoy a series of safe, appropriately distanced, social events in the outdoors of the City’s beautiful parks.

**Flexibility**

The City is currently planning for services and events in an uncertain environment.  The key principle when planning in an environment of change is to plan with flexibility.  A flexible approach to planning for the City’s events would to be allow for both the possibility of providing the events, if safe to do so; and the possibility of cancelling the event, if required by pandemic conditions at the time.  This approach allows the decision on whether the concerts are going ahead or not, to be made closer to the time, when the pandemic-related conditions will be known.

**Cancellation Clause**

The City will include a cancellation clause in the supplier contracts, to ensure that cancellation due to government directive results in no financial penalty for the City.

**Alternatives to Summer Concerts**

Should it be envisioned that a series of smaller events are to be delivered Administration will need to consider this and formulate a program, costing, marketing and delivery.

## Councillor Wetherall – Rescission Motion – Summer Concerts

On the 3 July 2020 Councillor Wetherall, Councillor McManus, Councillor Hodsdon, Councillor Poliwka and Councillor Bennett in accordance with Standing Orders Local Law 2009, Part 14 gave notice of their intention to move the following at this meeting.

We, the undersigned wish to rescind a previous Council decision of 30 June 2020, item 6 – Budget 2020/21, Clause 16 in accordance with Standing Orders Local Law 2009, Part 14 as listed below:

Signatories:

1. Councillor Wetherall
2. Councillor McManus
3. Councillor Hodsdon
4. Councillor Poliwka
5. Councillor Bennett

Moved – Councillor Wetherall

Seconded – Councillor McManus

Rescission Motion

That Council revokes clause 16 of item 6 Council Resolution of Special Council Meeting 30 June 2020 as follows:

1. Community Events

Suspends community events (Summer Concerts) at a cost saving of approximately $66,800 noting that Special Events remain in the budget.

to allow reinstatement of the summer concert program planned for February 2021, together with possible changes to the offerings.

Lost 4/8

(Against: Mayor de Lacy Crs. Horley Smyth Mangano Hodsdon

Coghlan Hay & Senathirajah)

**ABSOLUTE MAJORITY REQUIRED**

Justification

The arguments in support of rescission are:

1. The status of the COVID pandemic in February 2021 is unknown – maybe good, maybe bad.
2. If it turns bad, Council (or more likely the Government) can always cancel the concerts anyway - why make that decision now if it is unnecessary?
3. The nature of the open-air concerts facilitates easy social distancing for those who want to do it; there is a lot of space in the parklands and the backup facilities, as is the Band are well separated.
4. The concerts are supported by many people and are popular, especially with families.  They are one of the best publicity/goodwill things we do for the whole community - young too old. It is important for local government to engage with younger members of our community since it is they who will be called on to contribute and develop local government in future years.
5. The amount of money saved is small relative to some of the last-minute inclusions in the budget, and it is likely that only minor adjustments will be required to accommodate the concerts. The concerts benefit many people, some other budgeted items only benefit the few.
6. The motion allows for some degree of recognition for the staff who have strived for some years to ensure this a successful engagement with our community.
7. As Director Lorraine Driscoll has said, if we are to go ahead a decision must be made soon.

Administration Comment

**Safety**

Administration is confident that the City can hold the Summer Concerts in a way that is COVID safety compliant. A full, detailed risk assessment will be undertaken, and all the necessary measures taken to ensure appropriate social distancing and hygiene measures.  Measures that will be considered include marked areas for discreet family groups; possible ticketing of a fenced event to cap numbers if necessary; sanitizing stations; and a public awareness campaign prior to and at the concerts themselves. Should the pandemic situation worsen considerably by next February, the concerts, along with all other public events, would be cancelled, as required by the state government.

**Timing**

There is a long lead-time for organising the Summer Concerts. If the Concerts are to go ahead, a decision needs to be made by 1 August 2020.  This is to enable the booking of bands, equipment, and suppliers in time to secure them for the peak events season of summer.  The concerts are held in summer, but the contractors, bands and equipment are all booked in the preceding August, to secure them for the following February.

**Community Valuing of Concerts**

The Summer Concerts in the Parks series is this community’s largest and most highly valued community socialization event.  Total attendance over the 4 concerts is generally between 4,000 – 7,000.  These numbers (average of around 1,500 people per concert) can be safely managed because these are outdoor events with excellent sound quality; and therefore, audience members can be appropriately socially distanced. Line markings for family groups can be considered, depending on the state of the pandemic by February 2021. Attendees consistently rates their satisfaction with the Summer Concerts to be > 90% (Very High). In particular, an opportunity to socialise outdoors in the City’s beautiful parks is highly rated by attendees.

**Community Response to Cancellation**

Community members will generally not yet be aware of the cancellation of the concerts.  Most people will not realise the cancellation until January 2021, when they notice the absence of promotion of the concerts.  The City usually starts receiving calls about the concerts (asking, for example, which bands are performing) in January each year.  Given that the concerts have been held on Sunday evenings in February for over 20 years, most community members will at this stage be unaware that the concerts have been cancelled and will expect them to go be going ahead, unless cancellation is required by changing COVID conditions.

**Budget**

The budget for the Summer Concerts could be reduced from $64,000 to $60,000, by cutting out some of the ancillary activities at the Concerts.  This would still allow the community to enjoy a series of safe, appropriately distanced, social events in the outdoors of the City’s beautiful parks.

**Flexibility**

The City is currently planning for services and events in an uncertain environment.  The key principle when planning in an environment of change is to plan with flexibility.  A flexible approach to planning for the City’s events would to be allow for both the possibility of providing the events, if safe to do so; and the possibility of cancelling the event, if required by pandemic conditions at the time.  This approach allows the decision on whether the concerts are going ahead or not, to be made closer to the time, when the pandemic-related conditions will be known.

**Cancellation Clause**

The City will include a cancellation clause in the supplier contracts, to ensure that cancellation due to government directive results in no financial penalty for the City.

## Mayor de Lacy – Mandatory Residential Development in Mixed Use Zone

On the 5 July 2020 Mayor gave notice of her intention to move the following at this meeting.

Please Note: This motion was withdrawn by Mayor de Lacy.

That Council instructs the CEO to prepare a Scheme Amendment to LPS3 which seeks to introduce a Mandatory Residential land use requirement within the Nedlands Town Centre Precinct “Activity Centre” and that the City of Stirling LPS3 Clause 6.8.8 to be used as reference .

That the Draft Scheme Amendment be brought to Council for September for request to consent to advertise.

Justification

The reason for pursuing this scheme amendment via a NoM in July, is the fact it is becoming apparent following the MINJDAP meeting for Woolworths DA this week, and the deliberations previously in the JDAP about 135 Broadway DA, that our scheme is weak where it concerns the need for residential development in the Mixed Use Zone.

An objective of ‘residential development’ in the Mixed Use zone in LPS3 is not strong enough and cannot be enforced the same way a ‘Mandatory Residential’ clause in the scheme could be enforced.  The Local Planning Strategy identified that Stirling Highway, Broadway and Hampden Road were Urban Growth Areas where most of the residential density to meet the City’s targets should be located.  We must strengthen our scheme provisions to make this happen.

As we heard recently from the Administration, the DPLH prefers to see scheme amendments and not LPPs as means of addressing loopholes in our scheme that are preventing us from achieving the objectives of our Local Planning Strategy.

**Administration Response**

The City, as part of the development of the Nedlands Town Centre Precinct Plan, will be seeking to incorporate additional provisions to LPS3 to substantiate the required built form, activity and movement elements which will adequately support the development of a Town Centre for Nedlands.

Administration are generally supportive of the requirement to introduce “Mandatory Residential” requirements for all RAC1 and RAC3 zones which are currently zoned “Mixed Use” and by way of objectives, require a significant component of residential development. As discussed, this scheme objective is not entirely prescriptive and allows the decision maker the ability to approve a development with no residential development. This is not seen as an ideal outcome, particularly for a town centre which relies on immediate population catchments, particularly population within walking distance to ensure its viability and activation.

Through Precinct Planning and Built form modelling and testing it is envisaged that it will become clearer whether some sites in the Mixed Use Zone can or should be solely residential. This provision as proposed for mandatory residential could be applied across the entire zone or in specific areas identified in that local context, and therefore written into the scheme provisions for that specific area. There may however be sites along the highway which Council may want to see developed, that are not in the Town Centre, that may be suitable for solely commercial development such as showrooms or fast food outlets for example, Council will need to decide whether or not it wishes to apply a “Mandatory Residential” provision to all sites along Stirling Highway / Hampden / Broadway / Waratah Village or just in specific areas.

At this stage is it advised that the ‘Mandatory Residential’ provisions as proposed be specific to the Nedlands Town Centre Precinct, and that this issue be discussed and decided on by Council in each Precinct as they are presented to Council.

The Specifics relating to the Scheme Clauses themselves, and in which section of LPS3 this would sit, would require further discussion with the Scheme’s team at DPLH, and for officers to further develop those clauses, with reference to the Scarborough City of Stirling example provided.

## Councillor Mangano – Overgrown Ficus Verge Trees

On the 13 July 2020 Councillor Mangano gave notice of his intention to move the following at this meeting.

Moved – Councillor Mangano

Seconded – Councillor Bennett

Council instructs the CEO to have the 3 very large existing overgrown Ficus verge trees opposite 2 Rene Road and 30 Gallop Road Dalkeith on the verge of Gallop Road, be substantially pruned to reduce their height and remove large branches and growth overhanging Gallop Road and the verges of these properties.

Councillor Smyth left the meeting at 8.54 pm and returned at 8.57 pm.

Lost 4/8

(Against: Mayor de Lacy Crs. McManus Poliwka Wetherall Hay Hodsdon Horley Senathirajah)

Moved – Councillor Wetherall

Seconded – Councillor McManus

**Council Resolution**

**Council instructs the CEO to investigate the 3 very large existing overgrown Ficus verge trees and their impacts, opposite 2 Rene Road and 30 Gallop Road Dalkeith on the verge of Gallop Road, and provide a report to the Council in September 2020 with recommendations for mitigating any adverse impacts**.

**CARRIED 10/2**

**(Against: Crs. Poliwka & Hay)**

Justification

On the Council verge of Gallop Road Dalkeith opposite 2 Rene Road and 30 Gallop Road there are 3 massively overgrown Ficus trees with very large branches and foliage overhanging right across Gallop Road and the verges of both these properties to the extent they are now impinging on the boundaries of these properties and seriously impacting on the amenity of the owners of the residences opposite.

They are all extremely high with very thick foliage which results in the properties opposite (2 Rene Road & 30 Gallop Road) being in total shade 24/7 for several months of the year. One tree in particular is extremely lop-sided leaning severely to the south over Gallop Road.

These trees constantly produce large quantities of leaf litter, fallen branches and berries all over these resident’s verges, properties, Gallop Road itself, and the pedestrian footpath.

As a result, on many occasions this section of Gallop road is often slippery, wet and dangerous for both traffic and pedestrians.

The road gutters are constantly blocked, and the drainage sumps totally clogged up. The tree roots are extremely invasive and are damaging the road surface, footpath, and drainage system.

Due to the constant snow of leaf litter from these trees maintaining their Gallop road verges and their house roof gutters is an unreasonable constant task for the property owners.

The possibility of installation of roof top solar panels to these properties has not been recommended by installers due to the degree of shading and wind- blown leaf litter.

These trees have not been maintained or cut back in any reasonable manner for many years. They continue to grow massively and present a continuing and increasing maintenance cost to Council.

Council’s Street Tree Policy is noted but is considered by the affected property owners of 2 Rene and 30 Gallop Roads to be totally inappropriate and inadequate in acknowledging the degree of extreme overgrowth, shading, safety risk, inconvenience, and lack of amenity that they are currently causing.

These Ficus trees are not appropriate as verge trees, and at the very least must be maintained, requiring to be immediately substantially pruned back off Gallop road and reduced considerably in height.

Administration Comment

As an alternative recommendation Administration requests that “Council instructs the CEO to investigate the 3 very large existing overgrown Ficus verge trees and their impacts, opposite 2 Rene Road and 30 Gallop Road Dalkeith on the verge of Gallop Road, and provide a report to the Council in September 2020 with recommendations for mitigating any adverse impacts”.

The impact of Ficus trees on verges is known to cause disturbance to properties and City infrastructure due to the size these trees grow to in maturity.

This alternative recommendation will allow a properly qualified and experience horticulturalist to assess the risks related to the Ficus trees and bring the most appropriate course of action to Council, that accords with the Street Tree Council Policy. It may be that pruning, removal or other actions are appropriate in this case.

## Councillor Coghlan – Recission Motion – Residential Aged Care Facilities Local Planning Policy

Please Note: This item was withdrawn as item was covered by CEO Reports.

On the 17 July 2020 Councillor Coghlan, Councillor McManus, Councillor Hodsdon, Councillor Mangano and Councillor Bennett in accordance with Standing Orders Local Law 2009, Part 14 gave notice of their intention to move the following at this meeting.

We, the undersigned wish to rescind a previous Council decision for PD11.20 of 28 April 2020, in accordance with Standing Orders Local Law 2009, Part 14 as listed below:

Signatories:

1. Councillor Coghlan
2. Councillor McManus
3. Councillor Hodsdon
4. Councillor Mangano
5. Councillor Bennett

**That Council revokes decision PD11.20 of 28 April 2020:**

**That Council proceeds to adopt the Residential Aged Care Facilities Local Planning Policy with modifications, as set out in Attachment 2, in accordance with the Planning and Development (Local Planning Schemes) Regulations 2015 Schedule 2, Part 2, Clause 4(3)(b)(ii).**

Justification

Failure to advertise significant changes:

1. Council resolved to advertise the then draft Residential Aged Care Facilities Local Planning Policy (**Aged Care LPP**) at its Ordinary Council Meeting of 17 December 2019.
2. Council considered the draft Aged Care LPP at its meeting of 28 April 2020 following the completion of the public notice period.
3. Accompanying the Planning and Development Report 11.20 (Administration Report) at Attachment One was a marked-up version of draft Aged Care LPP. The amendments had been made after the public notice period had closed and had not been advertised to the public.
4. The Administration Report made note of amendments as follows:

“The modifications proposed to the draft LPP, which the public have not had the opportunity to comment on, are considered minor in nature and are not considered to warrant further advertising of the draft LPP”.

1. Council, following advice from Administration, accepted the amendments as minor and determined to proceed with the adoption of the draft Aged Care LPP, inclusive of the amendments.
2. It has since become clear that the amendments were not minor in nature, particularly as they relate to clause 4.2 of the Aged Care LPP. The amendments significantly increased what was capable of development on certain land in relation to height and plot ratio:
   1. The draft LPP as advertised, in respect of lots larger than 2000m2 in size, imposed a building height of 3 storeys, and a plot ratio of 0.8.
   2. The Administration Report recommended amending the development controls to a building height of 4 storeys, and a plot ratio of 1.0.
   3. The changes represent an increase in height by one third and an increase in plot ratio by one quarter.
3. The Administration Report explained that the increase in height was a necessary product of a typographical error which had meant the development controls of R-60 coding as borrowed from the *State Planning Policy 7.3 - Residential Design Codes, Volume 1* had been inadvertently included at the now clause 4.2.4, when the intention was for them to reflect the development controls of R80 coding.
4. The significance should not have been under played. The Aged Care LPP applies across residential and commercial zones in the City, and the difference between three and four storeys in a residential area is substantial and certainly not minor in nature. The acceptable plot ratio was also amended (and increased), which is similarly significant enough in nature that it ought to have been readvertised.
5. The public ought to have been provided the opportunity for further comment.

**Inappropriate vehicle for development control**

The Aged Care LPP operates to apply an R-Coding or vary development standards which would ordinarily be imposed by a planning scheme, or through a structure plan or local development plan.

It has become apparent since the adoption of the Aged Care LPP that a local planning policy is an inappropriate mechanism for controlling development when site specific circumstances need to be taken into account.

A local planning policy guides a decision maker to promote rational and consistent decision-making. It is a not a document to which strict adherence is required. The effect of this is that development applications are not required to strictly adhere with the provisions of the Aged Care LPP and may be approved regardless.

The Administration Report suggested that a local planning policy was the only mechanism available to the City which would allow for the control of residential aged care facilities as follows:

“LPS3 has no requirement for a Local Development Plan or other development provisions on the subject sites. Due to this, administration resolved to prepare a policy addressing residential aged care facility land uses and providing parameters which will guide the development and redevelopment of sites for the purposes of the land use Residential Aged Care. The draft policy has been prepared in response to a proponent's intention to apply to develop a residential aged care facility on a site within the City, and the current absence of any specific development requirements for this proposal”.

Whilst Council accepted this advice in making the Decision, it has since become apparent that the appropriate mechanism for guiding and controlling development in this regard is through a local development plan or structure plan, depending on the context of the relevant site and/or proposal. This would allow for an integrated and site-specific understanding of how residential aged care facilities should be developed, with proper regard to the context of the relevant locality. The operation of Schedule 2 of the *Planning and Development (Local Schemes) Regulations 2015* (known as the Deemed Provisions) provides that opportunity:

* 1. Under clause 47(d) of the Deemed Provisions, a local development plan can be prepared if the WAPC and the local government considers it necessary for the purposes of orderly and proper planning;
  2. Under clause 15(c) of the Deemed Provisions, a structure plan can be prepared if the WAPC considers it necessary for the purposes of orderly and proper planning

There is a clear intention within the City to have better controls in place for residential aged care facilities for the purposes of orderly and proper planning. The WAPC is aligned in that position. The WAPC draft *Position Statement: Residential Aged Care 2019* provides that a local development plan should be prepared if development standards for residential aged care facilities and retirement villages are not specified in the local planning scheme or strategic planning framework.

The City has the capacity to request that the WAPC require a structure plan be prepared when there are multiple land owners involved or require a local development plan when there is a single land owner, and it should be relying on such mechanisms accordingly.

**Unintended consequences**

It is clear that the Aged Care LPP, with its broad application, has unintended consequences when tested. It is not capable of properly responding to site specific needs or context.

In particular, it has the capacity to allow for significantly intensified commercial development in areas with otherwise low-density residential codings, which could undermine the amenity and character of localities.

The operation of clause 4.2.3 for example means that theoretically, anywhere within the residential zone of the City, a residential block smaller than 2000m2 in size could have a residential aged care facility built on it with R60 development controls applied, including primary setbacks of 2 metres and a height of three storeys. This would be completely inconsistent with the typical residential areas in the district.

Council and the public did not fully appreciate the potential consequences of the Aged Care LPP when considering it.

**Why an amendment to the Aged Care LPP would be insufficient**

Amending the Aged Care LPP would not sufficiently address the concerns that the document cannot respond to site specific circumstances.

Amending the Aged Care LPP would still allow for certain land in the City to be disproportionally developed in comparison to its locality.

In the meantime, residential aged care facilities will be assessed against relevant planning considerations under the Deemed Provisions which can take into account, amongst other things, the site-specific realities and the appropriateness of the development in its setting.

Administration Comment

Justification points 1-3

1. Council resolved to advertise the then draft Residential Aged Care Facilities Local Planning Policy (Aged Care LPP) at its Ordinary Council Meeting of 17 December 2019.
2. Council considered the draft Aged Care LPP at its meeting of 28 April 2020 following the completion of the public notice period.
3. Accompanying the Planning and Development Report 11.20 (Administration Report) at Attachment One was a marked-up version of draft Aged Care LPP. The amendments had been made after the public notice period had closed and had not been advertised to the public.

Administration notes Points 1-3

Point 4

The Administration Report made note of amendments as follows:

“The modifications proposed to the draft LPP, which the public have not had the opportunity to comment on, are considered minor in nature and are not considered to warrant further advertising of the draft LPP”.

Administration notes point 4 and considers the change to be minor, given that the reference to R80 would match a height of 4 storey. There are no references to R80 in the R Codes which reference 3 storey and the error was typographical in nature. Council had an opportunity to seek for re-advertising if it considered the change to be major in accordance with the Planning Regulations, this was debated, and the motion was lost. Council then deemed the change to be minor and subsequently approved the LPP with the change as suggested by Administration. If it is genuinely considered by the Council that modifications which were made to the LPP after publication were possibly not properly considered minor, then the appropriate course may be to revisit the matters on which the modifications were made, and to consider whether amendments should be made, and advertised for public consultation in accordance with deemed cll.4 and 5, of the Planning Regulations 2015.

Point 5

Council, following advice from Administration, accepted the amendments as minor and determined to proceed with the adoption of the draft Aged Care LPP, inclusive of the amendments.

Administration notes point 5.

Point 6

It has since become clear that the amendments were not minor in nature, particularly as they relate to clause 4.2 of the Aged Care LPP. The amendments significantly increased what was capable of development on certain land in relation to height and plot ratio:

* The draft LPP as advertised, in respect of lots larger than 2000m2 in size, imposed a building height of 3 storeys, and a plot ratio of 0.8.
  1. The Administration Report recommended amending the development controls to a building height of 4 storeys, and a plot ratio of 1.0.
  2. The changes represent an increase in height by one third and an increase in plot ratio by one quarter.

Administration reiterates that the R80 reference always relates to 4 storey height as a subsequence of R80 provisions. The LPP did not anticipate a 3 storey height limit. It is also noted that the City received no submissions to the LPP during the advertising period and that advertising has followed due statutory process and procedure in line with the requirements of the Planning Regulations. Administration would have re-advertised the LPP if Council had determined the change to be major but this was not the decision of Council.

Point 7

The Administration Report explained that the increase in height was a necessary product of a typographical error which had meant the development controls of R-60 coding as borrowed from the State Planning Policy 7.3 - Residential Design Codes, Volume 1 had been inadvertently included at the now clause 4.2.4, when the intention was for them to reflect the development controls of R80 coding.

Administration notes that this is correct.

Point 8

The significance should not have been under played. The Aged Care LPP applies across residential and commercial zones in the City, and the difference between three and four storeys in a residential area is substantial and certainly not minor in nature. The acceptable plot ratio was also amended (and increased), which is similarly significant enough in nature that it ought to have been readvertised.

Administration through the Director Planning and Development explained the difference, and that the LPP could be re-advertised or a lower height could be applied at three storeys. Council debated this and ultimately made the decision to accept the change as minor and adopted the LPP.

Point 9

The public ought to have been provided the opportunity for further comment.

Administration notes that Council made a decision that the amendment was minor in nature, that it did not require re-advertising and approved the LPP accordingly. Council now has the opportunity to revise the LPP as tabled at Council, and to re-advertise the suggested changes / amendments.

Point 10

The Aged Care LPP operates to apply an R-Coding or vary development standards which would ordinarily be imposed by a planning scheme, or through a structure plan or local development plan.

Administration have prepared two scheme amendments to address this and have proposed amendments to the LPP which are requested to be given consent to advertise at the July OCM.

Point 11

It has become apparent since the adoption of the Aged Care LPP that a local planning policy is an inappropriate mechanism for controlling development when site specific circumstances need to be taken into account.

Administration agree that an LPP alone does not provide statutory certainty to development outcomes as it is only a due regard document so has prepared both scheme amendment and modified LPP provisions to support the community and its expectations moving forward.

Point 12

A local planning policy guides a decision maker to promote rational and consistent decision-making. It is a not a document to which strict adherence is required. The effect of this is that development applications are not required to strictly adhere with the provisions of the Aged Care LPP and may be approved regardless.

Administration are aware that the LPP is a due regard document and is able to be varied. Provisions via a Scheme Amendment should provide more certainty.

Point 13

The Administration Report suggested that a local planning policy was the only mechanism available to the City which would allow for the control of residential aged care facilities as follows:

“LPS3 has no requirement for a Local Development Plan or other development provisions on the subject sites. Due to this, administration resolved to prepare a policy addressing residential aged care facility land uses and providing parameters which will guide the development and redevelopment of sites for the purposes of the land use Residential Aged Care. The draft policy has been prepared in response to a proponent's intention to apply to develop a residential aged care facility on a site within the City, and the current absence of any specific development requirements for this proposal”.

Administration response is that other than by amending the Additional Use provision A9 this statement is correct.

Point 14

Whilst Council accepted this advice in making the Decision, it has since become apparent that the appropriate mechanism for guiding and controlling development in this regard is through a local development plan or structure plan, depending on the context of the relevant site and/or proposal. This would allow for an integrated and site-specific understanding of how residential aged care facilities should be developed, with proper regard to the context of the relevant locality. The operation of Schedule 2 of the Planning and Development (Local Schemes) Regulations 2015 (known as the **Deemed Provisions**) provides that opportunity:

Under clause 47(d) of the Deemed Provisions, a local development plan can be prepared if the WAPC and the local government considers it necessary for the purposes of orderly and proper planning;

Under clause 15(c) of the Deemed Provisions, a structure plan can be prepared if the WAPC considers it necessary for the purposes of orderly and proper planning.

Administration have prepared two scheme amendments and modified version of the LPP prior to receiving the details of this NOM.

Point 15

There is a clear intention within the City to have better controls in place for residential aged care facilities for the purposes of orderly and proper planning. The WAPC is aligned in that position. The WAPC draft Position Statement: Residential Aged Care 2019 provides that a local development plan should be prepared if development standards for residential aged care facilities and retirement villages are not specified in the local planning scheme or strategic planning framework.

Noted, the Administration have prepared two scheme amendments and a modified version of the LPP prior to receiving the details of this NOM. In an email today to the Mayor from administration we have suggested that an Aged Care Strategy would be beneficial to the Nedlands Community, identifying a strategic position and direction associated with the growing needs for residential aged care within our community and its correlation to land use, context and local character within the City of Nedlands.

Point 16

The City has the capacity to request that the WAPC require a structure plan be prepared when there are multiple land owners involved or require a local development plan when there is a single land owner, and it should be relying on such mechanisms accordingly.

It is suggested that a Local Development Plan is the appropriate planning instrument in this instance and that this requirement should form part of any requirement to develop a residential aged care facility within the City of Nedlands.

Point 17

It is clear that the Aged Care LPP, with its broad application, has unintended consequences when tested. It is not capable of properly responding to site specific needs or context.

Administration notes this point. The City has prepared additional planning framework to address the issues that have arisen. It is suggested as per legal advice that the policy be amended to address the issues that are being raised.

Point 18

In particular, it has the capacity to allow for significantly intensified commercial development in areas with otherwise low-density residential codings, which could undermine the amenity and character of localities.

Administration notes this point. The City has prepared additional planning framework to address the issues that have arisen.

Point 19

The operation of clause 4.2.3 for example means that theoretically, anywhere within the residential zone of the City, a residential block small than 2000m2 in size could have a residential aged care facility built on it with R60 development controls applied, including primary setbacks of 2 metres and a height of three storeys. This would be completely inconsistent with the typical residential areas in the district.

Administration notes this point. The City has prepared additional planning framework to address the issues that have arisen.

Point 20

Council and the public did not fully appreciate the potential consequences of the Aged Care LPP when considering it.

Administration notes this point. The City has prepared additional planning framework to address the issues that have arisen in response to community feedback. It is suggested that Council consent to the LPP Residential Aged Care Policy being re-advertised with associated amendments. It is noted that the LPP was advertised in accordance with the relevant deemed provisions.

Point 21-23

Amending the Aged Care LPP would not sufficiently address the concerns that the document cannot respond to site specific circumstances.

Amending the Aged Care LPP would still allow for certain land in the City to be disproportionally developed in comparison to its locality.

In the meantime, residential aged care facilities will be assessed against relevant planning considerations under the Deemed Provisions which can take into account, amongst other things, the site-specific realities and the appropriateness of the development in its setting.

Administration advise that the amendment of the LPP needs to be taken into consideration with the two Scheme Amendments that are before Council at this meeting. These two amendments along with the LPP modifications will seek to address Councils and the Community’s concerns.

If the LPP adoption decision is rescinded, and the advertising of the Scheme Amendments is not complete, before the current JDAP application is put before the decision maker, there will be few controls in place to guide the decision maker. A modified LPP which has been advertised and that advertising has been completed will be given ‘due regard’ by the decision maker, if that process is finalised prior to the 28th August 2020 which is the current RAR due date for the current development application.

Council is advised that legal advice provided suggests that if the Council wish to remove the LPP from the City’s Policy Suite, the policy should be revoked.

Under deemed cl.6, a LPP may be revoked –

'(a) by a subsequent local planning policy that -

(i) is prepared in accordance with this Part; and

(ii) expressly revokes the local planning policy; or

(b) by a notice of revocation -

(i) prepared by the local government; and

(ii) published in the newspaper circulating in the scheme

area.'

The Council will need to pass a resolution to revoke the policy if it wants to

remove the policy completely.

**The Mayor granted a recess for the purposes of a refreshment break.**

The meeting adjourned at 9.09 pm and reconvened at 9.17 pm with the following people in attendance:

**Councillors** Her Worship the Mayor, C M de Lacy (Presiding Member)

Councillor F J O Bennett Dalkeith Ward

Councillor A W Mangano Dalkeith Ward

Councillor B G Hodsdon Hollywood Ward

Counillor P N Poliwka Hollywood Ward

Councillor J D Wetherall Hollywood Ward

Councillor R A Coghlan Melvista Ward

Councillor G A R Hay Melvista Ward

Councillor R Senathirajah Melvista Ward

Councillor N B J Horley Coastal Districts Ward

Councillor L J McManus Coastal Districts Ward

Councillor K A Smyth Coastal Districts Ward

**Staff** Mrs N M Ceric Executive Assistant to CEO & Mayor

Mrs S J Mettam Manager Human Resources

Closure of Meeting to the Public

Moved – Councillor McManus

Seconded - Councillor Smyth

**That the meeting be closed to the public in accordance with Section 5.23 (d) of the Local Government Act 1995 to allow confidential discussion on the following Item.**

**CARRIED 10/2**

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

The meeting was closed to the public at 9.19 pm.

# Elected members notices of motion given at the meeting for consideration at the following ordinary meeting on 25 August 2020

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

Notices of motion for consideration at the Council Meeting to be held on 25 August 2020 to be tabled at this point in accordance with Clause 3.9(2) of Council’s Local Law Relating to Standing Orders.

Nil.

# Urgent Business Approved by the Presiding Member or By Decision

The following items were accepted by the Presiding Member as Urgent Business.

## Councillor Mangano – Scheme Amendment 7

Please note: This item was brought forward see page 101.

## Councillor Coghlan – Public Submission on Proposed Peace Memorial Rose Garden Local Planning Policy

Please note: This item was brought forward see page 103 pm.

# Confidential Items

## 17.1 CEO Performance Review

Confidential Report circulated to Councillors.

Closure of Meeting to the Public

Moved – Councillor McManus

Seconded - Councillor Smyth

**That the meeting be closed to the public in accordance with Section 5.23 (a) of the Local Government Act 1995 to allow confidential discussion on item 17.1 CEO Performance Review.**

**CARRIED 10/2**

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

The meeting was closed to the public at 9.19 pm.

Moved - Councillor McManus

Seconded - Councillor Wetherall

**That the meeting be reopened to members of the public and the press.**

**CARRIED UNANIMOUSLY 12/-**

The meeting was reopened to members of the public and the press at 10.08 pm.

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 Horley

**Council Resolution**

**That Council:**

1. **having considered Councillor feedback on Chief Executive Officer Mark Goodlet’s performance, approves and endorses the finding of “satisfactory” performance;**
2. **approves the revised draft CEO Key Result Areas (as amended in Confidential Attachment 3) to apply to the CEO for the next 12 months, such KRA’s having been provided to the CEO for review and comment and finalised by the CEO Performance Review Committee; and**
3. **notes the WA Salaries and Allowances Tribunal determination is to not increase salary bands for the 2020/2021 financial year and recommends to Council that the CEO’s remuneration remains unchanged until the next annual review in 2021.**

**CARRIED 11/1**

**(Against: Cr. Mangano)**

# Declaration of Closure

There being no further business, the Presiding Member declared the meeting closed at 10.11 pm.