**MINUTES**

**Council Meeting**

**28 June 2022**

**Attention**

**These Minutes are subject to confirmation.**

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

**Information**

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

**Public Question Time**

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

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

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

**Addresses by Members of the Public**

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

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

**Disclaimer**

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

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# Declaration of Opening

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

* 1. **Councillor Amiry – Online Participation**

Councillor Amiry requested to participate in this Council Meeting online.

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

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

b) the person is in a suitable place; and

c) the council has approved of the arrangement.

Councillor Amiry has advised that she will be situated in a private room at 17 Glenthorne Rd, Hammersmith, London for the duration of the meeting.

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

Moved – Councillor Youngman

Seconded – Councillor Hodsdon

**That Council:**

1. **approves a private room at 17 Glenthorne Rd, Hammersmith, London as a suitable place for the purposes of Regulations 14A(l)(b) and 14A(4); and**

**2. approves the participation of Councillor Amiry at the Council Meeting held 28 June 2022 online via teams pursuant to Regulation 14A(l)(c).**

**CARRIED UNANIMOUSLY 13/-**

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

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

Councillor B Brackenridge Melvista Ward

Councillor R A Coghlan Melvista Ward

Councillor R Senathirajah Melvista Ward

Councillor H Amiry Coastal Districts Ward

Councillor L J McManus Coastal Districts Ward

Councillor K A Smyth Coastal Districts Ward

Councillor F J O Bennett Dalkeith Ward

Councillor A W Mangano Dalkeith Ward

Councillor N R Youngman Dalkeith Ward

Councillor O Combes Hollywood Ward

Councillor B G Hodsdon Hollywood Ward

Councillor J D Wetherall Hollywood Ward

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

Mr M R Cole Director Corporate & Strategy

Mr T G Free Director Planning & Development

Mr A D Melville Acting Technical Services

Mrs N M Ceric Executive Officer

**Public Gallery** There were 26 members of the public present and 3 online.

**Press** Nil.

**Leave of Absence** Nil.

**(Previously Approved)**

**Apologies** Nil

# Public Question Time

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

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

2. 1. **Mrs Clair Smith**

I am delighted to see the Tree Retention policy being tabled.

**Question 1**

What is the policy were clause 61(e) and clause 60A conflict? ie. When there is a tree that meets the qualifying criteria to be protected, a neighbour would like to do a fence line prune but an arborist advises a fence line prune will damage / destroy the tree.

**Answer**

What is proposed as an Amendment Scheme to the Local Planning Scheme No. 3. As the Scheme Amendment is currently written the neighbour would not be required to obtain planning approval to prune the tree back to the shared property boundary.

**Question 2**

Can I still protect my tree, on my property with this policy?

**Answer**

The proposed Scheme Amendment seeks to protect trees on private property within the limtations of the density coding, tree criteria and exclusions outlined in the wording of the proposed Amendment.

* 1. **Dr Peter Robins**

Since the gazetting of the Nedlands Local Planning Scheme No.3 in April 2019 there has been a very slow response by the City in delivering meaningful Local Planning policies and Precinct Plans. This has left areas of Nedlands at the mercy of opportunistic developers and a broken system that supports them, with little ability to adequately control the size and scale of development in established areas where such overdevelopment is highly inappropriate. In addition, there are many policy gaps, with areas where no local policy is currently even planned.

As part of the approach to bridge this policy gap, the draft Nedlands Local Planning Policy – Primary Controls for Apartment Developments seeks to provide guidance to applicants and decision-makers, and establish Council’s preference for apartment development to be consistent with the default standards of the State Planning Policy 7.3 - Residential Design Codes Volume

2 - Apartments.

At the September 2021 Ordinary Council Meeting, Council resolved almost unanimously to prepare and advertise the draft LPP – Primary Controls for Apartment Developments, which had already been under preparation by the City for almost a year at that time.

Not until 5 months later was the community invited to submit feedback during the Submission Period: 11 February to 7 March 2022, and a Community Information Session was also held on 24 February 2022 at the City of Nedlands Council Chambers.

Following the conclusion of advertising and assessment of submissions, a report has apparently been prepared by the City’s Strategic Planning Officer, but the draft Policy has not been presented back to Council for consideration and adoption a further 4 months later.

**Question**

Why after a Council resolution to proceed to advertise the LPP – Primary Controls in September 2021, has there been such a significant delay by the City Administration in progressing this policy, first to advertising and then in presenting it back to Council?

And specifically, given that the LPP was merely a revision of a version that the City had completed drafting in late 2020 and therefore minimal staff resources were required to progress, why has there been such a protracted 10 month timeframe in acting on this Council resolution?

**Answer**

A priority has been placed on addressing the developer contributions options available to Council resulting in Council resolving to prepare a Public Open Space Strategy and adopting a position on the imposition of a cash in lieu of public open space contribution for development via a phased approach. Work is now processing on the Public Open Space Strategy.

A prioirty has been placed on the development of a Scheme Amendment to protect trees on private property, resulting in Council being requested to consider the Amendment as part of tonights agenda. Work is continuing in this space in relation to the development of an associated policy and further Scheme Amendments.

A priority has been placed on the development of a local design response to the density increases which were introduced via Local Planning Scheme 3 in April 2019, for the Waratah precinct which has been adopted by Council for advertising and for the Broadway Precinct and for the Hollywood/Hampden precinct both on which are on the Council agenda tonight seeking consent to advertise. Each of these local responses have been prepared following a community engagement process via Community Reference Groups and then additional sessions with Councillors.

Similar work has been undertaken for Stirling Highway to address the key issue of height along the highway and then for the residential areas north and south of the highway which have had increases in their densities with the introduction of Local Planning Scheme 3. This work will be presented to Council in coming months.

The expectation is the policy will be presented to Council in August.

* 1. **Mrs Denise Murray**

Allen Park was set aside more than 100 years ago as Class A Reserve for use as parks and recreation. At present, the buildings in Allen Park (The Pavilion, The Tennis Club, the Rugby Club, the Surf Club and the Bridge Club) are used for sport and/or recreation and are accessible to the local and wider community.

**Question 1**

Can Council please advise if any part of the proposed Children’s Hospice facility (to be constructed within the area that was excised from Class A Reserve) will be available as a public community facility for current and future generations in the spirit of Allen Park itself?

**Answer**

No part of the proposed Children’s Hospice facility is intended to be used as a public facility.

**Question 2**

If the Children’s Hospice is built, and is subsequently not used for the purpose of a children’s hospice, as happened with the purpose-built adult Cottage Hospice in Bedbrook Place, Shenton Park, can Council please advise a. whether the building will then become the property of the WA government or some other party; and b. will it be able to be sold for redevelopment or some other purpose?

**Answer**

A condition of the management order for lot 503 is “to be utilised for the designated purpose of ‘Children Hospice’ only”. Should the Children’s Hospice not be used for this purpose it would be in breach of the management order. The relevant Minister will have the ability to modify the management order.

**Question 3**

Council previously declined to support a proposal by the Perth Children’s Hospital Foundation to build a “Community Park” on adjacent Class A Reserve that is already managed by the City of Nedlands.

1. Does Council have an explanation as to why an area designated as a “community park” remains in the plans accompanying the Development Application; and
2. if this is incorrectly drawn, has Council taken steps to have the drawings corrected?

**Answer**

The plans submitted at Attachment 2 do not make reference to a community park

**Question 4**

There is already immense pressure on the provision and management of parking in the bitumen parking areas and overflow areas adjacent to the Bridge and Rugby Clubs and the bitumen and overflow parking areas for the Swanbourne Surf Club, Swanbourne Beach and the Shorehouse Restaurant, especially during frequent club events and throughout summer when parking flows over into surrounding streets. Consultants engaged by the proponents have determined the proposed location of the hospice to be “car dependent” because it is poorly served by public transport.

1. What assessments have been made to determine the cost impost on the City of Nedlands and its ratepayers of traffic, parking and associated requirements, especially during construction which is likely to take several years?
2. How will Council ensure that traffic and parking consequences of this proposed expansion of use, do not impact the existing Class A Reserves or result in further destruction of park and bushlands in order to build more car parks?

**Answer**

The application proposes a total of 40 car bays which exceeds the 12 car bays which would usually be required under the City’s Parking Local Planning Policy. The proposed car parking provision is contained within the lot.

Traffic and parking during construction phase will be dealt with via a construction management plan.

* 1. **Dr Neville Hills**

I would appreciate advice regarding the steps taken by the responsible government minister to consult Nedlands Council as required under Section. 14 of the Land Administration Act 1997 in respect of the excision of land from Allen Park Reserves.

LAND ADMINISTRATION ACT 1997 - SECT 14

14. Minister to consult local governments before exercising certain powers in relation to Crown land Before exercising in relation to Crown land any power conferred by this Act, the Minister must, unless it is impracticable to do so, consult the local government within the district of which the Crown land is situated concerning that exercise.

**Question 1**

Did the Minister for Lands consult Nedlands Council as the relevant local government as required under the above legislation?

**Answer**

Yes, the Department of Planning Lands and Heritage on behalf of the Minister emailed the former Mayor.

**Question 2**

If so, on what date did this occur?

**Answer**

In early 2020.

**Question 3**

In what form did this occur?

**Answer**

By email.

**Question 4**

With whom did consultation occur?

**Answer**

While the former Mayor received the email, it was not acted on by the former Mayor.

**Question 5**

What was the outcome of any ministerial consultation with the City of Nedlands?

**Answer**

Following the email, the Mayor and Councillors received a presentation from the Child and Adolescent Health Service on the proposed Children’s Hospice indicating Allen Park as one of a number of locations, with Allen Park being their prferred location. No commitments were made at that stage. In July 2020 the then Minister for Health announced Allen Park as the preferred location for the proposed hospice.

**Question 6**

Is there a publicly available record of any ministerial consultation?

**Answer**

The City issued media releases on 2 September 2020, 14 October 2020 and 9 November 2020 on the proposed hospice.

* 1. **Mr Malcolm Murray**

**Question 1**

Item 16.2 records that the document PD36.06.22 relates to “Comment on State Development Assessment Unit (SDAU) Application for Children’s Hospice Development at 61 (Lot503) Clement Street, Swanbourne.”

In the tabulated diagram immediately below this Title, the APPLICANT in this matter is “Western Australian Planning Commission”.

Further, an organisation named “CLE Town Planning + Design” was recorded by the SDAU in its ‘consultation documents’ as being the Applicant for the Hospice Proposal.

Please confirm which party is regarded as the Applicant for the Hospice project?

**Answer**

The applicant is CLE Town Planning + Design.

The Western Australian Planning Commission is the Responsible Authority.

The State Development Assessment Unit is the decision maker.

**Question 2**

Is it the intention to convey in the papers for Agenda Item 16.2 that the party that is recognised as ‘the Applicant’ (and all of its possible Successors) will be automatically bound by the undertakings in this Application, initially for the duration of the construction of the project and subsequently, in the post-construction period?

**Answer**

Any conditions placed on the approval and associated stamped plans and documents are legally binding. An approval runs with the land, not the applicant. Whoever acts on an approval is bound to any conditions of approval.

**Question 3**

Item 16.2 of Agenda also includes numerous references to our City relying upon the traditional regulatory process of issuing, or withholding, a BUILDING PERMIT to/from the Applicant as a means of ensuring that many, very important aspects of the design/planning phases of the project are planned and implemented in a manner that is acceptable to the City of Nedlands (on behalf of its ratepayers).

What confirmation is there that the current powers of the Council regarding the issue/withholding of a Building Permit will effectively apply to, and will prevail against, a counter-determination, or other contrary behaviour by whichever party is deemed the Applicant for the Project?

**Answer**

Section 20 of the Building Act 2011 requires that all relevant planning conditions be satisfied prior to the granting of a building permit.

**Question 4**

Will the regulatory influence of the Building Permit also continue to apply undiminished, even further into the future, if a transfer of responsibility for the project should occur to another party, the identity of whom is not presently known?

**Answer**

A Building permit may be transferred from one builder to another provided that there is no change to the scope of the works.

**Question 5**

In this situation of apparent uncertainty about the obligations that will apply to future, potential recipients of the responsibility for managing/undertaking/completing the construction of the Hospice, how can our City ensure that such parties will honour their obligations?

**Answer**

Building permits are issued under the current Building Legislation at the time. Under the current Building Legislation, it is the responsibility of the Builder in accordance with their registration to comply with all relevant legislation which includes the Planning Approval. Enforcement action can be taken should an applicant breach a condition of approval.

**Question 6**

What threats to Council budgets and ratepayer costs could arise in each of the areas listed in the Agenda Item if Council were to resolve to give its support to the Project by accepting the Development Application?

**Answer**

The land is not within the City’s Management Order. Should the development application be approved, there are no financial implications to the City.

**Question 7**

What assurances do ratepayers have that the Building Permit process will ensure that the proposed Developer of the Hospice and the ultimate operator will undertake to meet a fair share of ALL COUNCIL EXPENDITURE that can reasonably be foreseen from the Project and associated necessary works?

**Answer**

There is no anticipated Council expenditure associated with the project.

* 1. **Mr Peter Taranto**

Item 16.2 is titled: “Comment on **State Development Assessment Unit** Application for Children’s Hospice Development at 61 (Lot 503) Clement Street, Swanbourne". Further on, the agenda cites the Applicant as the **‘Western Australian Planning Commission**’. The Development Application documents were prepared by CLE Town Planning + Design (‘CLE’) who declare on the inside cover of their overview document that the application is prepared for the **Child and Adolescent Health Service (‘CAHS’)**. **CAHS** is named in the certificate of title for the proposed site in Allen Park as the primary interest holder of the land.

**Question 1**

Which entity does Administration understand to be ‘**the applicant**’ in the development application – the State Development Assessment Unit, the Western Australian Planning Commission, or the Child Adolescent Health Service? Are there any hidden or unknown costs to ratepayers depending on who the development applicant really is?

**Answer**

The applicant is CLE Town Planning + Design.

The Western Australian Planning Commission is the Responsible Authority.

The State Development Assessment Unit is the decision maker.

The Child and Adolescent Health Service is the Government Agency to which the Lot 503 Management order is vested to.

None of the above results in any costs to ratepayers.

**Question 2**

The Perth Children’s Hospital Foundation (‘PCHF’) has previously offered to ‘donate’ the construction of a community park with the City of Nedlands being liable for the community garden’s maintenance costs, on 3,000 square metres of Class A reserve land adjacent to the proposed hospice site. Would endorsement of the development application by Council entail any hidden or unknown costs to ratepayers without resolution of whether or not there will be a proposed community garden on the proposed hospice site and whether or not the City of Nedlands will be liable for the costs of its upkeep?

**Answer**

The City of Nedlands is not responsible for any costs associated with the Hospice. Endorsement of this development application is not considered to have any financial implications to the City. A transfer of land from PCHF to the City of Nedlands would be an entirely separate process from the current application and is not being considered as part of this application

**Question 3**

If Council endorses the development application, will there be any hidden or unknown costs to ratepayers without taking into account the planned expansion by Associates Rugby Club of its facilities in order to enlarge its membership. The planned expansion will include additional and larger changing rooms, two function rooms, licenced premises, a gym which is open 24 hours a day and modifications of the carpark adjacent to the proposed hospice site?

**Answer**

Endorsement of this development application is not considered to have any financial implications to the City.

**Question 4**

As the management body for Allen Park, will the City of Nedlands be responsible for the costs of any necessary security patrols and of managing noise complaints associated with locating a hospice (or hospital) in the middle of Class A reserves classified as ‘Park and Recreation’ which is also a thoroughfare to a public beach?

**Answer**

The Hospice site is under a separate management order, which is vested to the Child and Adolescent Health Service. The City of Nedlands is not responsible for any costs associated with the Hospice. Should residents have any noise concerns with the Hospice this would be dealt in accordance with the Environmental Protection (Noise) Regulations 1997.

# Addresses by Members of the Public

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

Mr Henry Esbenshade, spoke in opposition to PD35.06.22 Consideration of Development Application – 4 Grouped Dwellings at 24 Clark Street, Nedlands.

Mrs Tracy McLaren, spoke in opposition to PD36.06.22 Comment on State Development Assessment Unit Application for Children’s Hospice Development at 61 (Lot 503) Clement Street, Swanbourne.

Mrs Denise Murray, spoke in opposition to PD36.06.22 Comment on State Development Assessment Unit Application for Children’s Hospice Development at 61 (Lot 503) Clement Street, Swanbourne.

Moved – Councillor Coghlan

Seconded – Councillor Youngman

**That Council suspend Standing Order No. 3.4(4) to allow an additional speaker on item PD36.06.22.**

**CARRIED UNANIMOUSLY 13/-**

Ms Eliza Clapin, spoke in opposition to PD36.06.22 Comment on State Development Assessment Unit Application for Children’s Hospice Development at 61 (Lot 503) Clement Street, Swanbourne.

Dr Lynne Cunningham, spoke in opposition to PD37.06.22 Comment on State Development Assessment Unit Application for Tawarri Hot Springs Development at 120 Esplanade, Dalkeith

Moved – Councillor Coghlan

Seconded – Councillor Bennett

**That Council suspend Standing Order No. 3.4(5) to extend the public address session.**

**CARRIED UNANIMOUSLY 13/-**

Dr Robin Collin spoke in opposition to PD37.06.22 Comment on State Development Assessment Unit Application for Tawarri Hot Springs Development at 120 Esplanade, Dalkeith.

Mr Chris Zelestis, spoke in opposition to PD37.06.22 Comment on State Development Assessment Unit Application for Tawarri Hot Springs Development at 120 Esplanade, Dalkeith

Mr Ian Argyle spoke in opposition to PD37.06.22 Comment on State Development Assessment Unit Application for Tawarri Hot Springs Development at 120 Esplanade, Dalkeith.

Councillor Wetherall retired from the meeting at 6.55pm.

Professor Matt Hipsey, spoke in opposition to PD37.06.22 Comment on State Development Assessment Unit Application for Tawarri Hot Springs Development at 120 Esplanade, Dalkeith.

Mr Brendan O’Toole, spoke in support of PD40.06.22 Initiation of Scheme Amendment No. 12 – Tree Retention on Private Land.

Mr Max Hipkins, spoke in support of PD40.06.22 Initiation of Scheme Amendment No. 12 – Tree Retention on Private Land.

Moved – Councillor Coghlan

Seconded – Councillor Bennett

**That Council suspend Standing Order No. 3.4(4) to allow an additional speaker on item PD40.06.22.**

**CARRIED UNANIMOUSLY 12/-**

E/Professor Hans Lambers, spoke in support of PD40.06.22 Initiation of Scheme Amendment No. 12 – Tree Retention on Private Land.

Mr Laurie Taylor, spoke in opposition to CPS23.06.22 Differential Rates 2022/23 – Approval for Advertising.

Councillor Brackenridge & Councillor Coghlan left the room at 7.17pm and returned at 7.18pm.

# Requests for Leave of Absence

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

Nil.

# Petitions

Petitions to be tabled at this point.

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

Councillor Hodsdon tables a petition on behalf of Ms Natasha Wilcox and 44 others in opposition to the proposed development at 37-43 Stirling Highway, Nedlands.

Moved – Councillor Hodsdon

Seconded – Councillor Coghlan

**That Council receive the petition.**

**CARRIED UNANIMOUSLY 12-**

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

Councillor Hodsdon tables a petition on behalf of Mr Shane Cranston and 59 others in opposition to the proposed development at 37-43 Stirling Highway, Nedlands.

Moved – Councillor Hodsdon

Seconded – Councillor Coghlan

**That Council receive the petition.**

**CARRIED UNANIMOUSLY 12-**

# Disclosures of Financial / Proximity Interest

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

* 1. **Councillor Hodsdon – 16.5 - PD39.06.22 Consideration of Adoption of Local Planning Policy for Advertising – Draft Hollywood Precinct Design Response**

Councillor Hodsdon disclosed a financial / proximity interest in Item 16.5 – PD39.06.22 Consideration of Adoption of Local Planning Policy for Advertising – Draft Hollywood Precinct Design Response, his interest being that he has a property in the area. Councillor Hodsdon advised he would leave the room during this item.

* 1. **Councillor Bennett – 16.4 - PD38.06.22 Consideration of Adoption of Local Planning Policy for Advertising – Draft Broadway Precinct Design Response**

Councillor Bennett disclosed a financial interest in Item 16.4 PD38.06.22, his interest being that he lives and is a part owner of a property on Broadway. Councillor Bennett advised he would leave the room during this item.

# Disclosures of Interests Affecting Impartiality

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

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

Cr Coghlan – read the papers however thinks the papers are too long for Council Members to consider.

# Confirmation of Minutes

# 10.1 Ordinary Council Meeting Minutes - 24 May 2022

Moved – Councillor Youngman

Seconded – Councillor McManus

**The minutes of the Ordinary Council Meeting held 24 May 2022 be confirmed.**

**CARRIED 11/1**

**(Against: Cr. Bennett)**

# 10.2 Special Council Meeting Minutes - 17 May 2022

Moved – Councillor Youngman

Seconded – Councillor Senathirajah

**The minutes of the Special Council Meeting held 17 May 2022 be confirmed.**

**CARRIED 11/1**

**(Against: Cr. Bennett)**

# Announcements of the Presiding Member without discussion.

Ladies and gentlemen, it has been one year since I became the Mayor of the City of Nedlands.

It is an absolute privilege to be here.

Leadership is not a position; it is an opportunity to serve. To make the world a slightly better place.

I have had the most incredible year, meeting many residents and rate payers, you are the kindest people I have ever met. This is evidenced by the generosity that you have shown to the people from the Ukraine.

Since coming to office, I have not waivered one mm, from my key objectives:

1. Community representation.
2. Powerful fiscal management.
3. Smart planning - new precedents, adherence to the rules.
4. Sustainability now.

This City has everything going for us, and I have examined the strengths of our City very carefully.

We can lead on:

1. Sustainability and the environment. Why? Because no one else is. We have the most beautiful Class A reserves, green spaces, leafy green streets, an ocean and a river.
2. We can excel on technology, because we have some wonderful brains in the cCity. We have the centre for entrepreneurial research, or CERI here in Nedlands. I often say, let’s be like Palo Alto, the southern hemisphere birthplace of new ideas and innovation.
3. We are at the global forefront on medical services, with the Hollywood Private Hospital - largest hospital in WA. The largest private hospital in Australia.
4. We can win on sport. We have WAIS here and world leading sporting fields.
5. We can lead on education. We have 11 of the top schools in the electorate, CCGS and UWA have large land parcels in Nedlands.
6. We can support small business, the arts and culture.

I am not talking about change, I am talking about strength, a laser-like focus on our abilities, an extraordinary opportunity to progress. To work for the betterment of others, and our City is one of life’s great rewards.

When we make decisions, it’s important to think long term, eagle eyes, protect the community, like they are your family.

Councillor Youngman left the meeting at 7.30pm and returned at 7.32pm.

I go back to my first speech, 12 months ago, my message has not changed. If administration and council can work better together, we will be flying. We need to set strategic plans for the future of our great city, and work, hand in hand, to achieve these goals.

“A government of the people, by the people for the people”. A famous quote by Abraham Lincoln.

Rest assured, as your local government, we will gather the data, and make the decisions, always in your best interest. As the Mayor, together with councillors, we will make the tough calls that will always benefit the wider community. This is our pledge to you.

The ‘wider community’ is a term referred to a community that is alive today, and future generations of tomorrow. Together we will stand for you.

I will now hand over to Deputy Mayor, Cr McManus, who is going to say some very kind words about our beloved Marion Granich.

Thank you.

# Members Announcements without discussion.

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

12.1 Councillor McManus

I speak to you about Marion Granich with a heavy heart.

We were all shocked when news came of Marion's stroke and even more so when we learnt of her passing on Sunday. It is still hard to believe and is very raw.

I would first like to offer my sincere condolences to Marion's son Jack, daughter Fawzia and her two grandchildren, for them this is a tragedy of immense proportions.

I also offer my sincere condolences to Marion's siblings, Eugene, Alex, Delores, Velma, Lily, Mark and Joe. Also, to two other extended family members Branko and Lily who were like a brother and sister after Marion's father brought them out to Australia from Croatia to look after.

We also offer our support to the City of Nedlands staff particularly those that worked under Marion. They have been badly affected by Marion's passing. She was help in high esteem by all staff. The Council offers our thoughts and prayers for them as they try and cope as best, they can.

Marion was the daughter of Joe and Ennis Granich who farmed at Moorine Rock, 12 miles from Southern Cross. I have known Marion all my life. Her father Joe was a Croatian immigrant who worked day and night to develop their farm and to look after his family. They were a wonderful family, held in high esteem by the entire Yilgarn population and were firm family friends of us.

Marion had the same qualities as her parents of kindness, warmth, compassion and with a genuine interest in people of all walks. She could also be firm but fair.

One indication of her care, concern and compassion for family and friends was told to me today by her brother Alex. Alex's son died, also unexpectedly from a heart attack some 9 years ago and every year since on the anniversary of his passing a bouquet of flowers would arrive at Alex's place from Marion. Such compassion was normal for Marion.

In regard to her long career here at the City of Nedlands;

* Marion commenced with the City on 19 June 2000 and has since held various management positions including; Manager Recreation Services, Manager Community Projects and Manager Community Development.
* Marion was very involved with the community and took part in many successful events for the City including Australian Citizenship ceremonies, ANZAC day celebrations and Summer Concerts, various Tresillian exhibitions and City celebrations. Marion and her team were also involved and responsible for the implementation of the City’s Disability Access and Inclusion Plan.
* Community projects were also a favourite for Marian including:
* Arts Committee
* Citizenship ceremonies
* Summer Concerts
* Sporting clubs
* Tresillian Arts Centre
* Marion was a highly intelligent, integral and valued member of the City’s management team and often stepped into the roles of Executive Manager or Director when the need arose in the executive management team.
* A major project for which Marion will forever be held in high esteem, was her seven year involvement with the Jo Wheatley All Abilities Play Space. She played a pivotal role in the development of the centre, working closely with Rotary Clubs and other stakeholders, to help bring this landmark facility to fruition.
* In August 2015, the City celebrated with Marion when she was awarded the prestigious Paul Harris Fellowship for all her work on the Jo Wheatley All Ability Play Space project.

This fellowship is the highest honour a Rotary club can bestow – it recognises “service above self”.

At the time, Marion said the project was ‘close to her heart’. She said it was ‘the loveliest thing to work with other like-minded people on something that is really worth doing’. I think Marion thought that way about a lot of things that she did, here in the City.

Whether she was welcoming people to the Small Business Sundowner at Adam Armstrong Pavillion or wandering around Tresillian admiring the artwork, Marion did everything with sincerity, professionalism and warmth.

She could make you laugh, or dress you down with equal doses of sincerity and care. She will be sorely missed by many particularly here at the City of Nedlands.

We will greatly miss the warmth and friendship of Marion.

**Vale Marion Granich, you good and faithful servant.**

# Matters for Which the Meeting May Be Closed

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

Nil.

Councillor McManus left the meeting at 7.40pm.

# En Bloc Items

Moved – Councillor Youngman

Seconded – Councillor Hodsdon

**That the officer recommendations for Items 15.1, 16.1, 16.8, 17.2, 17.3 and 18.1 be adopted en bloc and the remaining items be dealt with separately.**

**CARRIED 9/2**

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

# Minutes of Council Committees and Administrative Liaison Working Groups

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

This is an information item only to receive the minutes of the various meetings held by the Council appointed Committees and Working Groups (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 Youngman

Seconded – Councillor Hodsdon

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

**Lake Claremont Advisory Committee Meeting Minutes 12 May 2022**

Unconfirmed, circulated to Councillors on 1 June 2022

**CEO Recruitment & Selection Committee Meeting Minutes 12 May 2022**

Unconfirmed, circulated to Councillors on 8 June 2022

**Site Assessment Working Group Meeting Minutes 16 May 2022**

Unconfirmed, circulated to Councillors on 26 May 2022

**CEO Performance Review Committee Meeting Minutes 24 May 2022**

Unconfirmed, circulated to Councillors on 3 June 2022

**Site Assessment Working Group Meeting Minutes 30 May 2022**

Unconfirmed, circulated to Councillors on 31 May 2022

**Audit & Risk Committee Meeting Minutes 30 May 2022**

Unconfirmed, circulated to Councillors on 9 June 2022

**Organisational Review Committee Meeting Minutes 7 June 2022**

Unconfirmed, circulated to Councillors on 8 June 2022

**CEO Recruitment & Selection Committee Meeting Minutes 21 June 2022**

Unconfirmed, circulated to Councillors on 23 June 2022

**CARRIED 9/2**

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

# Divisional Reports - Planning & Development Report No’s PD35.06.22 to PD41.06.22



# PD35.06.22 Consideration of Development Application – 4 Grouped Dwellings at 24 Clark Street, Nedlands

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting – 28 June 2022 |
| **Applicant** | Sincerity Building Group Pty Ltd |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | The author, reviewers and authoriser of this report declare they have no financial or impartiality interest with this matter.  There is no financial or personal relationship between City staff involved in the preparation of this report and the proponents or their consultants. |
| **Report Author** | Roy Winslow – Manager Urban Planning |
| **Director** | Tony Free – Director Planning and Development |
| **Attachments** | 1. Aerial Image and Zoning Map 2. Development Plans 3. Architectural Perspective Drawings 4. CONFIDENTIAL ATTACHMENT – Submissions |

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

Moved – Councillor Youngman

Seconded – Councillor Hodsdon

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

(Printed below for ease of reference)

**CARRIED 9/2**

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

**Council Resolution / Recommendation**

**That Council:**

**In accordance with Clause 68(2)(b) of the Deemed Provisions of the Planning and Development (Local Planning Schemes) Regulations 2015, Council approves the development application in accordance with the plans date stamped 5 May 2022 for four (4) grouped dwellings at 24 Clark Street, Nedlands, subject to the following conditions:**

1. **This approval relates only to the development as indicated on the approved plans dated 5 May 2022. It does not relate to any other development on this lot and must substantially commence within 2 years from the date of the decision letter.**
2. **All works indicated on the approved plans shall be wholly located within the lot boundaries of the subject site.**
3. **Prior to occupation, walls on or adjacent to lot boundaries are to be finished externally to the same standard as the rest of the development in:**
   1. **Face brick;**
   2. **Painted render;**
   3. **Painted brickwork; or**
   4. **Other clean finish as specified on the approved plans.**

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

1. **Prior to the issue of a building permit, a Construction Management Plan shall be submitted and approved to the satisfaction of the City. The approved Construction Management Plan shall be observed at all times throughout the construction process to the satisfaction of the City.**
2. **The Arborist Report dated 25 February 2022 prepared by CIVICA forms part of this approval. The recommendations contained within the report must be adhered to at all times to the satisfaction of the City of Nedlands.**
3. **Prior to the issue of a building permit, amended plans and documentation are to be submitted demonstrating that the recommendations within the Arborist Report dated 25 February 2022 prepared by CIVICA have been implemented and will be maintained for the duration of the construction process to the satisfaction of the City of Nedlands.**
4. **All stormwater discharge from the development shall be contained and disposed of on-site unless otherwise approved by the City of Nedlands.**
5. **Prior to occupation, landscaping shall be completed in accordance with the approved plans or any approved modifications to the satisfaction of the City of Nedlands. All landscaped areas are to be maintained on an ongoing basis for the life of the development on the site to the satisfaction of the City of Nedlands.**
6. **The street tree proposed to be retained within the verge in front of the lot is to be protected and maintained through the duration of the demolition and construction process to the satisfaction of the City of Nedlands. Should the tree die or be damaged, it is to be replaced with a specified species at the landowner’s expense and to the satisfaction of the City of Nedlands.**

**Purpose**

The purpose of this report is for Council to consider a development application for four grouped dwellings at 24 Clark Street, Nedlands.

**Voting Requirement**

Simple Majority.

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

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

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

**Background**

**Land Details**

|  |  |
| --- | --- |
| **Metropolitan Region Scheme Zone** | Urban |
| **Local Planning Scheme Zone** | Residential |
| **R-Code** | R60 |
| **Land area** | 911m2 |
| **Land Use** | Residential – Grouped Dwellings |
| **Use Class** | ‘P’ – Permitted Use |

The site is located at 24 Clark Street, Nedlands, 200m south of Stirling Highway and 170m west of Broadway. The site is located on the southern side of Clark Street. The lot is rectangular in shape, has a 20m frontage and a total area of 911m2. The site slopes down 1.5m from south-west (rear) to the north-east (front).

**History**

An application for 10 multiple dwellings at the subject site was previously considered at the Joint Development Assessment Panel (JDAP) meeting held on 23 June 2021. The multiple dwellings are three storeys with a roof terrace. The JDAP resolved to approve the application, subject to conditions. This application is still valid but has not been acted upon.

The site has also received conditional subdivision approval from the Western Australian Planning Commission (WAPC) for four lots with a common property vehicle access. The current development application matches the conditional subdivision approval layout for four lots with common property.

**Application Details**

The application seeks development approval for the construction of four grouped dwellings. All dwellings are two storey and obtain vehicle access from the communal driveway on the west side of the site.

This application was previously presented to Council for determination at the 26 April 2022 Ordinary Council Meeting. At the agenda forum meeting, the Council requested additional information and plans from the applicant. The application was deferred to the 28 June 2022 Council Meeting to allow the applicant to prepare the requested information. Amended plans were received on 5 May 2022 including the following changes and additional information on the plans:

* Reduction in the height of the retaining wall from 0.95m to 0.7m along the eastern lot boundary of Unit 1.
* Reduction in the height of the retaining wall from 0.6m to 0.5m along the eastern lot boundary of Unit 4.
* A set of elevations to all lot boundaries showing the elevations of all four units.
* Dividing fencing is proposed to 1.8m high, on top of the proposed retaining.

**Discussion**

**Assessment of Statutory Provisions**

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

**Local Planning Scheme No. 3**

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

**Sustainability**

It is noted that there are no sustainability initiative requirements for this development at the current time. However, the development proposes the following initiatives for sustainability:

* All dwellings will have a minimum energy rating of 7 stars.
* Dwellings will be provided with solar panels at the building permit stage.
* The landscape plant species are Australian natives which will require less watering.

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

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

The proposed development is seeking a design principle assessment pathway for parts of this proposal. Council is requested to consider the design principles relating to visitor parking and site works (retaining walls). As required by the R-Codes, Council, in assessing the proposal against the design principles, should not apply the corresponding deemed-to-comply provisions.

**Clause 5.3.3 – Parking**

The design principles provide for adequate on-site parking, with consideration given to a reduction in parking based on the site’s proximity to public transport and available street parking. The development does not propose any visitor parking spaces due to the following reasons:

* The land has been previously subdivided into the four strata lots and common property that is reflected in the current development plans. The Western Australian Planning Commission granted conditional subdivision approval on 24 November 2020. No provision was made in the common property area for visitor parking.
* At the time of subdivision approval, the R-Codes did not require a visitor parking space where up to four dwellings were served by a single driveway. The current requirement for 1 visitor parking space was implemented on 2 July 2021, after the subdivision was approved.
* There is no ability to retrospectively apply a visitor parking requirement given subdivision approval has been granted to the subdivision and common property arrangements shown on the development plans.
* A total of 8 car parking spaces are provided in the development (2 spaces per dwelling). The deemed-to-comply provisions of the R-Codes require 5 spaces (1 per dwelling plus 1 visitor space).
* The site is located approximately 200m from multiple high frequency bus routes, including the Purple CAT, which operates on a 10-minute frequency 7am-7pm Monday-Friday along Broadway. Given UWA and the QEII Medical Centre are located in close proximity, the overall level of public transport coverage and frequency is excellent in relative terms.

**Clause 5.3.7 – Site Works**

The development proposes a maximum 0.7m high retaining wall along the eastern side and 0.6m high along the front lot boundaries. The design principles provide for retaining walls which allow the land to be effectively used for the benefit of the residents, without detrimentally affecting adjoining properties. The retaining wall proposed meets the design principles for the reasons outlined below:

* The site slopes down 1.5m from south-west (rear) to the north-east (front). The design of the development considers this slope, with all the finished floor levels of the units being stepped down to respond to the natural slope of the land.
* Along the eastern lot boundary, where the land is lower, retaining ranges from 0.5m to 0.7m in height, following the natural ground level of the site. In order to create a level area, the retaining is highest at the north-eastern corner of the lot where the ground level is at its lowest.
* The retaining walls along the eastern lot boundary allow the land to be effectively used for outdoor living areas for the units.
* The retaining along the front lot boundary allows for the effective use of the land for landscaping. The retaining wall along the front boundary is unlikely to detrimentally affect the streetscape. Landscaping within the front setback area will improve the streetscape amenity of the development.

**Consultation**

The development application was advertised in accordance with the City’s Local Planning Policy - Consultation of Planning Proposals to 34 adjoining properties. The application was advertised for a period of 14 days from 21 January 2022 to 4 February 2022. At the close of the advertising period, three submissions were received. Two submissions stated objections and one submission stated no objections to the proposal.

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

1. Concerns regarding the height of the retaining

Amended plans have reduced the height of the retaining walls as discussed above. The development proposal is seeking a judgement of merit for the retaining. Please see above for the Design Principles assessment on retaining.

1. Concerns regarding the lack of a designated visitor car parking bay within the site.

The development proposal is seeking a judgement of merit for the visitor car parking. Please see above for the Design Principles assessment on visitor car parking. It is noted that the WAPC approved the subdivision without the provision of a visitor car parking bay as there was no requirement for one to be provided at the time of the decision.

1. Concerns regarding the setbacks proposed to Clark Street

Amended plans were received after the advertising process to provide increased setbacks to Clark Street. The proposal now meets the deemed-to-comply provisions of the R-Codes relating to the primary street setback.

1. Request for additional landscaping to be provided within the rear setback area.

Amended plans were submitted by the applicant prior to the previous Council meeting to provide additional landscaping within the rear setback area, including 1 Kanooka Gum Tree, 2 Magnolia Teddy Bear Trees and 5 Dwarf Magnolias. The proposal exceeds the deemed-to-comply provisions of the R-Codes relating to landscaping, which only calls for 1 tree per dwelling.

1. The existing fences are low and will result in impacts upon privacy and request to provide higher fencing to assist with privacy.

The development proposes 1.8m high Colourbond fencing on top of the retaining walls. Dividing fencing is typically 1.8m in height. The overall height of the dividing fence on top of the retaining along the eastern lot boundary will be up to 2.5m in height when measured from the adjoining property due to the lower ground level.

1. Concerns about the loss of privacy and amenity from the alfresco of Unit 4 as the alfresco is close to the lot boundary.

The alfresco of Unit 4 is not elevated more than 0.5m above natural ground level and therefore meets the deemed-to-comply provisions of the R-Codes relating to setbacks and visual privacy. The overall height of the dividing fence on top of the retaining will provide additional privacy to adjoining residents.

1. Request for an arborist report to be prepared for the proposed development.

The applicant submitted an arborist report on 25 February 2022 as requested by adjoining landowners through the consultation process. The City has no legislative ability to require or approve an arborist report for applications under Volume 1 of the R-Codes. In this instance, the landowner of the subject site has agreed for the City to condition that the arborist report forms part of the determination materials of the proposal.

**Strategic Implications**

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

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

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

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

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

**Budget/Financial Implications**

N/A.

**Legislative and Policy Implications**

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

**Decision Implications**

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

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

If Council resolves to refuse the proposal, the site still holds a valid approval for the development of 10 multiple dwellings.

**Conclusion**

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

The objections received relate primarily to street setbacks, landscaping, visitor parking and retaining. Amended plans have addressed the street setbacks and landscaping. An assessment against the design principles for visitor parking and retaining has identified that the proposal can be supported given the characteristics and location of the site.

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

**Further Information**

**Question**

Councillor Mangano – Can the need for retaining on western side of the block be obtained?

**Officer Response**

The provision of 500mm of landscaping area adjacent to the existing masonary fence, the proposed level of the driveway and discussions with the applicant have resulted in officers concluding that retaining in this location does not need to be shown on the plans.

**Question**

Councillor Smyth – Are the 3 conditions outlined by tonight’s speakers able to be implemented? Can these be prepared as advice notes?

**Officer Response**

This refers to the the following:

* at some future time after approval of the development application we will be grateful for the ‘complete re-survey plan’ that Sincerity Building Group offered verbally
* advice from the City confirming that the retaining walls and levels comply with the approved plans; and
* after completion of this development we be provided a copy of the certification prior to occupancy or advice from the Council that certification has been provided to the City’s satisfaction

The first two points will be included as advice notes on the determination, the thrid point, the City will advise the neighbours when the certification has been provided by the City.

**Question**

Councillor Brackenridge – can we please have a copy of the original survey for the site?

**Officer Response**

The survey of 2020 and 2021 has been sent to Elected Members.

**Question**

Magnolias listed on landscape plan when outlined all plants are native, can this requirement be clarified?

**Officer Response**

The proposal exceeds the deemed-to-comply provisions of the R-Codes relating to landscaping, which requires 1 tree per dwelling, and doesn’t require native species to be used. Officers encourage native species to be used as part of landscaping. In this case a mix of native and non-native are proposed to be used.

# PD36.06.22 Comment on State Development Assessment Unit Application for Children’s Hospice Development at 61 (Lot 503) Clement Street, Swanbourne

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting – 28 June 2022 |
| **Applicant** | Western Australian Planning Commission |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | The author, reviewers and authoriser of this report declare they have no financial or impartiality interest with this matter.  There is no financial or personal relationship between City staff involved in the preparation of this report and the proponents or their consultants. |
| **Report Author** | Roy Winslow – Manager Urban Planning |
| **Director** | Tony Free – Director Planning and Development |
| **Attachments** | 1. Location Plan 2. Development Plans 3. Notice of Classification Letter from DWER |

Moved – Councillor Combes

Seconded – Councillor Senathirajah

That the Recommendation be adopted.

(Printed below for ease of reference)

Amendment

Moved - Councillor Smyth

Seconded - Councillor McManus

That clause E read as follows:

E. Advises the State Development Assessment Unit that although it objects to the process by which the site was resumed from Class A reserve, it supports the provision of this submission of assessment and comment on the proposed Children’s Hospice at 61 Clement Street, Swanbourne as outlined in the development plans date stamped 26 April 2022 (Attachment 2) and recommends the following conditions be considered for any approval granted by the Western Australian Planning Commission:

The AMENDMENT was PUT and was

CARRIED 10/2

(Against: Crs. Bennett & Mangano)

Amendment

Moved - Councillor Youngman

Seconded - Councillor Smyth

That recommendation E of the report be amended as follows to include an additional condition as follows:

13. Prior to the issue of a building permit, amended plans are to be submitted to demonstrate that no native vegetation outside the lot boundaries will be cleared or otherwise impacted by the development, to the satisfaction of the City of Nedlands.

The AMENDMENT was PUT and was

CARRIED UNANIMOUSLY 12/-

The Substantive Motion was PUT and was

Lost 5/7

(Against: Mayor Argyle Crs. Brackenridge Coghlan Amiry

Smyth Bennett & Mangano)

**Regulation 11(da) - The Council decision is based on the rationale provided in the resolution.**

Moved – Councillor Mangano

Seconded – Councillor Coghlan

**That Council advises the State Development Assessment Unit that it does not support the proposed CAHS Hospice at Allen Park, Swanbourne as outlined in the development plans date stamped 26th April 2022 (Attachment 2) and recommends the application be refused for the following reasons:**

1. **The proposed restricted-access use is inconsistent with the regional reservation of the site as Parks and Recreation;**
2. **The development as proposed extends beyond the development site onto surrounding public lands in a manner inconsistent with orderly and proper planning;**
3. **The development will inappropriately restrict public access to this portion of the Allen Park reserve**
4. **The development will have an undesirable effect on the amenity of the locality in relation to visual, traffic and environmental impacts;**
5. **Insufficient provision for car parking has been provided to accommodate the development;**
6. **Fire risk – much of the site is BAL-FZ and lives will be at risk by placing in a designated bushfire zone and advises the State Development Assessment Unit that the City of Nedlands does not support clearance of native vegetation outside the lot boundaries.**
7. **Proximity to SAS Campbell Barracks – the site has 24 hour operations including helicopter operations, use of munitions and explosives;**
8. **Not easily accessible by public transport – very infrequent public transport in the vicinity;**
9. **Impacts on rugby club expansion – plans are currently processing for the Associates Rugby Club to expand to twice its current size; and**
10. **The use of the site has changed since it was originally proposed from a small hospice to a much larger complex with offices.**

**Rationale**

**Inconsistent use of the site**

**The City contends that the development constitutes a private development on public land. The site is important to the community as a whole and should remain accessible given its regional reservation as Parks and Recreation. The implication is that the reserve was inappropriately excised in the first place for a non-recreational development and equally the remaining surrounding "public land" is Crown land that would be inappropriately used to support the development. Reserve tenure is usually applied to land that holds intrinsic community value or is of high conservation value that should be preserved and maintained for the benefit of future generations;**

**The amenity of this prominent beachside location will be inappropriately affected by visual impact from the large complex on a site isolated from other buildings – the proposed building is too large for the site and does not integrate into the bushland and open land in the vicinity.**

**Impact outside of the site**

**The traffic and parking impact of this development will be considerable given the size of the complex. There is insufficient provision for on-site parking with all traffic given the other existing users of the site, being the WA Bridge Club and the Associates Rugby Club. It is also likely that the City of Nedlands will have to clear land to provide firebreaks for this site (see Fire Safety Risk)**

**Restriction of Public Access**

**This building restricts public access. This facility will not be a community facility, consistent with the regional reservation of the site as parks and recreation. The building will be for the exclusive use of those requiring specific health therapies, their families and associated personnel.**

**Impact on the amenity of this locality**

**The proposed 2 storey building has a detrimental impact on the coastal heath visual amenity of the locality, as well as traffic and other environmental impacts (eg clearing).**

**Insufficient car parking**

**There is insufficient on site parking for all users and visitors to the site**

**Fire Safety Risk**

**In November 2020 the government’s Child and Adolescent Health Service (CAHS) received a bushfire risk assessment report for the proposed hospice site, Quote: “There may not be enough time to safely evacuate all occupants, particularly given the complexities associated with moving unwell children, before a fire would impact on the site”. It was also recommended in the Emerge Report that a second exit will be required to mitigate the fire risk. DFES has not confirmed support of the proposed building in terms of fire safety.**

**Proximity to the SAS Campbell Barracks**

**In 2015 Defence Housing Australia (DHA) proposed to develop a large part of Seaward Village, Swanbourne into exclusive private luxury coastal residences. Seaward Village is the on-base residential section of Campbell Barracks for the Special Air Services Regiment (SASR). The 2015 development proposal is relevant to the proposed children’s hospice because the nearest houses in Seaward Village are a mere 20 metres away from the proposed hospice site. The proposed development of Seaward Village into private coastal residences did not proceed as a result of the Evans Report.**

**Quote: “A high level of training activity occurs within Campbell Barracks throughout the year determined by the training cycle and operational imperatives of the unit. The characteristics of the unit require 24 hour operational and mobility training that includes significant helicopter operations. The range complexes are significant and constant use of all types of munitions and explosives by day and night are necessary for the unit to maintain its operation edge. This creates a noisy environment that can affect neighbouring areas.”**

**Not easily accessible to public transport**

**The nearest train stations are further than the distance that is internationally recognised as the distance people are prepared to walk to catch public transport. Walking to either the bus or the train will be problematic for families with a number of children, or in inclement or very hot weather, so the alternative will be that they will all use cars, including staff and other visitors to the facility.**

**Impacts on local sports club**

**The rugby club is an integral part of Allen Park and just metres from where the hospice would be located. The club’s intention is not only to construct new buildings with twice the footprint of existing and will attract more members and spectators.**

* **It intends to expand its women’s and children’s rugby program**
* **It is a licensed premises which operates late into the night for club functions and has function rooms available for hire 7 days a week.**

**• On busy rugby days in excess of a thousand players and spectators gather just a couple of hundred metres from the hospice site. Local residents will attest to the noise level being very high, so if this site was chosen under the guise of a peaceful and tranquil place then this is misguided.**

**• After functions hundreds of people spill out onto the reserves surrounding the children’s hospice late at night. A place which is intended to be a serene and calm location is certainly the opposite of that.**

**Site use has significantly changed**

**When it was originally proposed, the building was to be smaller than Hummingbird Lodge, more like Bear Cottage, and not to look like an institution. Quote (Mr Ian Campbell – Chair of PCHF): “That the facility needed to have the feel of a warm family home (Bear Cottage reminded me of the Brady Bunch home)”, “We want it as small and cosy as possible.” Now it is accommodation for children with life-limiting illnesses, outreach care and support services and 2 storey, 2nd floor with office spaces and underground car parking.**

**If the SDAU is to approve this development, then the following is requested:**

1. **The following recommendations from the Site Assessment Working Group:**

* **The following elements of the Allen Park Precinct Master Plan be prioritised – Element No. 9 – New Formalised parking (Rugby Overflow) and Element No. 7 – Raised traffic calming and crosswalks X 3 to improve the access and egress into the precinct.**
* **Review relevant aspects of APMP including the budget line items and target dates for funding, so that appropriate State and Commonwealth funding can be accessed in the wake of this children’s health and wellbeing facility.**
* **Should the site no longer be used as a Hospice seek advice on how the City could make presentation to Minister to modify Management Order in favour of a return to Class A reserve.**
* **As part of future budget process gives consideration to improve the areas identified as number 10 and 26 on the Allen Park Master Plan dated 2017.**

1. **Recommends the State Development Assessment Unit have the submitted Bushfire Management Plan reviewed by an appropriately qualified assessor to ensure the assumptions and recommendations are correct and consistent with the requirements of bushfire regulations, with any further recommendations implemented prior to issue of a building permit.**

1. **Recommends the Transport Impact Statement submitted be revised to provide additional detail explaining how the trip generation of 40 vehicle trips per hour maximum was derived, including detail on the number of daily patients expected to use the hydrotherapy service and the level of other outpatients and associated staff/practitioners who will be visiting the Hospice on a daily basis, with any further recommendations implemented prior to issue of a building permit.**
2. **Prior to the issue of a demolition permit and/or a building permit, a Demolition or Construction Management Plan (as appropriate) shall be submitted and approved to the satisfaction of the City. The approved Demolition and Construction Management Plans shall be observed at all times throughout the demolition and construction process to the satisfaction of the City of Nedlands.**

1. **Prior to the issue of a building permit, amended plans are to be submitted showing conservation fencing which matches the existing fencing to the east of the site, installed around the site boundaries to demarcate the bushland protection zone to the satisfaction of the City of Nedlands.**

1. **All stormwater generated on site is to be retained on site. An onsite storage/infiltration system is to be provided within the site for a 1 in 100-year storm event. No stormwater will be permitted to enter the City of Nedlands’ stormwater drainage system unless otherwise approved.**
2. **The development is required to provide access to buildings for people with disabilities in accordance with the National Construction Code Building Code of Australia, AS1428.1 and Disability (Access to Premises – Buildings) Standards 2010. Detailed drawings are to be submitted with the Building Permit application identifying means of access from carparking areas to the entrance of the building and throughout the building, as required by AS1428.1 and the Disability (Access to Premises – Buildings) Standards 2010.**

1. **Prior to the issue of a building permit, a Construction Environmental Management Plan is to be prepared and approved by the Western Australian Planning Commission on advice of the City of Nedlands. The plan should address:**

**a. Any unexpected finds during excavation and other soil disturbing works;**

**b. Implementation of an unexpected finds protocol to manage any remnant asbestos fragments should they emerge from garden soils in the future; and**

**c. Consideration of ground gases for the underground car park.**

**The approved Management Plan is to be adhered to for the duration of the construction process.**

1. **The initiatives and recommendations contained within the Norman Disney and Young Sustainability Strategy dated received 26 April 2022, or any approved modifications, are to be carried out and maintained for the lifetime of the development to the satisfaction of the City of Nedlands.**
2. **All Noise control requirements and recommendations contained within the Marshall Day Acoustic Report dated 26 April 2022 for the development to achieve compliance with the Environmental Protection (Noise) Regulations are to be adopted. Where any changes outside of these recommendations are proposed or where equipment specifications and locations could not be determined at the design stage for accurate noise modelling, assessment by an acoustic consultant is to be completed to confirm compliance with the Regulations.**

1. **Prior to issue of a building permit, a detailed landscaping plan is to be approved by the Western Australian Planning Committee on advice of the City of Nedlands. The landscaping is to be consistent with the approved Bushfire Management Plan, installed prior to occupation, and maintained for the life of the development.**
2. **Prior to occupation, an all-abilities path is to be provided from the building to the pedestrian path located to the north, in order to facilitate access to the beach, to the satisfaction of the City of Nedlands.**

**Bushfire**

1. **Prior to the issue of a building permit, the development is to demonstrate compliance with the Developer/Landowner Management Actions in part 6 of the Bushfire Management Plan prepared by emerge date received 26 April 2022 or any approved modifications. Recommendations are to be implemented prior to occupation and maintained for the life of the development.**

**Waste**

1. **Prior to the issue of a building permit, an amended Waste Management Plan is to be submitted and approved by the City of Nedlands. The amendments are to demonstrate:**
   1. **Waste truck entry and exit diagram;**
   2. **Waste truck height clearance is sufficient, including sectional demonstrating vertical clearance;**
   3. **Risk assessment of the waste collection demonstrating safety due to the waste truck blocking traffic from entering and exiting during collection.**

**Parking**

1. **Prior to the issue of a building permit, an amended Transport Impact Statement is to be submitted and approved by the City of Nedlands. The amendments are to demonstrate:**
2. **Plans in the report to match the approved plans or any approved modifications.**
3. **Swept paths are to demonstrate no conflicts with walls or encroachment over kerbs; and**
4. **All swept paths should include egress movements from the respective loading bays/areas.**

Amendment

Moved - Councillor Smyth

Seconded - Councillor Youngman

That additional clause be added as follows:

acknowledges the following recommendations from the Site Assessment Working Group:

* The following elements of the Allen Park Precinct Master Plan be prioritised – Element No. 9 – New Formalised parking (Rugby Overflow) and Element No. 7 – Raised traffic calming and crosswalks X 3 to improve the access and egress into the precinct.
* Review relevant aspects of APMP including the budget line items and target dates for funding, so that appropriate State and Commonwealth funding can be accessed in the wake of this children’s health and wellbeing facility.
* Should the site no longer be used as a Hospice seek advice on how the City could make presentation to Minister to modify Management Order in favour of a return to Class A reserve.
* As part of future budget process gives consideration to improve the areas identified as number 10 and 26 on the Allen Park Master Plan dated 2017.

The AMENDMENT was PUT and was

Lost 5/7

(Against: Crs. Brackenridge Coghlan Senathirajah Amiry

McManus Mangano & Combes)

Amendment

Moved - Councillor Youngman

Seconded - Councillor Senathirajah

**Additional condition:**

**Prior to the issue of a building permit, amended plans are to be submitted to demonstrate that no native vegetation outside the lot boundaries will be cleared or otherwise impacted by the development, to the satisfaction of the City of Nedlands.**

**The AMENDMENT was PUT and was**

**CARRIED UNANIMOUSLY 12/-**

**The Substantive Motion was PUT and was**

**CARRIED 9/3**

**(Against: Crs. McManus Combes Hodsdon)**

**Council Resolution**

**That Council advises the State Development Assessment Unit that it does not support the proposed CAHS Hospice at Allen Park, Swanbourne as outlined in the development plans date stamped 26th April 2022 (Attachment 2) and recommends the application be refused for the following reasons:**

1. **The proposed restricted-access use is inconsistent with the regional reservation of the site as Parks and Recreation;**
2. **The development as proposed extends beyond the development site onto surrounding public lands in a manner inconsistent with orderly and proper planning;**
3. **The development will inappropriately restrict public access to this portion of the Allen Park reserve**
4. **The development will have an undesirable effect on the amenity of the locality in relation to visual, traffic and environmental impacts;**
5. **Insufficient provision for car parking has been provided to accommodate the development;**
6. **Fire risk – much of the site is BAL-FZ and lives will be at risk by placing in a designated bushfire zone and advises the State Development Assessment Unit that the City of Nedlands does not support clearance of native vegetation outside the lot boundaries.**
7. **Proximity to SAS Campbell Barracks – the site has 24 hour operations including helicopter operations, use of munitions and explosives;**
8. **Not easily accessible by public transport – very infrequent public transport in the vicinity;**
9. **Impacts on rugby club expansion – plans are currently processing for the Associates Rugby Club to expand to twice its current size; and**
10. **The use of the site has changed since it was originally proposed from a small hospice to a much larger complex with offices.**

**Rationale**

**Inconsistent use of the site**

**The City contends that the development constitutes a private development on public land. The site is important to the community as a whole and should remain accessible given its regional reservation as Parks and Recreation. The implication is that the reserve was inappropriately excised in the first place for a non-recreational development and equally the remaining surrounding "public land" is Crown land that would be inappropriately used to support the development. Reserve tenure is usually applied to land that holds intrinsic community value or is of high conservation value that should be preserved and maintained for the benefit of future generations;**

**The amenity of this prominent beachside location will be inappropriately affected by visual impact from the large complex on a site isolated from other buildings – the proposed building is too large for the site and does not integrate into the bushland and open land in the vicinity.**

**Impact outside of the site**

**The traffic and parking impact of this development will be considerable given the size of the complex. There is insufficient provision for on-site parking with all traffic given the other existing users of the site, being the WA Bridge Club and the Associates Rugby Club. It is also likely that the City of Nedlands will have to clear land to provide firebreaks for this site (see Fire Safety Risk)**

**Restriction of Public Access**

**This building restricts public access. This facility will not be a community facility, consistent with the regional reservation of the site as parks and recreation. The building will be for the exclusive use of those requiring specific health therapies, their families and associated personnel.**

**Impact on the amenity of this locality**

**The proposed 2 storey building has a detrimental impact on the coastal heath visual amenity of the locality, as well as traffic and other environmental impacts (eg clearing).**

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**There is insufficient on site parking for all users and visitors to the site**

**Fire Safety Risk**

**In November 2020 the government’s Child and Adolescent Health Service (CAHS) received a bushfire risk assessment report for the proposed hospice site, Quote: “There may not be enough time to safely evacuate all occupants, particularly given the complexities associated with moving unwell children, before a fire would impact on the site”. It was also recommended in the Emerge Report that a second exit will be required to mitigate the fire risk. DFES has not confirmed support of the proposed building in terms of fire safety.**

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**Quote: “A high level of training activity occurs within Campbell Barracks throughout the year determined by the training cycle and operational imperatives of the unit. The characteristics of the unit require 24 hour operational and mobility training that includes significant helicopter operations. The range complexes are significant and constant use of all types of munitions and explosives by day and night are necessary for the unit to maintain its operation edge. This creates a noisy environment that can affect neighbouring areas.”**

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**If the SDAU is to approve this development, then the following is requested:**

1. **The following recommendations from the Site Assessment Working Group:**

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* **As part of future budget process gives consideration to improve the areas identified as number 10 and 26 on the Allen Park Master Plan dated 2017.**

1. **Recommends the State Development Assessment Unit have the submitted Bushfire Management Plan reviewed by an appropriately qualified assessor to ensure the assumptions and recommendations are correct and consistent with the requirements of bushfire regulations, with any further recommendations implemented prior to issue of a building permit.**

1. **Recommends the Transport Impact Statement submitted be revised to provide additional detail explaining how the trip generation of 40 vehicle trips per hour maximum was derived, including detail on the number of daily patients expected to use the hydrotherapy service and the level of other outpatients and associated staff/practitioners who will be visiting the Hospice on a daily basis, with any further recommendations implemented prior to issue of a building permit.**
2. **Prior to the issue of a demolition permit and/or a building permit, a Demolition or Construction Management Plan (as appropriate) shall be submitted and approved to the satisfaction of the City. The approved Demolition and Construction Management Plans shall be observed at all times throughout the demolition and construction process to the satisfaction of the City of Nedlands.**

1. **Prior to the issue of a building permit, amended plans are to be submitted showing conservation fencing which matches the existing fencing to the east of the site, installed around the site boundaries to demarcate the bushland protection zone to the satisfaction of the City of Nedlands.**

1. **All stormwater generated on site is to be retained on site. An onsite storage/infiltration system is to be provided within the site for a 1 in 100-year storm event. No stormwater will be permitted to enter the City of Nedlands’ stormwater drainage system unless otherwise approved.**
2. **The development is required to provide access to buildings for people with disabilities in accordance with the National Construction Code Building Code of Australia, AS1428.1 and Disability (Access to Premises – Buildings) Standards 2010. Detailed drawings are to be submitted with the Building Permit application identifying means of access from carparking areas to the entrance of the building and throughout the building, as required by AS1428.1 and the Disability (Access to Premises – Buildings) Standards 2010.**

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**a. Any unexpected finds during excavation and other soil disturbing works;**

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**c. Consideration of ground gases for the underground car park.**

**The approved Management Plan is to be adhered to for the duration of the construction process.**

1. **The initiatives and recommendations contained within the Norman Disney and Young Sustainability Strategy dated received 26 April 2022, or any approved modifications, are to be carried out and maintained for the lifetime of the development to the satisfaction of the City of Nedlands.**
2. **All Noise control requirements and recommendations contained within the Marshall Day Acoustic Report dated 26 April 2022 for the development to achieve compliance with the Environmental Protection (Noise) Regulations are to be adopted. Where any changes outside of these recommendations are proposed or where equipment specifications and locations could not be determined at the design stage for accurate noise modelling, assessment by an acoustic consultant is to be completed to confirm compliance with the Regulations.**

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2. **Prior to occupation, an all-abilities path is to be provided from the building to the pedestrian path located to the north, in order to facilitate access to the beach, to the satisfaction of the City of Nedlands.**

**Bushfire**

1. **Prior to the issue of a building permit, the development is to demonstrate compliance with the Developer/Landowner Management Actions in part 6 of the Bushfire Management Plan prepared by emerge date received 26 April 2022 or any approved modifications. Recommendations are to be implemented prior to occupation and maintained for the life of the development.**

**Waste**

1. **Prior to the issue of a building permit, an amended Waste Management Plan is to be submitted and approved by the City of Nedlands. The amendments are to demonstrate:**
   1. **Waste truck entry and exit diagram;**
   2. **Waste truck height clearance is sufficient, including sectional demonstrating vertical clearance;**
   3. **Risk assessment of the waste collection demonstrating safety due to the waste truck blocking traffic from entering and exiting during collection.**

**Parking**

1. **Prior to the issue of a building permit, an amended Transport Impact Statement is to be submitted and approved by the City of Nedlands. The amendments are to demonstrate:**
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3. **Swept paths are to demonstrate no conflicts with walls or encroachment over kerbs; and**
4. **All swept paths should include egress movements from the respective loading bays/areas.**
5. **Prior to the issue of a building permit, amended plans are to be submitted to demonstrate that no native vegetation outside the lot boundaries will be cleared or otherwise impacted by the development, to the satisfaction of the City of Nedlands.**

Recommendation

That Council:

1. Acknowledges the following recommendations from the Site Assessment Working Group:

* The following elements of the Allen Park Precinct Master Plan be prioritised – Element No. 9 – New Formalised parking (Rugby Overflow) and Element No. 7 – Raised traffic calming and crosswalks X 3 to improve the access and egress into the precinct.
* Review relevant aspects of APMP including the budget line items and target dates for funding, so that appropriate State and Commonwealth funding can be accessed in the wake of this children’s health and wellbeing facility.
* Should the site no longer be used as a Hospice seek advice on how the City could make presentation to Minister to modify Management Order in favour of a return to Class A reserve.
* As part of future budget process gives consideration to improve the areas identified as number 10 and 26 on the Allen Park Master Plan dated 2017.

1. Recommends the State Development Assessment Unit have the submitted Bushfire Management Plan reviewed by an appropriately qualified assessor to ensure the assumptions and recommendations are correct and consistent with the requirements of bushfire regulations, with any further recommendations implemented prior to issue of a building permit.

1. Advises the State Development Assessment Unit that the City of Nedlands does not support clearance of native vegetation outside the lot boundaries. Should the revised Bushfire Management Plan require clearance of native vegetation outside the lot boundaries, the building permit plans should be revised to minimise or avoid this.

1. Recommends the Transport Impact Statement submitted be revised to provide additional detail explaining how the trip generation of 40 vehicle trips per hour maximum was derived, including detail on the number of daily patients expected to use the hydrotherapy service and the level of other outpatients and associated staff/practitioners who will be visiting the Hospice on a daily basis, with any further recommendations implemented prior to issue of a building permit.

1. Advises the State Development Assessment Unit that it supports the proposed Children’s Hospice at 61 Clement Street, Swanbourne as outlined in the development plans date stamped 26 April 2022 (Attachment 2) and recommends the following conditions be considered for any approval granted by the Western Australian Planning Commission:

Demolition and Construction

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

1. Prior to the issue of a building permit, amended plans are to be submitted showing conservation fencing which matches the existing fencing to the east of the site, installed around the site boundaries to demarcate the bushland protection zone to the satisfaction of the City of Nedlands.

1. All stormwater generated on site is to be retained on site. An onsite storage/infiltration system is to be provided within the site for a 1 in 100-year storm event. No stormwater will be permitted to enter the City of Nedlands’ stormwater drainage system unless otherwise approved.

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  2. Implementation of an unexpected finds protocol to manage any remnant asbestos fragments should they emerge from garden soils in the future; and
  3. Consideration of ground gases for the underground car park.

The approved Management Plan is to be adhered to for the duration of the construction process.

Sustainability

1. The initiatives and recommendations contained within the Norman Disney and Young Sustainability Strategy dated received 26 April 2022, or any approved modifications, are to be carried out and maintained for the lifetime of the development to the satisfaction of the City of Nedlands.

Noise

1. All Noise control requirements and recommendations contained within the Marshall Day Acoustic Report dated 26 April 2022 for the development to achieve compliance with the Environmental Protection (Noise) Regulations are to be adopted. Where any changes outside of these recommendations are proposed or where equipment specifications and locations could not be determined at the design stage for accurate noise modelling, assessment by an acoustic consultant is to be completed to confirm compliance with the Regulations.

Landscaping

1. Prior to issue of a building permit, a detailed landscaping plan is to be approved by the Western Australian Planning Committee on advice of the City of Nedlands. The landscaping is to be consistent with the approved Bushfire Management Plan, installed prior to occupation, and maintained for the life of the development.
2. Prior to occupation, an all-abilities path is to be provided from the building to the pedestrian path located to the north, in order to facilitate access to the beach, to the satisfaction of the City of Nedlands.

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1. Prior to the issue of a building permit, the development is to demonstrate compliance with the Developer/Landowner Management Actions in part 6 of the Bushfire Management Plan prepared by emerge date received 26 April 2022 or any approved modifications. Recommendations are to be implemented prior to occupation and maintained for the life of the development.

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   1. Waste truck entry and exit diagram;
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Parking

1. Prior to the issue of a building permit, an amended Transport Impact Statement is to be submitted and approved by the City of Nedlands. The amendments are to demonstrate:
   1. Plans in the report to match the approved plans or any approved modifications.
   2. Swept paths are to demonstrate no conflicts with walls or encroachment over kerbs; and
   3. All swept paths should include egress movements from the respective loading bays/areas.

**Purpose**

The purpose of this report is for Council to provide its comments to the State Development Assessment Unit (SDAU) of the Western Australian Planning Commission (WAPC) on a development application at 61 Clement Street, Swanbourne (formerly portion of Allen Park). The application proposes the development of a Children’s Hospice.

**Voting Requirement**

Simple Majority.

**Background**

**Background to Application**

Western Australia does not currently have a dedicated paediatric hospice facility and typically hospitals and in-home care services have performed this role. Given WA’s growing population it has been identified that a purpose-built facility is needed to improve existing services. Life limiting child illness is an emotionally distressing experience which can overwhelm the focus of the family unit. The proposed Hospice is intended to provide reprieve from this through providing a calm, caring, and relaxing environment which allows for families to connect with each other, and with other families going through similar experiences.

In 2020 the City of Nedlands received notice from the Perth Children’s Hospital Foundation that it intended to build and operate a Children’s Hospice at 61 Clement Street, Swanbourne (formerly a portion of Allen Park). The proposal was supported by the State Government and in September 2020 the Department of Planning Lands and Heritage (DPLH) placed a Public Notice in The West Australian newspaper noting the creation of a new 5,000m2 lot within Allen Park, known as Lot 503 (**Attachment 1**).

**Land Tenure**

The Hospice is proposed to be located on Lot 503 which is a Crown land title subject to a management order vested to the Child and Adolescent Health Service. The conditions of the management order note that lot 503 is “to be utilised for the designated purpose of ‘Children Hospice’ only”.

Lot 503 obtains vehicle access to Odern Crescent via Lot 504, which is a Crown land title subject to a management order vested to the City of Nedlands for the purpose of public access. A condition of the management order for lot 504 states that “the management body will provide unrestricted access to adjoining Lot 503 on Deposited Plan 410572, except in situations that warrant temporary closure for emergency purposes”. The balance of Allen Park, Lot 502, remains subject to a management order vested to the City of Nedlands.

**Development Proposal**

The application seeks development approval for the construction of a two-storey Children’s Hospice at 61 (Lot 503) Clement Street, Swanbourne. The development plans are included at **Attachment 2**. The proposed Hospice facility includes:

* Seven children’s bedrooms;
* Three family apartment suites;
* 40 car bays and one bus bay;
* 20 bicycle bays and two ends of trip facilities;
* Therapy rooms and hydrotherapy pool;
* Communal kitchen, dining, lounge and play areas;
* Bereavement suite; and
* Administration offices, meeting rooms and staff facilities.

In addition to providing respite accommodation on site, the Hospice will provide outreach care and support services. This involves primarily office type functions, with carers working from the hospice site to connect children residing regionally with medical specialists and care workers locally.

**Discussion**

The site is an MRS reserve and is not zoned by the City’s LPS 3. Thereby the provisions of LPS 3 are not applicable to the site.

**Allen Park Master Plan**

The [Allen Park Master Plan](https://www.nedlands.wa.gov.au/sites/default/files/Allen_Park_Master_Plan_2017_-_Final.pdf) was endorsed by Council in 2017 to provide a long-term plan for the sustainable development of the Allen Park precinct. Lot 503 is within the “Sports Precinct” of the masterplan. It is acknowledged that the proposed Children’s Hospice is a departure from the intent of the sports precinct of the masterplan. A review of the Allen Park Master Plan will likely need to be undertaken in the future to reflect the Hospice development if approved.

**State Planning Policy 3.7: Planning for Bushfire Prone Areas (SPP 3.7)**

The site is located within a Bushfire Prone Area. The applicant has provided a Bushfire Management Plan (BMP) prepared by Emerge Associates. The BMP indicates that the Bushfire Attack Level (BAL) rating of the site is BAL-29. In accordance with SPP 3.7, development in areas with a BAL between BAL-12.5 to BAL-29, will not be supported unless accompanied by a BMP jointly endorsed by the local government and the State authority for emergency services.

The BMP includes a number of recommendations to ensure the building meets the requirements for a BAL-29 site. The document also includes a Bushfire Emergency Evacuation Plan. It is noted that the landscaping plan includes new vegetation that does not appear to have been accounted for in the BMP, notably around the perimeter of the site. The requirements in the BMP are recommended as a condition of approval, with an amended landscaping plan being approved that meets the BMP requirements (see below for further landscaping discussion).

Potential discrepancies have been identified in the report, including:

* Possible conflict between landscaping plans and fireload and the need to maintain non-vegetated areas; and
* Unclear whether bushland on the eastern boundary will need to be cleared to install a fire break.

It is recommended that the WAPC seek a peer review of the Emerge Associates BMP or have the plan reviewed by DFES prior to determination of the application.

**Contaminated Site**

The site had previously been a classified as “Possibly contaminated – investigation required” under the *Contaminated Sites Act 2003*. This classification existed due to the larger land parcel comprising Allen Park Reserve containing municipal waste. A report provided by Galt Environmental notes that Lot 503 in isolation is suitable for reclassification as ‘Decontaminated’ under the *Contaminated Sites Act 2003*. On 10 March 2022 the site was formally reclassified as “Decontaminated” by the Department of Water and Environmental Regulation (DWER) (**Attachment 3**). The notice of classification states that “the site is suitable for unrestricted use, including sensitive uses such as residential, primary schools and childcare centres”.

The DWER’s classification notice recommends the following actions:

1. A Construction Environmental Management Plan should be prepared to address any unexpected finds during excavation and other soil disturbing works.
2. As a further precautionary measure, the owner/occupier may wish to implement an unexpected asbestos finds protocol to manage any remnant asbestos fragments, should they emerge from garden soils in the future.
3. Consideration should be given to the generation of ground gases, where basements or underground car parks are proposed to be constructed at the site as part of the proposed redevelopment.

The above have been included as recommended conditions of approval (see Condition 5).

A further geotechnical assessment has been undertaken by Galt Environmental as part of this application which concludes the site is geotechnically capable of supporting the proposed development, subject to normal construction and design measures being undertaken.

**Car Parking and Access**

As the site is an MRS reserve, the City’s Parking Local Planning Policy (LPP) is not applicable. Notwithstanding a high-level assessment against the LPP is provided to offer general guidance and context.

A Hospice is best classified as a ‘Hospital’ land use, which requires a car parking ratio of 12 car bays, or one car bay for every four beds, whichever is the greater. The application proposes 10 “beds” (sevens children’s rooms and three family suites), which would require 12 bays, in accordance with the LPP. The application proposes a total of 40 car bays (36 standard bays and four-day visitor bays).

The car parking area is within a basement level and is concealed from view from the public domain. In this regard the over provision of car parking is not considered to have any impact on visual amenity. The proposed car parking provision is considered satisfactory and is supported.

In addition to car parking, 20 bicycle parking bays and two end of trip facilities are proposed. The provision of facilities for alternate forms of transportation, especially for staff, is supported.

The City has reviewed the applicant’s Transport Impact Statement (TIS) and notes the following:

* The swept path diagrams do not match the current DA plans and appear to show conflicts with walls and encroachment over kerbs.
* Swept paths showing access and egress movement to the bus bay should be included; and
* All swept paths should include egress movements from the respective loading bays/areas.

Should the development be approved, a condition is recommended that the TIS is amended to address the above points as a condition of any approval (see condition 12).

Further, the City notes that no detail is provided within the TIS to explain how the trip generation of 40 vehicle trips per hour maximum was derived. It is recommended that discussion on this matter is provided, with any further recommendations implemented prior to issue of a building permit (see recommendation D).

**Design**

The building is architecturally designed to respectfully integrate with the surrounding natural landscape. The design comprises a combination of timber, stone, render and concrete cladding, which contrasts with large spans of external glass. The design is considered to sit well within the landscape and is appropriate for the site. The application has already been reviewed once by the State Design Review panel, with another review planned. The design may be subject to further refinement.

No permanent conservation fencing is indicated on the plans to separate the proposed Hospice from the bushland protection zone around it. Should the development be approved, a condition is recommended that fencing matching the existing fence to the eastern side of the lot, be installed around the site boundaries to demarcate the bushland protection zone (see Condition 2).

**Landscaping**

The submitted Landscape Plan is a concept plan that does not indicate tree or plant species, and includes plans for a Community Open Space and walking paths that are outside of the boundaries of the lot. Further, the concept plan includes a number of trees straddling the boundary of the lot and which may conflict with the requirements of the Bushfire Management Plan. A condition of approval is recommended requiring a detailed landscaping plan be submitted that includes:

* Use of local provenance plant species that occur within the surrounding bushland area.
* Plant pathogen management including
  + The use of Australian Standard AS 4454 Composts, Soils Conditioners and Mulches;
  + Cleaning/sterilising machinery, tools and equipment before accessing the site; and
  + Using plant stock sourced from a nursery with accreditation from Nursery Industry Accreditation Scheme Australia (NIASA).

The Landscape Plan should also be compatible with the requirements of the Bushfire Management Plan. Should the development be approved, a condition is recommended to ensure the landscaping is consistent with the approved Bushfire Management Plan, installed prior to occupation, and maintained for the life of the development (see Condition 8).

**Waste Management**

The applicant has provided a Waste Management Plan (WMP) prepared by Encycle Consulting. The WMP confirms that the development will be serviced by a waste collection service provider under the State Government’s Common Use Agreement. The City’s Waste Services concludes that the WMP is capable of meeting the City’s waste guidelines subject to confirmation or updating of the plan to address the following:

* Waste truck entry and exit diagram;
* Waste truck height clearance is sufficient, including sectional demonstrating vertical clearance;
* Risk assessment of the waste collection demonstrating safety due to the waste truck blocking traffic from entering and exiting during collection.

An amended Waste Management Plan is recommended to be included as a condition of any approval (see Condition 11).

**Sustainability**

The applicant has provided a Sustainability Strategy report provided by consultants Norman Disney and Young. The report indicates a number of initiatives which the proposal can undertake to ensure ongoing minimisation of energy consumption and improvement of environmental quality. Should the development be approved, a condition is recommended to ensure the initiatives within the report are carried out and maintained for the lifetime of the development (see Condition 6).

**Consultation**

Community engagement was conducted prior to the lodgement of the development application, including an advisory group, the Site Assessment Working Group (SAWG), chaired by councillors from the City of Nedlands and comprised of community members and stakeholders. The recommendations from the SAWG and Administration comment are as follows:

That the Site Assessment Working Group Recommends to Council that:

1. The WAPC be requested to ensure that no clearing be required to be undertaken outside of Lot 503 as a result of the proposed Hospice, in order to meet bushfire management requirements.

Recommendation C of this report is to advise the SDAU that the City does not support clearance of native vegetation outside the boundaries of Lot 503. Should any revised BMP require clearance of native vegetation outside the lot boundaries, the building permit plans should be revised to minimise or avoid this.

1. The WAPC requested to ensure that the existing public path to the North be used as the appropriate emergency vehicle access to the west of the Lot 503 for use in emergencies.

The Bushfire Emergency Evacuation Plan provided indicates that the single access point is acceptable, and an alternate emergency vehicle access point to the west is not required. Notwithstanding, recommendation B of this report is to request that the BMP be reviewed by an appropriately qualified assessor to ensure the assumptions and recommendations are correct and consistent with the requirements of bushfire regulations.

1. The WAPC be requested to confirm the number of daily patients expected to use the hydrotherapy service and the level of other outpatients and associated staff/practitioners who will be visiting the Hospice on a daily basis and for this to be reflected in the Traffic Impact Statement and the provision of car parking.

It is noted that no detail is provided within the TIS to explain how the trip generation of 40 vehicle trips per hour maximum was derived. It is recommended that discussion on this matter is provided, including detail on the number of daily patients expected to use the hydrotherapy service and the level of other outpatients and associated staff/practitioners who will be visiting the Hospice on a daily basis, with any further recommendations implemented prior to issue of a building permit (see recommendation D).

1. The WAPC seek clarification to ensure that the access arrangements are appropriate in the case of a medical emergency.

The TIS indicates that the swept paths provided are appropriate for ambulance access. As part of the application process the proposal has also been referred to Department of Fire and Emergency Services (DFES) and Department of Health. These agencies are equipped to provide advice to the WAPC on appropriate access arrangements in the case of a medical emergency.

1. The WAPC seek clarification as the extent and form of fencing of the site.

Should the development be approved, a condition is recommended that fencing matching the existing fence to the eastern side of the lot, be installed around the site boundaries to demarcate the bushland protection zone (see Condition 2).

1. The WAPC be requested to impose a condition on the approval requiring that an all-abilities path be provided from the building to the pedestrian path located to the north in order to facilitate access to the beach to the satisfaction of the City of Nedlands.

Should the development be approved, a condition is recommended that that an all-abilities path be provided from the building to the pedestrian path located to the north in order to facilitate access to the beach to the satisfaction of the City of Nedlands (see Condition 9).

Additional recommendations to Council from the SAWG have been provided at recommendation A to this report.

The City was not required to conduct public consultation as part of this development application. Public consultation was conducted by the State Development Assessment Unit between 29 April 2022 and 27 May 2022. All submissions received will be considered by the SDAU when making its recommendation to the Western Australian Planning Commission as the decision maker.

**Strategic Implications**

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

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

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

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

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

**Budget/Financial Implications**

N/A

**Legislative and Policy Implications**

The City is not required to make a quasi-judicial decision in this case. The decision maker is the WAPC as the land is reserved by the Metropolitan Region Scheme and the application has been made through the State Development Assessment Unit pathway.

**Decision Implications**

Council is providing non-binding comments to the State Development Assessment Unit. The SDAU will prepare a planning assessment and recommendation to the Western Australian Planning Commission for a final determination. As Council is not the decision-maker, it will not be party to any future State Administrative Tribunal matter, should the proponent be aggrieved by the decision.

**Conclusion**

Council is requested to provide comment to the WAPC on the proposed development of a Children’s Hospice at 61 (Lot 503) Clement Street, Swanbourne.

Administration recommends that Council provides support to the development application, subject to conditions.

**Further Information**

**Question**

Councillor Smyth – What is the format of the report that goes to the SDAU?

**Officer Response**

The Council resolution and the officer report will be forward to the SDAU.

**Question**

Can we add the additional clauses to the recommendation to instruct the CEO to action the items from the SAWG meeting of 30 May 2022?

**Officer Response**

The officer report has been updated and included in this agenda incorporating the recommendations from the SAWG to Council.

**Question**

Can comment on Cr Smyth’s alternative wording be provided?

**Officer Response**

The suggested wording would result in Recommendation E of the report being amended as follows:

1. Advises the State Development Assessment Unit that **although it objects to the process by which the site was resumed from Class A reserve, it is obliged to assess and comment on** the proposed Children’s Hospice at 61 Clement Street, Swanbourne as outlined in the development plans date stamped 26 April 2022 (Attachment 2) and recommends the following conditions be

The use of the words “.. it is obliged to assess and commnet on...” is not supported as Council is invited to comment on the proposal as a referral agency, however there is no obligation for Council to assess and comment on the proposal.

**Question**

Councillor Mangano – could administration please provide alternate recommendation for the Council Meeting detailing bushfire risk, traffic and any other downstream costs the City will be responsible for?

**Officer Response**

In the event Council wishes not to support the application, the following wording is suggested;

That Council advises the State Development Assessment Unit that it does not support the proposed Children’s Hospice at 61 (Lot 503) Clement Street, Swanbourne as outlined in the development plans date stamped 26 April 2022 and recommends the application be refused for the following reasons:

1. The proposed Hospice land use, including the associated office space, is inconsistent with the Metropolitan Region Scheme reservation of the site as ‘Parks and Recreation’.
2. The proposed development is inconsistent with the intent of the Allen Park Master Plan.
3. The proposed Hospice land use is considered inappropriate given the sites location within a Bushfire Prone Area.
4. Insufficient information has been provided within the Bushfire Management Plan to ensure that the development will have no detrimental impact on the adjoining native bushland.

**Question**

Councillor Coghlan – Can it be noted in the alternate recommendation the concern that the development has changed in nature from the initial proposal?

**Officer Response**

In the event that Council wishes to not support the proposal the most appropriate wording is provided in the previous answer.

**Question**

Councillor Hodsdon –Can we request that the office space be limited only that space which is directly related to patients staying in the hospice?

**Officer Response**

Based on communication with the Child and Adolescent Health Service, except for one administrative desk, all office space is intended to be used by staff, including doctors, consultants, therapists, and support workers, who are directly involved with the children and families staying at the hospice. Whilst some staff may also engage in outreach services with patients not residing in the hospice, this is in addition to their work with hospice patients and is not a full-time responsibility. Based on this information, the provision of the office space provided is considered reasonable and appropriate.

# PD37.06.22 Comment on State Development Assessment Unit Application for Tawarri Hot Springs Development at 120 Esplanade, Dalkeith

|  |  |
| --- | --- |
| **Meeting & Date** | Council – 28 June 2022 |
| **Applicant** | Western Australian Planning Commission |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | The author, reviewers and authoriser of this report declare they have no financial or impartiality interest with this matter.  There is no financial or personal relationship between City staff and the proponents or their consultants. |
| **Report Author** | Roy Winslow, Manager Urban Planning |
| **Director/CEO** | Tony Free, Director Planning and Development |
| **Attachments** | 1. Location Plan. 2. Development Plans 3. City of Nedlands Car Parking Plan 4. Landscaping Plan |

**Regulation 11(da) - Council provided rationale for the non-support which have been included into the minutes.**

Moved – Councillor Mangano

Seconded – Mayor Argyle

**Council Resolution**

**That Council:**

**1. advises the State Development Assessment Unit that it does not support the proposed Tawarri Hot Springs at 120 Esplanade, Dalkeith as outlined in the development plans date stamped 10 November 2021 (Attachment 2) and recommends the application be refused for the following reasons:**

1. **The proposed restricted-access use is inconsistent with the regional reservation of the site as Parks and Recreation;**
2. **The development as proposed extends beyond the development site onto surrounding public lands in a manner inconsistent with orderly and proper planning;**
3. **Visual amenity will be severely impacted by the proposed development;**
4. **The development will inappropriately restrict public access to this portion of the Swan River foreshore;**
5. **The development will have an undesirable effect on the amenity of the locality in relation to visual, traffic and environmental impacts;**
6. **Insufficient provision for car parking has been provided to accommodate the development;**
7. **The proposed development may not be able to cater for its own stormwater disposal on site due to the very high water table;**
8. **The proposed development does not take into account the heritage significance of the existing “Dome” structure**
9. **The development as proposed does not comply with the management policies applying to the Swan Canning River Development Control Area; and**
10. **The development as proposed does not accommodate maintenance access from Esplanade onto Reserve 29174 to the west of the site.**

**Rationale**

**Incompatibility with other uses in the vicinity**

**The City contends that the development constitutes a private development on public land. The site is important to the community as a whole and should remain accessible given its regional reservation as Parks and Recreation. The proposed use after excision is an inappropriate use of this Crown land under the LAA 1997.**

**Reserves are not usually granted for long-term economic development or for a commercial purpose or benefit. The implication is that the reserve was inappropriately excised in the first place for commercial development and equally the remaining surrounding "public land" is Crown land that would be inappropriately used to support the development.  Reserve tenure is usually applied to land that holds intrinsic community value or is of high conservation value that should be preserved and maintained for the benefit of future generations.**

**Some examples include: Recreational activities (e.g. sporting ovals); Aboriginal uses; local community sporting clubs; foreshore reserves, national parks, conservation reserves, heritage reserves, community centres.**

**The use is inconsistent with the use of the adjacent All Abilities playground.**

**The use is inconsistent with its current open access to the public.**

**The proposals inappropriately restrict public access to and use of the green space within fifty (50) metres of the Swan River waterline.**

**The use for private profit is inconsistent with land abutting the Swan River foreshore amongst and within A Class reserves dedicated for Parks and Recreation.**

**Planning for a major development of the proposed bulk and scale at the end of a cul-de-sac is inappropriate.**

**The planning detailed for control of additional traffic is inappropriate for the existing use of the area for family gatherings and public recreation.**

**The proposal as a commercial activity for private profit is inappropriate as it makes no provision for adequate parking with the site.**

**The additional parking planned for outside the reserve is inappropriate given the location on Swan River flood plain and the neighbouring All Abilities playground.**

**Planning to extend the footprint as per the proposals will restrict access for maintenance access nor emergency access from Esplanade onto Reserve 29174 to the west of the site.**

**Planning for use of reserves outside the development site for additional structures of substation, bore, signage, and drainage is inappropriate.**

**The amenity of this prominent riverfront location will be inappropriately affected by visual impact from the large complex on a site isolated from other buildings. The traffic and parking impact of this development will be considerable given the size of the complex. There is no provision for on-site parking with all traffic directed onto the dead-end Esplanade. The proximity of the river to the site creates significant environmental concern, particularly stormwater drainage and potential landscaping impacts.**

**The development will effectively block access to Reserve 29174 from Esplanade. This will affect the City’s ability to maintain this reserve.**

**Visual amenity**

**As a result of loss of over 5500 sqn of green space, visual amenity will be impacted from all aspects surrounding the proposed development.**

**The impact from the pathway leading from the north would be dominated by intrusive built form.**

**Equally so from the western entrance of the adjacent playground to the east and from the walking trail to the west.**

**The bulk and scale of the development is some five times the current visual impact of the existing Tawarri reception centre as seen from the river. It should be noted that the original dome structure was an appropriately sized landmark building as seen from the river and should be restored. In sum there is a sizable negative impact on the visual amenity of the landscape.**

**Environment amenity**

**The proposals would have a negative impact on the natural environment with a total of fifteen trees to be removed.**

**Foreshore ecology is an important corridor for marine and terrestrial ecology. The bulk and scale of the proposals are inappropriate in this location.**

**Traffic**

**The development as proposed will constitute an increased and unavoidable traffic hazard to users of the adjacent children’s park.**

**Increased traffic along the Esplanade as a whole, will reduce the amenity of all users and residents along the Esplanade.**

**Ride sharing and cycling will not accommodate the use of the adjacent reserves by patrons who already use the area from all over the metropolitan area for their own use and for entertaining interstate guests.**

**Flood Risk**

**Winter storms already demonstrate the risk of flooding in the carpark adjacent to the western entrance to the playground.**

**Details of retaining 1:100 flood waters within the site have yet to be provided.**

**The proposals to provide for increased carparking in adjacent reserves will exacerbate the problems of dealing with extra run off. This is particularly so given the water table is at a shallow depth in this area adjacent to the Swan River.**

**Proposals to reduce flooding by elevating the road by 500mm will increasing flooding within the at least the adjacent playground.**

**Planning for repeated flooding of the café, plant and bin store underlines the reasons for not developing on flood plain.**

**Parking**

**The developers should have made provision for on-site parking for both staff and patrons.**

**The existing parking is close to capacity at peak times such as public holidays. The adjacent parking is subject to flooding. The proposals for the City of Nedlands to provide additional parking at ratepayers’ expense for a commercial development on Crown land are unacceptable. The scale of the proposals should be reduced to accommodate parking within the reserve. Large events at the proposed facility will provide additional inconvenience and hazard to users of all facilities and properties along the Esplanade. Suggestions that ride share and cycling will assist cannot be guaranteed.**

**All costs of any additional parking wherever located should be borne by the developer.**

**Environmental effects**

**The proposed plans require the removal of several trees from the Tawarri reserve and additional trees are likely to need removal to accommodate the additional parking proposed for the Spa Complex. The proposed development is inconsistent with the local council’s tree policy.**

**The proposals will deny the opportunity to increase much needed tree cover.**

**The bulk and scale of the complex will result in additional unwanted urban island heat effect.**

**The proposed development is inconsistent with the WESROC Greening Plan 2020-2025.**

**Contrary to management policies of the WA State Government applying to the Swan Canning River Development Control Area.**

**These policies taken as a whole guide integration of tourism and maximum public access to the DCA.**

**The proposed development is in conflict with the stated aims and objectives of these government policies (eg. Corporate Policy No. 42, No 48) in denying multiple uses and access by the public and maintaining appropriate setbacks from the Swan estuarine foreshore. This is underlined in Corporate Policy No. 42, Section 5.11: “Make provision for public access and enjoyment of the Swan Canning River system including its foreshores in a manner that is consistent with the multiple use of the DCA and the preservation of the values of the land itself. “and section 5.19: “Promote the provision of a minimum width of 30 metres for foreshore land reservations.”**

**The Swan River Trust report dated 24th March 2022 clearly is concerned with the scale and bulk of the proposals. The nineteen conditions with details must be adhered to as a minimum. The capacity of the site to deal with rainful events should be increased to 50mm given the changing trends in weather events.**

**Heritage**

**The proposed development denies the heritage of “The Dome” and “Tawarri” in its lack of open public access and acknowledgement of the place as having been adjacent to the Sunset Old Men’s Home, a support for the socially disadvantaged. “The Dome” was a well recognised landmark from the Swan River waters.**

**Importance of health and community benefit of the site.**

**The current public accessibility for positive health benefits will be severely curtailed should the proposals proceed. Free access to the site is of special benefit to vulnerable groups: children, the elderly, and those who can afford no more than passive recreation. Free access is the right of all Western Australians.**

**Lessons from the COVID-19 pandemic are that there is a greater need for open space for recreation and active exercise for both mental and physical health as gyms close. The complex removes from public access a site that is already being used for open air activities. A Spa complex is likely to be closed during times of epidemic or pandemic risk due to the risk of cross infection.**

**Complementing existing use of adjacent recreation space.**

**The proposed development does *not* complement the use of the adjacent playground as would a small café within the footprint of the structure of “The Dome”. (or the footprint of the existing Tawarri Function Centre)**

**Wishes of the Community**

**A recent rally attended by some 200 of the public as well as numerous letters to the local media underline the importance of the site for its open space amenity. There is a clear wish that the existing footprint is not be increased and the site be used for a café only.**

1. **appoint Mayor Argyle, Councillor Bennett and Councillor Brackenridge to present Council’s position to the SDAU;**
2. **a professional independent planner be appointed to assist Councillors with the presentation to the SDAU; and**
3. **should the SDAU decide to approve this development, then the following conditions be considered for any approval granted by the Western Australian Planning Commission:**

**Traffic and Parking**

1. **The proponent providing a cash contribution prior to occupation of $200,000 being for the provision of formalised car parking spaces to be constructed by the City of Nedlands in accordance with the City’s car parking plan (Attachment 3) as part of the future upgrading of Esplanade between the Nedlands Yacht Club entrance and the development site.**
2. **The City of Nedlands car parking plan (Attachment 3) to form part of any approval granted by the Western Australian Planning Commission.**
3. **Construction at the developers cost and as part of the overall development the “Stage 2” works within the Esplanade road reserve as denoted on the approved plans, to the satisfaction of the City of Nedlands.**
4. **A traffic and car parking management plan to be prepared by the proponent and approved by the City of Nedlands prior to issue of a building permit and thereafter implemented at all times. Such plan will outline measures to reduce car parking / traffic demand both for day-to-day operations and for larger events.**
5. **A minimum of 10 visitor bike parking bays and 2 bike parking bays for staff and associated end of trip facilities are to be provided prior to occupation to the satisfaction of the City of Nedlands.**

**Waste Management**

1. **A detailed waste management plan is to be prepared by the proponent and approved by the City of Nedlands prior to issue of a building permit and thereafter implemented at all times.**

**Noise**

1. **An acoustic report is to be prepared by a suitably-qualified and licensed acoustic consultant prior to issue of a building permit demonstrating compliance of the development with the requirements of the Environmental Protection (Noise) Regulations 1997.**

**Landscaping**

1. **A landscaping plan for the development site, entry plaza and Esplanade "triangle" is to be prepared by the proponent and approved by the City of Nedlands prior to issue of a building permit and thereafter implemented and maintained at all times to the satisfaction of the City of Nedlands. The landscaping plan is to incorporate landscape screening of the foreshore interface area rather than the proposed bunding and “haha wall”. The landscaping plan is to limit sedge selection to: Baumea juncea, Juncus krausii, Lepidosperma gladiatum and Ficinia nodosa.**

**Building Form**

1. **Walls and/or fencing of the pool areas/terraces facing the river and foreshore are to be glazed or otherwise visually permeable in a manner that reduced the visual impact when viewed from the river.**

**Demolition and Construction**

1. **Prior to the issue of a Demolition Permit and/or a Building Permit, a Demolition and Construction Management Plan shall be submitted and approved to the satisfaction of the City. The approved Demolition and Construction Management Plans shall be observed at all times throughout the demolition and construction process to the satisfaction of the City.**
2. **The development site is to be fenced at all times during demolition and construction.**

**Other Matters**

1. **All trees that are to be retained on the development site are to be protected by fencing or other method approved by the City of Nedlands during demolition and construction.**
2. **A cliff face geotechnical report is to be prepared by the proponent and approved by the City of Nedlands prior to issue of a building permit. The geotechnical report is to confirm the stability of the cliff face and steep bank to the north and west of the development site and identify the use of appropriate construction techniques to minimise impacts on the cliff/bank stability.**
3. **All stormwater generated on site is to be retained on site. An onsite storage/infiltration system is to be provided within the site for a 1 in 100-year storm event. No stormwater will be permitted to enter the City of Nedlands’ stormwater drainage system unless otherwise approved.**
4. **The electricity substation and water bores located on land outside of the development site being owned and operated by the relevant service provider. In the event that these improvements are to be privately owned, they are to be relocated onto the development site to the satisfaction of the City of Nedlands.**

**CARRIED 10/2**

**(Against: Crs. Combes & Hodsdon)**

**Purpose**

The purpose of this report is for Council to provide its comments to the State Development Assessment Unit (SDAU) of the Western Australian Planning Commission (WAPC) on a development application at 120 Esplanade, Dalkeith (Tawarri site). The application proposes the development of a private recreation facility (wellness/spa) and incidental restaurant/café.

Recommendation

That Council advises the State Development Assessment Unit that it supports the proposed Tawarri Hot Springs at 120 Esplanade, Dalkeith as outlined in the development plans date stamped 10 November 2021 (Attachment 2) and recommends the following conditions be considered for any approval granted by the Western Australian Planning Commission:

Traffic and Parking

1. The proponent providing a cash contribution prior to occupation of $200,000 being for the provision of formalised car parking spaces to be constructed by the City of Nedlands in accordance with the City’s car parking plan (Attachment 3) as part of the future upgrading of Esplanade between the Nedlands Yacht Club entrance and the development site.
2. The City of Nedlands car parking plan (Attachment 3) to form part of any approval granted by the Western Australian Planning Commission.
3. Construction at the developers cost and as part of the overall development the “Stage 2” works within the Esplanade road reserve as denoted on the approved plans, to the satisfaction of the City of Nedlands.
4. A traffic and car parking management plan to be prepared by the proponent and approved by the City of Nedlands prior to issue of a building permit and thereafter implemented at all times. Such plan will outline measures to reduce car parking / traffic demand both for day-to-day operations and for larger events.
5. A minimum of 10 visitor bike parking bays and 2 bike parking bays for staff and associated end of trip facilities are to be provided prior to occupation to the satisfaction of the City of Nedlands.

Waste Management

1. A detailed waste management plan is to be prepared by the proponent and approved by the City of Nedlands prior to issue of a building permit and thereafter implemented at all times.

Noise

1. An acoustic report is to be prepared by a suitably-qualified and licensed acoustic consultant prior to issue of a building permit demonstrating compliance of the development with the requirements of the Environmental Protection (Noise) Regulations 1997.

Landscaping

1. A landscaping plan for the development site, entry plaza and Esplanade "triangle" is to be prepared by the proponent and approved by the City of Nedlands prior to issue of a building permit and thereafter implemented and maintained at all times to the satisfaction of the City of Nedlands. The landscaping plan is to incorporate landscape screening of the foreshore interface area rather than the proposed bunding and “haha wall”. The landscaping plan is to limit sedge selection to: Baumea juncea, Juncus krausii, Lepidosperma gladiatum and Ficinia nodosa.

Building Form

1. Walls and/or fencing of the pool areas/terraces facing the river and foreshore are to be glazed or otherwise visually permeable in a manner that reduced the visual impact when viewed from the river.

Demolition and Construction

1. Prior to the issue of a Demolition Permit and/or a Building Permit, a Demolition and Construction Management Plan shall be submitted and approved to the satisfaction of the City. The approved Demolition and Construction Management Plans shall be observed at all times throughout the demolition and construction process to the satisfaction of the City.
2. The development site is to be fenced at all times during demolition and construction.

Other Matters

1. All trees that are to be retained on the development site are to be protected by fencing or other method approved by the City of Nedlands during demolition and construction.
2. A cliff face geotechnical report is to be prepared by the proponent and approved by the City of Nedlands prior to issue of a building permit. The geotechnical report is to confirm the stability of the cliff face and steep bank to the north and west of the development site and identify the use of appropriate construction techniques to minimise impacts on the cliff/bank stability.
3. All stormwater generated on site is to be retained on site. An onsite storage/infiltration system is to be provided within the site for a 1 in 100-year storm event. No stormwater will be permitted to enter the City of Nedlands’ stormwater drainage system unless otherwise approved.
4. The electricity substation and water bores located on land outside of the development site being owned and operated by the relevant service provider. In the event that these improvements are to be privately owned, they are to be relocated onto the development site to the satisfaction of the City of Nedlands.

**Voting Requirement**

Simple Majority.

**Background**

**Background to Application**

In 1957 a community facility was built which in the 1960s became the Tawarri Reception Centre. This operated until 2018 when the current lease expired. The building has remained

vacant since then.

Council has recently resolved not to enter into a lease agreement with the proponents of the development. The lease site, known as Lot 502 on Deposited Plan 418496 has subsequently been excised from Reserve 17391 by the State government. This will allow the State to enter into a direct lease with a future lessee without the involvement of the City of Nedlands. The remainder of Reserve 17391 to the east, Reserve 29174 to the west and the Esplanade road reserve continue to be managed by the City of Nedlands.

A development application was lodged with the WAPC for assessment by the SDAU as a ‘significant development’. Notwithstanding the application was lodged with the SDAU and not the City, the decision maker remains as the WAPC given the site is located on land reserved by the Metropolitan Region Scheme. The City of Nedlands is acting as a referral body in this instance.

**Development Proposal**

The application seeks development approval for a wellness/spa facility and incidental restaurant/café. The development plans are included in **Attachment 2**.

The development site is subject to lease negotiations between the proponent and the Government of Western Australia. Whilst the lease and planning processes are separate, it is assumed that an appropriate lease will be granted to the proponent in order to allow the development to proceed.

No car parking will be provided on the development site. Rather, the development will rely on car parking provided within the adjoining City-managed reserves.

The building is architecturally designed and has been subject to review by the State Design Review Panel on a number of occasions.

**Discussion**

**Approvals Process**

The site is reserved by both the Metropolitan Region Scheme and LPS3 as “Parks and Recreation”. As a regional reserve, the decision maker for planning proposals is normally the Western Australian Planning Commission (WAPC). However, the site is also located within the Swan River Trust Development Control Area. This requires proposals within the area to be subject to the approvals process of the Department of Biodiversity, Conservation and Attractions (DBCA).

The application subject to this report is being considered under Part 17 of the Planning and Development Act 2005. This temporary approval pathway allows for certain applications to be lodged and assessed by the State Development Assessment Unit (SDAU) rather than using the Joint Development Assessment Panel process. The City of Nedlands, as the relevant local government, is provided the opportunity to make comment on the proposal. However, it is not responsible for the assessment or preparation of the recommendation to the WAPC. The Swan River Trust is also invited to consider the application and make a recommendation to the SDAU/WAPC. All advertising and consideration of submissions is undertaken by the SDAU and not the City.

**Scope of Assessment and Compliance with LPS**

As the City is not the relevant authority for this application, the scope of its assessment is limited in the main to its Local Planning Scheme and Policies. It is also invited to make comment as the manager of the reserved land that surrounds the development site. All other matters that fall within the remit of other state agencies are not considered in this report, unless there is an overlap with the City’s operations.

As an MRS parks and recreation reserve, there are no specific LPS3 development controls that apply to this proposal. The only local planning policy controls available for assessment are those relating to car parking. For all other matters, the assessment will take a “first principles” approach, guided by the “matters to be considered” contained in clause 67(2) of the Deemed Provisions.

**Car Parking**

Car Parking Demand

The development does not provide on-site car parking. Consequently, the development will rely on car parking located on Esplanade, which is under the care and control of the City of Nedlands.

The Traffic Impact Statement states a maximum of 135 patrons will visit at peak operating time. The City’s Parking Local Planning Policy requires 1 space for every two patrons, based on a land use of “recreation-private”. The total number of car parking spaces required to accommodate the stated capacity is 68.

City officers understand that the physical capacity of the building will be somewhat higher than that stated in the Traffic Impact Assessment. The maximum capacity of the facility as calculated for the purposes of licensing as a public building is approximately 400, subject to a formal certification process.

Based on the public building maximum capacity of approximately 400, a total of 200 car parking spaces would be required. However, some allowance to this figure would be appropriate to take into account people using the café and restaurant area that are also visiting the adjacent All Abilities Play Space. Other measures to reduce car parking demand are included in the Traffic Impact Statement. These measures include valet service and catering for ride share and cycling. These measures would allow for the 200 space requirement to be reduced.

Car Parking Provision

Another factor to consider over and above policy compliance is the physical ability to provide car parking in the vicinity of the development site. Given the location is environmentally and aesthetically sensitive, car parking needs to be responsive to the character and constraints of the riverfront. It is considered appropriate that all car parking in the vicinity is formalised to ensure efficiency and safety for users of all surrounding facilities, as well as address environmental and aesthetic constraints.

City officers have prepared a car parking plan at **Attachment 3**. This plan provides for 129 car parking spaces once the “Stage 2” works to the western end of Esplanade are undertaken. All parking is located within the existing footprint of formalised and informal parking along Esplanade. Construction of this plan is contingent on a larger upgrading of the roadway and drainage for Esplanade. This work ideally would take place within the next 6 years, subject to budgetary considerations. To address existing drainage issues on Esplanade, the pavement height at the western end abutting the development site will be raised by approximately 500mm, with fill gradually reducing eastwards towards the entrance to the Yacht Club. Constructing car parking spaces on the current road gradient in the meantime will require these spaces to be reinstated at a higher level when the road works take place.

Officers have considered the combined parking requirements of the development and the adjacent All Abilities Play Space. It is concluded that the 129 spaces identified on the City’s parking concept can accommodate both operations. However, parking and traffic management planning for large events at the proposed facility is recommended. This is included in the recommendation to Council.

Developer Contribution

Construction of car parking on the development site is not feasible using the proposed development outcome. Further, there is capacity within the Esplanade road reserve to cater for up to 129 formalised car parking spaces. Given that the City will be reconstructing Esplanade in the medium term, requiring car parking to be constructed by the proponent as part of the development works is not considered appropriate.

It is recommended that two conditions are placed on any approval that address car parking and access:

1. Construction of the car parking and entry works shown as “Stage 2” on the development plans. Construction to be at the time of development of the main facility and at the developer’s cost.
2. Payment to the City of Nedlands of a contribution of $200,000 towards the provision of car parking on Esplanade. These funds will be held by the City and utilised to provide formalised car parking in accordance with the concept plan (**Attachment 3**) at the time of reconstruction of Esplanade by the City. In the meantime, the informal car parking arrangements already in place will remain.

A condition requiring the City’s car parking concept plan for Esplanade to form part of any approval is also recommended. This will ensure the City has broad approval to the car parking works from the WAPC as the land is reserved for Parks and Recreation by the Metropolitan Region Scheme.

**Use of Reserves Outside of Development Site**

There are a number of elements of the development that are located outside of the development site. These elements include the substation, bore, signage and potentially drainage. It is also noted that “Stage 2” works in the cul-de-sac ‘triangle’ of Esplanade are also shown on the development plans. The land on which these improvements are located is managed by the City of Nedlands.

Matters such as car parking, landscaping, pathways and potentially drainage can be readily accommodated in the same manner as for other developments that utilise access/egress from City-managed land. However, the location of the development’s substation and water bore presents a larger concern. The nature of these improvements and their ownership is unclear from the development application information. Whilst some Western Power and Water Corporation infrastructure is contained within local government land, private infrastructure is normally located on the land to which it relates. It is recommended that Council recommend this infrastructure be owned and maintained by a service provider or relocated within the development site.

**Design**

The original design was described to use contextually appropriate material like stone, native plants and timber, specifically:

* Designed based on the concept as a series of limestone blocks which enables the form of the facility to present as a series of smaller buildings rather than a single mass. This reduces the perception of scale from the river and from the foreshore and allows for views through the site from the car park to the river.
* The development is primarily single storied, with two small upper storey portions setback farther from the river. The topography of the escarpment at the rear means the nearby vegetation on the escarpment sits well above the roofline when viewed from the river. The development will be noticeable and prominent but does not dominate or overwhelm the landscape.
* The scale steps up gently from the foreshore, with landscaping and the open-aired pools drawing the scale further from the river.
* A low height, balustrade-level wall fronting the foreshore is largely protected by adjacent vegetation and enables privacy for pool users whilst allowing for passive surveillance of the foreshore footpath.
* The overall result is a clear delineation of public realm and the boundary of the facility, with the edges blurred by landscape and building form.
* The development establishes a new form for the area and will set a new standard for Perth’s limited examples of sensitive and well considered riverside development.

The design is considered appropriate for the site and is supported. In addition, the design has been reviewed by the State Design Review Panel on a number of occasions.

The latest plans change the external building materials from timber and stone to pre-cast concrete and grey fibre cement cladding. The design is considered and generally indicative of high-quality built form as well as landscaping outcomes integrated into a unique and picturesque site, subject to:

* Increasing the level of interactivity between the pool area and the river/promenade pathway, particularly ensuring the glass balustrading is as low impact as possible; and
* Confirming the landscaping/public space infrastructure to be provided in the area between the building and pathway promenade as this area could make a strong positive contribution to the surrounding local community.

**Landscape Concept**

The landscape concept has been prepared by ASPECT Studios (**Attachment 4**). The design responds to the local context and scale, form and function of the architecture in order to create a dynamic and engaging sequence of landscape spaces. The design develops a series of public landscape spaces that work to unite this project with the Jo Wheatley All Abilities Play Space and the future redevelopment of the Sunset Hospital site to create a foreshore precinct that meets the needs of residents, visitors and the broader community.

The site is divided into 3 distinct areas:

* Car park – planting proposes feature tree planting of Tuarts, Jarrah’s and Peppermint trees, with lower plantings of groundcovers to provide clear wayfinding through to the proposed development. Water Sensitive Urban Design principles will be integrated into a bio-filtration swale to capture stormwater run-off, including a range of rushes and sedges from the Vasse Complex
* Arrival court – planting references conceptually the Tamala limestone and deep waters of the subterranean Aquifiers. Planting compositions will be represented by both clump, meander and trail from, beside and along the proposed walling elements.
* Spa Complex – the planting palette responds to the hot springs, the healing, medicinal and restorative qualities of bathing. Noongar medicinal plants will be represented in appropriate locations.

Meandering through the development will be a living stream of sedges, rushes and suitably appropriate groundcovers/herbs. Where appropriate Australian native and exotic plant species will create and support an aesthetic and high quality landscape response. The grassed area and bushland to the north of the development site is contained within the City’s river foreshore greenway corridor and the bushland is subject to a bushland management plan that aims to protect and enhance the native vegetation.

A total of 15 trees are proposed to be removed from the development site and 5 trees retained abutting the foreshore reserve. One tree is proposed to be removed for construction of the substation outside of the lease area.

It is also recommended that the landscaping plan be amended to limit sedges to: *Baumea juncea*, *Juncus krausii,* *Lepidosperma gladiatum* and *Ficinia nodosa* as this is consistent with the species the City uses along foreshore and river wall restoration areas nearby.

**River Levels**

The development proposes finished floor levels as follows:

* 1.16 AHD Café
* 1.85 AHD Plant and Bin Store
* 2.80 AHD Wellness Centre/Spa and Restaurant
* 3.22 AHD Substation

The Department of Water and Environmental Regulation (DWER) advise that to year 2110 an allowance of 0.9 metres for mean sea level rise should be considered in accordance with State Coastal Planning Policy (SPP2.6)

The Swan and Helena River Flood Study shows the general area affected during major events with the following floor levels expected:

* 1 in 10 (10%) AEP 2.0m AHD
* 1 in 100 (1%) AEP 2.2m AHD

Based on the floodplain management strategy for the area, proposed development (ie filling, building etc) is considered acceptable with respect to major flooding. However, a minimum habitable floor level of 2.7m AHD is recommended to ensure adequate flood protection against the 1 in 100 AEP event in the future. This is achieved by the development with the exception of the café area, which will be constructed to accommodate flooding. This is considered to be appropriate as it will allow for the café to be at the same level as the adjacent playground, rather than require external steps, ramps and retaining.

The available contour information shows that the general natural surface level of the development site is approximately 1.5m AHD. The river wall in front of the site is at 0.9m – 1.0m AHD. The Department of Biodiversity, Conservation and Attractions (DBCA) advise the floor levels should be 0.5m above the 100 year ARI floor level and grading should be minimised to 1:4 gradient to protect against erosion.

A report was prepared on the river walls west of Perth Flying Squadron Yacht Club (PFSYC) by M P Rogers and Associates in 2015. A new wall was constructed in accordance with the above report. Sea level has been factored for the wall and thus nothing further is required from the development in terms of river wall construction.

**Foreshore Interface**

The river interface proposes bunding (referred to as “haha wall”) to screen the raised terraces and pool areas. The cross section shows 2m height difference and a 1m high wall above the pool levels.

Administration recommends that the visual impact of the area should be addressed by landscape screening rather than the proposed bunding and the “haha wall”. The proposed balustrade wall adjoining the pool should also be visually permeable so as to further reduce visual impact. These can be dealt with as conditions of approval.

**Bushfire and Bush Fire Prone Area**

The bushland area to the north is no longerclassed as bush fire prone. Therefore, the Australian Standard for Construction in Bush Fire Prone Areas (AS 3959-2009) does not apply.

**Cliff Stability**

An assessment of the cliff stability behind the subject site was undertaken by Golder Associates in June 2015.

It is recommended that a geotechnical assessment be undertaken of the cliff /bank immediately behind the subject site prior to any development on the site. This assessment could be prepared as an addendum to the 2015 report. This will identify any appropriate action and construction methods necessary to minimise impact on the cliff stability. Given that the development is potentially increasing the risk it is entirely appropriate for the developer to undertake this assessment prior to any development on site. These requirements can be imposed via a condition.

**City of Nedlands Foreshore Enhancement and Management Plan.**

The proposed development complies with the City of Nedlands Foreshore Enhancement and Management Plan. The key element is to redevelop Tawarri site *“in similar style incorporating heritage features”*. The development does this by retaining use of the site as a wellness spa utilising the hot springs water. It also proposes detailed design and elements that reflects the history of the site, as well as landscaping that reflect the history.

**Consultation**

The City was not required to conduct consultation for this development application. Public consultation in accordance with the Planning and Development (Local Planning Schemes) Regulations 2015 was conducted by the State Development Assessment Unit. All submissions received will be considered by the Unit when making its recommendation to the Western Australian Planning Commission as the decision maker.

**Strategic Implications**

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

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

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

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

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

**Budget/Financial Implications**

There are no direct financial implications associated with the provision of planning comment on this development application. All financial implications of the leasing of the site is contained in a separate report to Council.

**Legislative and Policy Implications**

The City is not required to make a quasi-judicial decision in this case. The decision maker is the WAPC as the land is reserved by the Metropolitan Region Scheme and the application has been made through the State Development Assessment Unit pathway.

**Decision Implications**

Council is providing non-binding comments to the State Development Assessment Unit. The Unit will prepare a planning assessment and recommendation to the Western Australian Planning Commission for a final determination. As Council is not the decision-maker, it will not be party to any future State Administrative Tribunal matter, should the proponent be aggrieved by the decision.

**Conclusion**

Council is requested to provide comment to the WAPC on the proposed redevelopment of Tawarri Hot Springs. The application seeks development approval for a wellness/spa facility and incidental restaurant/café on the subject site.

Administration recommends that Council provides support to the development application, subject to conditions.

**Further Information**

**Question**

Councillor Mangano – Could the following please be added to the alternate recommendation - drainage, flooding, impacts on All Abilities Play Space, cost of parking, impacts downstream, bulk and scale?

**Officer Response**

In the event that Council wishes to not support the application the following wording is suggested:

That Council advises the State Development Assessment Unit that it does not support the proposed Tawarri Hot Springs at 120 Esplanade, Dalkeith as outlined in the development plans date stamped 10 November 2021 (Attachment 2) and recommends the application be refused for the following reasons:

1. The proposed restricted-access use is inconsistent with the regional reservation of the site as Parks and Recreation;
2. The development as proposed extends beyond the development site onto surrounding public lands in a manner inconsistent with orderly and proper planning;
3. The development will inappropriately restrict public access to this portion of the Swan River foreshore;
4. The finished levels and southern elevation of the development contribute to an unacceptable visual prominence of the building in the landscape;
5. The development, as proposed, may require stormwater to be managed outside of the development site;
6. Insufficient provision for car parking has been provided to accommodate the development; and
7. The development as proposed does not accommodate maintenance access from Esplanade onto Reserve 29174 to the west of the site.

**Question**

Councillor Youngman – is there an obligation for the City to upgrade the carpark as referred to in the Swan River Trust submission?

**Officer Response**

There is no obligation on the City to upgrade the car park.

**Question**

Can we request a corridor of grassed land between our footpath and the development for heavy machinery to access on the southern side within the 20m corridor?

**Officer Response**

The following condition could be included. However, as it will substantially alter the nature of the development in order to be enabled, it is likely not to be entertained by the WAPC.

16. Provision being made to the satisfaction of the City of Nedlands for access across the development site between Esplanade and Reserve 29174 for maintenance and emergency vehicles.

**Question**

Mayor Argyle – is the City required to pay for a new walk way to the site?

**Officer Response**

There is no obligation on the City to provide the walk way.

**Question**

Mayor Argyle – when is the submission required to the SDAU?

**Officer Response**

The City’s submission is due on June 30.

**Question**

Councillor Coghlan – how are we getting the evidence-based figure of $200,000 for the parking to be included in the conditions?

**Officer Response**

The $200,000 figure is based upon the previously agreed Heads of Agreement figure for the developer contribution.

**Question**

Councillor Bennett – How will Stormwater Management be dealt with onsite? If they can’t, will the City be responsible?

**Officer Response**

The key design principles for stormwater management have been outlined in the engineering report that forms part of the proposal. The level of detail on stormwater management is limited to that normally considered for a development application. The stormwater management principles are based on the widely-used Department of Water Better Urban Water Management Guidelines and DBCA Swan River-specific requirements. Further site investigations and detailed design will be necessary should the development proceed. Condition 14 requires stormwater generated on site to be retained on site, with no stormwater being permitted to enter the Citys’ stormwater system.

Should Council consider that this matter is unresolved it is recommended that the following be included as advice to the SDAU:

1. The City of Nedlands advises that all stormwater generated by the development is to be retained within the site. The information provided to date is insufficient to demonstrate this principle can be achieved. It is recommended that additional information on stormwater management and the likely impact on surrounding land holdings and infrastructure is provided prior to a decision being made.

**Question**

Councillor Brackenridge – how will they manage disposing of pool/spa water?

**Officer Response**

The City understands that the filter backwash will be disposed off on site via artifical wetlands.

**Question**

Councillor Bennett – Sustainability issues – Can water, waste and electrical costs be scoped?

**Officer Response**

The ESD report provided identifies a 6 Green Star rating as being sought for the development. A Sustainability Management Plan is proposed that will take into account design, construction and operation. Should there be desire by Council, the following condition could be requested:

17. An Environmental Sustainability Report to be prepared prior to issue of a building permit that outlines the implementation the proposed 6 Green Star rating for the design, construction and operation of the facility.

# PD38.06.22 Consideration of Adoption of Local Planning Policy for Advertising – Draft Broadway Precinct Design Response

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| --- | --- |
| **Meeting & Date** | Council Meeting – 28 June 2022 |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | The author, reviewers and authoriser of this report declare they have no financial or impartiality interest with this matter.  There is no financial or personal relationship between City staff involved in the preparation of this report and the proponents or their consultants. |
| **Report Author** | Roy Winslow – Manager Urban Planning |
| **Director** | Tony Free–Director Planning |
| **Attachments** | 1. Draft Broadway Precinct Design Response Local Planning Policy 2. Summary of changes – Broadway Precinct Design Response Local Planning Policy Relationship to SPP7.3 R-Codes |

**Councillor Bennett – Financial Interest**

Councillor Bennett disclosed a financial interest in Item 16.4 PD38.06.22, his interest being that he lives and is a part owner of a property on Broadway. Councillor Bennett advised he would leave the room during this item.

Councillor Bennett left the meeting at 9.03pm.

**Regulation 11(da) - Council considered it more appropriate for Broadway for its entire length to be treated the same, that the additional deep soil area for height in R60 areas was not in keeping with the area and that the height on the corner of Broadway and Stirling highway should be reduced.**

Moved – Councillor Coghlan

Seconded – Councillor Mangano

**Council Resolution**

**That Council:**

1. **adopts the Draft Broadway Precinct Design Response Local Planning Policy for advertising in accordance with Clause 4 of the Deemed Provisions of Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015;**
2. **notes that the advertising period will be for a minimum of 28 days;**
3. **requests the Mayor to send a letter to the Minister for Planning requesting coordinated planning be undertaken at State level for the full length of the Stirling Highway Activity Corridor;**
4. **requests the CEO to prepare a Discussion Paper to consider the merits and implications of the Policy’s proposed star rating for building sustainability, which is to be discussed at a concept Forum prior to the Policy being considered for final approval;**
5. **requests the Chief Executive Officer prepare a Discussion Paper to consider appropriate residential building heights, including possible amendments to the City’s Residential Development LPP, which is to be discussed at a Concept Forum prior to the Policy being considered for final approval:**
6. **requests the CEO to modify the Draft Broadway Precinct Design Response Local Planning Policy by:**

**a. Removing the option for three storey grouped dwellings (where 20% deep soil area is provided) in the Residential R60 zone;**

**b. Removing provisions for the Broadway Frame sub-precinct, and instead having these areas subject to the provisions for the Broadway Node sub-precinct; and**

**c. Removing provisions for the portion of the Stirling Highway sub-precinct fronting onto Broadway, and instead having this area subject to the provisions for the Broadway Node sub-precinct.**

**CARRIED UNANIMOUSLY 12/-**

Recommendation

That Council:

1. adopts the Draft Broadway Precinct Design Response Local Planning Policy for advertising in accordance with Clause 4 of the Deemed Provisions of Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015;
2. notes that the advertising period will be for a minimum of 28 days;

1. requests the Mayor to send a letter to the Minister for Planning requesting coordinated planning be undertaken at State level for the full length of the Stirling Highway Activity Corridor; and
2. requests the CEO to prepare a Discussion Paper to consider the merits and implications of the Policy’s proposed star rating for building sustainability, which is to be discussed at a concept Forum prior to the Policy being considered for final approval.
3. requests the Chief Executive Officer prepare a Discussion Paper to consider appropriate residential building heights, including possible amendments to the City’s Residential Development LPP, which is to be discussed at a Concept Forum prior to the Policy being considered for final approval.

**Purpose**

The purpose of this report is for Council to adopt for advertising the draft Broadway Precinct Design Response Local Planning Policy (the Policy), found in **Attachment 1**.

**Voting Requirement**

Simple Majority.

**Executive Summary**

The Policy seeks to nuance the built form guidance of State Planning Policy 7.3 - Residential Design Codes (R-Codes), providing localised and contextually appropriate built form controls and design guidance for the Broadway Precinct. This report provides an overview of the process the City undertook to create the Policy, a breakdown of the Policy structure and its strategic intent.

The Policy process began with research into the context and character of the Precinct and built form modelling for future development provisions in consideration of this character and context. Key character drivers for the Broadway Precinct were identified as open, leafy streetscapes within the Residential zone, landscaping in the form of deep soil and trees, and areas, or ‘nodes’, of activity along Broadway.

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

The Policy breaks the Broadway Precinct into four sub-precinct areas, each having its own existing and desired future character statement. The sub-precincts are detailed in a Precinct map included as Figure 1 at the end of this report. Each sub-precinct also has provisions written specifically for them that are consistent with these character statements, as well as their density code, zoning and lot orientation. The report discusses the specific aspects of the character and context research, built form modelling and engagement outcomes that have influenced these provisions.

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

**Background**

**Built Form Modelling**

In accordance with State Planning Policy 7.2 – Precinct Design Guidelines (SPP 7.2), the intent of precinct planning policies is to promote the contextually appropriate development of the areas identified for an increase in density under the Scheme. In January 2020 the City engaged consultants to undertake built form modelling for the Broadway, Nedlands Town Centre, and Waratah precincts.

The built form modelling work included the following deliverables:

1. Local distinctiveness study
2. Context analysis
3. Modelling and built form controls

**Community Engagement**

The final deliverables of the built form modelling work were provided to the City in April 2021. The City then proceeded to the community engagement phase of the precinct planning work, using key elements of the built form modelling completed to engage with the Community Reference Group (CRG) at workshops. Broader community engagement was also carried out in the form of an Open House (drop-in session) and a community survey. These methods allowed all residents within the City to comment on the desired future character of the Broadway Precinct. Further details of community engagement activities for this project are outlined below in the Consultation section.

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

**Discussion**

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

SPP 7.2 sets out the criteria an area should meet to require precinct planning work, and the process a local government should follow to prepare the precinct plan or policy. The Broadway Precinct is located within the UWA/QEII Specialised Activity Centre, and so is considered an Activity Centre Precinct under SPP 7.2. The precinct plan or policy for an Activity Centre Precinct should focus on the following key objectives:

* Providing an appropriate mix of land uses to enable business activity, service provision and employment opportunities.
* Guiding zoning and subdivision to achieve desired densities and land use mix to support well located and designed higher-density residential and commercial development.
* Integrating local and regional transport infrastructure and networks to ensure strong linkages between the activity centre and surrounding areas.
* Incorporating a network of streets and public spaces in a compact urban form defined by a pedestrian-dominant streetscape where the primary focus of activity is on key public streets.

The City followed the process set out in SPP 7.2 to create the Policy, including identifying the precinct area, engaging with the local community, creating a vision, ensuring the development proposal is feasible, and investigating how the precinct plan can result in benefit to the communities they are developed within. A Precinct Plan for the entirety of the UWA/QEII Specialised Activity Centre is currently being prepared by the City of Perth, in collaboration with the City of Nedlands and the Department of Planning, Lands and Heritage (DPLH).

**Local Planning Strategy**

The Strategy identifies the Broadway and Stirling Highway portions of the Precinct as Urban Growth Areas, which are intended to provide for the most intense forms of development within the City. Development heights within the Urban Growth Areas should be sufficient to accommodate substantial residential components. The Strategy states that for Broadway, compatible development should be focused around identified residential and non-residential pockets, acknowledging that the intensity of development will vary in response to the predominant land use. Development controls within Urban Growth Areas are to reflect the local context and be sympathetic to the existing character of the area. Noting the location of the Broadway Precinct within the UWA/QEII Specialised Activity Centre, the Strategy highlights the need for the Precinct to provide development outcomes compatible with the Health/Education/Research function of the centre, on a scale that will not detract from other centres in the hierarchy.

The areas adjoining Broadway and Stirling Highway are identified as Transition Zones, which are intended to create a buffer between high intensity and low intensity development. This buffer will visually smooth the differences in built form (such as height and bulk) and help mitigate land use conflict.

The Policy responds to the Strategy’s vision for the precinct by supporting a nodal approach to development along Broadway, with preferred land uses which can support the function of the UWA/QEII Specialised Activity Centre. For the Residential sub-precinct, the Policy respects the existing character of the area by setting controls for large front setbacks, detached building frontages and increased requirements for deep soil areas and tree provision.

**Local Planning Scheme No. 3**

Under the Scheme, Broadway and Stirling Highway are zoned Mixed Use (R-AC3 and R-AC1 respectively), with the surrounding residential area having a density of R40 – R160.

The Policy has been prepared in accordance with clause 9 – Aims of the Scheme, in particular:

(a) Protects and enhances local character and amenity;

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

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

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

The Policy is consistent with the objectives of the relevant Zones:

Residential Zone

* Encourages a range of housing types to meet the changing needs of the community;
* Encourages high quality design and streetscapes;
* Proposes preferred land uses within the Mixed Use Zone that are complimentary to the surrounding residential development;
* Provides street specific requirements for development to be compatible with the future desired character of the area in terms of bulk, height, scale and setbacks.

Mixed Use Zone

* Encourages well-designed, high-quality development that considers the existing new development, and the future desired character of the area;
* Includes a list of preferred active uses, to be located at ground level, which provides for a mix of varied but compatible land uses that will assist in activating the streetscape and support the function of the Specialise Activity Centre.

**Draft Broadway Precinct Design Response – Local Planning Policy**

Informing Studies

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

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

Strategic Intent

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

* Define the future character of the area
* Facilitate high-quality design
* Facilitate land uses that support the Specialise Activity Centre
* Reinforce the existing commercial areas along Broadway
* Promote key landscape and streetscape elements from the established character
* Maintain the amenity of the area, consistent with the relevant density code
* Manage density interfaces

Character Statements

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

Sub-Precincts

The precinct has been analysed on a street-by-street basis. Considering the zoning, density coding, lot orientation and existing landscape and streetscape characteristics, the City identified four distinct sub-precincts within Broadway Precinct. The Policy includes a map that breaks the precinct into:

* Residential Sub-Precinct
* Broadway Nodes Sub-Precinct
* Broadway Frame Sub-Precinct
* Stirling Highway Sub-Precinct

These sub-precincts are detailed in Figure 1, included in this report.

**Policy Scope**

Single House and Grouped Dwellings

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

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

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

Multiple Dwellings

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

* Element 2.2 - Building Height;
* Element 2.3 - Street setback; and
* Element 2.4 – Side and rear setback.

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

**Sub-Precincts**

Residential Sub-Precinct

A key component of the existing character within the Residential sub-precinct is the open, leafy streetscapes. In response, the Policy proposes increased street setbacks and increased deep soil and tree requirements. The Policy also requires boundary walls to be located away from the street, to maintain the appearance of a detached streetscape character. Rear setbacks have also been increased throughout the Residential sub-precinct.

Broadway Nodes and Frame Sub-Precincts

The entire length of Broadway is zoned Mixed Use. Clause 32.4(2) of the Scheme requires all new development within the Mixed Use zone to comprise of non-residential uses at ground level. The Scheme allows for this requirement to be varied through an approved local planning policy. The Policy identifies specific mixed-use areas of activity along Broadway (identified as ‘Broadway Nodes’ in Figure 1), where the Scheme requirement for non-residential land uses at ground floor is upheld. The identification of the Broadway Nodes has been informed by the City’s Local Planning Strategy, City of Perth Draft Local Planning Strategy and a review of existing commercial areas on either side of Broadway.

The Policy also identifies pockets between the nodes (Broadway Frame), where non-residential uses are not required at ground level. Instead, development can provide non-active uses (e.g. office or consulting room/medical centre) or residential use (with adaptable design) at ground level. Where such development is proposed, the building height is to be reduced to five storeys, and the building is to have increased street setbacks at lower levels (similar to R160 built form). This nodal approach to development strongly aligns with the following CRG engagement outcomes:

* Support for focusing mixed-use development around existing commercial nodes on Broadway, with differing intensity of built form between node and non-node locations.
* No support for continuous ‘wall’ of 6 storey development along Broadway.

The nodal approach is also supported by research of other urban corridors in the Perth metropolitan area of similar length to Broadway (being 1.4km). Oxford Street (see image below), for example, runs for 1.8km from Scarborough Beach Road in Mt Hawthorn to Leederville Parade in Leederville. While there is a mix of land uses along Oxford Street, comprising both active and non-active land uses (including solely residential), there are three distinct nodes of activity (shown in blue in the image below). The southern-most node, adjacent to Leederville Trainstation, is approximately 280m in length. The proposed approach for Broadway reflects this nodal pattern of existing urban corridors. Within the Broadway Frame sub-precinct, landowners and applicants will have a choice as to whether they provide an active use at ground level. If no active use is provided, requirements for adaptable design will ensure that this sub-precinct is capable of future transition to active uses.



For all development along Broadway, the Policy provides for a two-storey podium, with increased setbacks to the street and side boundaries for development above the podium. Together with the node and frame approach, this will reduce the perception of building bulk and enclosure that new developments will have on the street. A consistent rear setback is also proposed for all development on Broadway, being 6m up to the third storey and 9m for all storeys above. This will provide space for deep soil areas and tree plantings at the rear of development, providing a buffer to the lower-coded properties to the rear.

Stirling Highway Sub-Precinct

The Policy proposes to increase the rear setback for lots fronting onto Stirling Highway, to create sufficient separation from R160 lots to the south, which accommodate existing residential development. Above the podium level, increased side setbacks are also proposed to provide space between buildings. Together, these rear and side setbacks will significantly reduce the impact of bulk and overshadowing on the properties to the rear. A consistent, increased rear setback will also allow for future two-way vehicle access connecting to Bruce Street, reducing crossovers, and resulting conflicts with pedestrians, on Stirling Highway.

The Policy proposes increased setbacks from Stirling Highway, to allow for deep soil and tree plantings within the street setback area.

The Policy introduces acceptable outcome building heights for Stirling Highway, ranging from 7 to 12 storeys. The greatest building height is proposed on the corner of Stirling Highway and Broadway, to allow for a landmark development at the entrance of both the Precinct and the City of Nedlands.

The Broadway Precinct incorporates a small portion of the Stirling Highway Activity Corridor. The remainder of the highway, and surrounding residential transition areas, within the City of Nedlands, will be planned for through the Nedlands Stirling Highway Activity Corridor (NSHAC) Design Response Local Planning Policy, which will be presented to Council separately. Care has been taken to develop provisions for the Broadway Precinct portion of the highway in line with the broader planning for NSHAC. Under SPP 7.2 the NSHAC precinct would be designated an Urban Corridor, which requires:

*Understanding the existing and future function of the corridor from both a transport and land use perspective, to guide development outcomes that support the intended vision of the corridor*

There is an identified need for coordinated planning of the full length of Stirling Highway, from Perth to Fremantle. This report includes a recommendation for the Mayor to write to the Minister for Planning, formally requesting that they facilitate this coordinated approach across the local government areas that the highway intersects.

**General Provisions**

Sustainability

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

A second motion of Council was made on the 21 October 2021, where Council endorsed a Notice of Motion relating to the protection of existing and future solar panels. The R-Codes have existing provisions that protect solar panels. Under R-Codes Volume 1 (Single and Grouped Dwellings), there is a maximum proportion of overshadowing that is permitted for each density code. The calculation is based on a worst-case scenario, being 12pm June 21st. Further, Design Principle P2.2 considers the impact of development on solar collectors. Under the R-Codes Volume 2 (Apartments), the form of development is constrained by its impact on adjoining properties’ solar panels via Element Objective 3.2.2. There is also a maximum proportion of overshadowing permitted for each density code, under Acceptable Outcome 3.2.3. Given this, the City has not identified a need, specific to the Broadway Precinct, that would reasonably require provisions relating to solar panels, over and above those in the R-Codes.

Landscaping

The Policy requires all new developments to follow the principles of Water Sensitive Urban Design, including use of permeable surfaces and onsite water filtration and detention systems. The Policy defines tree sizes (small, medium and large) in line with the R-Codes Volume 2 and states a preference for the use of endemic species, especially ones which are drought tolerant. Where planting on structure is proposed, a landscaping plan is to be provided with development applications, detailing the design, water supply, species suitability and ongoing maintenance measures.

Facades and materials

The Policy includes an appendix which details the existing facades and materials, and key design elements, for each sub-precinct. For example, the key design elements for the Residential sub-precinct include the presence of verandahs, eaves, balconies and awnings, as well as low or open style front fencing. New development within each sub-precinct will be required to reference the existing facades and materials, and key design elements outlined in the appendix. This will facilitate new development which reflects the existing character of the Precinct.

Subdivision and public open space

The Policy states a preference for lot amalgamation to create development efficiencies and to facilitate the retention of existing trees. Where a subdivision is proposed which would create six or more residential lots, the Policy highlights the requirement for contributions (either land or cash-in-lieu) towards public open space under the WAPC’s *Development Control Policy 2.3 – Public Open Space in Residential Areas*.

Vehicle access and parking

The Policy proposes to keep vehicle accessways to a functional minimal width to maximise space in the street setback area and verge for deep soil areas and tree retention and provision. The Policy classifies the Broadway Precinct as ‘Location A’ for the purpose of car parking assessments under the R-Codes Volume 1 and 2, for which reduced parking provision may be supported. This classification reflects the presence of the high frequency Purple CAT (Central Area Transit) bus route along Broadway, and the Broadway Precinct being located within the UWA-QEII Specialised Activity Centre. The Policy also provides parking ratios for preferred non-residential land uses within the Mixed Use zone.

**Consultation**

**Community Engagement Program**

The City established a Community Reference Group (CRG) for the Broadway Precinct in 2020. The 12 members of the CRG were selected from expressions of interest and were stakeholders from within the specified precinct area and surrounds, and represented a cross-section of age, gender and interest. The objectives of the CRG were to:

* Foster stakeholder and community awareness and understanding of the precinct planning and local planning policy process;
* Foster the City’s awareness of community concerns and aspirations for the Broadway Precinct; and
* Obtain local input and knowledge for the development of the Broadway Precinct from a range of diverse perspectives

This CRG initially met in August 2020. The next CRG workshop was held in August 2021, after the built form modelling report was finalised in April 2021. The final workshop was held in September 2021. The Broadway community was afforded two opportunities to join the CRG, as there was a drop in CRG participation between the 2020 and 2021 workshops. The CRG considered background information, built form considerations and a vision for the Precinct. The workshop structure is detailed below.

**Workshop 1:** Background to the planning system, key urban design concepts, parameters of a policy and development of a vision.

**Workshop 2:** CRG rotated through activities on each theme (land use, streetscape, built form, access, parking and landscape) to provide informed and detailed feedback on their desired future character for the precinct.

**Workshop 3:** Communicating the collated feedback from the previous CRG workshops and ensuring that the CRG agreed with the summarised version of the feedback.

A summary of the key outcomes of the CRG workshops is provided below.

Broadway streetscape

* Support for focusing mixed-use development around existing commercial nodes on Broadway, with differing intensity of built form between node and non-node locations.
* No support for continuous ‘wall’ of 6 storey development along Broadway.
* Preference to ‘push towards street’ at ground and upper levels if this facilitated larger rear setbacks and provided street activation.

Interfaces

* Consensus that building height should be located away from lower density transitions.
* Key transitions needing further consideration were R-AC3-R60 and R160-R60.
* Communal open space to be designed and located to minimise amenity impacts on surrounding properties, and for collocating with deep soil areas.

Lot boundary setbacks

* R-AC1 – the greatest setback on the site should be to adjoining R160 lots.
* R-AC3 – the greatest setback on the site should be to the adjoining R60 lots.
* R60 and 160 – the greatest setback on the site should be to the street.
* A detached streetscape character (separation between buildings as viewed from the street) is preferred for R40, R60 and R160.
* An attached streetscape character (boundary to boundary buildings as viewed from the street) more appropriate in R-AC1 and R-AC3.
* Residential zone – street setbacks to be reflective of existing development.

Architectural elements

* Broadway
* Developments to incorporate a high-quality palette of materials and finishes.
* Maintain eclectic mix of architectural styles, colours and materials.
* Awnings and canopies are important in reinforcing Broadway’s function as a ‘main street’.
* Residential areas
* Verandahs, carports and pitched roofs are encouraged.
* Dwellings to be orientated towards the street.

Land use

* Support for preferred land uses on Broadway to encourage uses that activate the street and policy settings that require active frontages.

Access and Parking

* It was generally agreed that basement parking was preferred for commercial, mixed-use and apartment developments in R-AC1 and R-AC3 locations.
* Where parking is located above ground, it should be ‘sleeved’.
* Generally, less concern was raised around controlling parking outcomes for R60 and R40 developments.
* Access was generally preferred from secondary streets for corner lots.
* Concern was raised around the use of car stackers – noise, aesthetics, traffic management.
* Design of parking areas should consider existing trees on-site – trees to be retained wherever possible.
* Crossovers should be consolidated.

Survey and Open House

The broader community were provided the opportunity to review feedback gathered from the CRG and provide their own input on the precinct vision and key design considerations through a survey and open house. These engagement exercises were advertised via postcards sent to all owners and occupiers within the precinct area, plus a 200m buffer on the City of Nedlands side, as well as social media, Nedlands News, emails to local schools and P&Cs, and posters put up within, and surrounding, the precinct. Emails were also sent to members of the UWA/QEII Precinct Plan Community Advisory Panel, a group of 43 community members from both City of Nedlands and City of Perth tasked with providing input into the development of the UWA/QEII Precinct Plan.

The survey was available both online and in hard copy form between 1 – 24 October 2021. In total, 66 surveys were completed by community members.

The open house was held on 4 October 2021 from 5.00pm – 7.00pm. In total, 13 community members attended the open house.

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

* Broadway Precinct Local Distinctiveness Study and Context Analysis;
* Broadway Precinct Built Form Modelling Report;
* Community Engagement Outcomes Report – encompassing all the community engagement undertaken to-date; and
* Justification Table – providing detailed analysis and justification of the changes that were made to the R-Codes provisions.

 Broadway Landowners

During the policy development process, provisions were contemplated which would potentially vary built form along Broadway. Some portions of Broadway (Broadway Frame) were being considered for reduced intensity, in between existing nodes of higher intensity/mixed use development. Landowners within the potential reduced intensity areas were invited to meet with the City to discuss. Invitation letters were sent to landowners within these areas in November 2021, with notice of a meeting date set December 2021. No invited landowners were in attendance for the meeting.

**Community consultation**

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

* 28-day advertising period
* Letters to notify owners and occupiers within the precinct
* Notice in the local newspaper
* Notice on the City’s Notice board
* Notice on the City’s Your Voice engagement portal
* Social media
* Community engagement session

**Strategic Implications**

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

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

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

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

**Reflects Identities**

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

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

Encouraging sustainable building

**Budget/Financial Implications**

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

The Policy will facilitate infill development within the Broadway Precinct. This is likely to result in a rate revenue increase.

**Legislative and Policy Implications**

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

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

**Decision Implications**

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

If Council resolves not to endorse the recommendation, the Policy will not be advertised, or progressed.

At its May 2020 meeting, Council adopted the Draft Local Planning Policy – Interim Built Form Design Guidelines – Broadway Mixed Use Zone. Though the policy was adopted, it is not currently being given weight in the assessment of development applications on Broadway, because:

* The City has received legal advice casting significant doubt over many aspects of the policy and whether they can be upheld through an appeal.
* The policy was not based on built form modelling, as recommended by the State Design Review Panel.
* The policy is considered to be inconsistent with the Scheme as it undermines the intent of the Mixed Use zone and is inconsistent with the Scheme provisions and density coding.

Therefore, if Council resolves not to endorse the recommendation of this report, there will be no viable Policy in place with specific built form controls for the Broadway Precinct.

**Alterative Policy Positions**

Discussions have occurred with Councillors with respect to, three key elements of the Policy, being increased building height for R60 areas, the node/frame approach along Broadway and increased building height for development at the corner of Stirling Highway and Broadway, where lot amalgamation is proposed.

Each are dealt with in term with an option provided to Council should the desire be to pursue the alternative:

* 1. **Increased building height for R60 grouped dwellings, to incentivise additional provision of deep soil**

To incentivise further provision of deep soil areas, above the already increased requirements, the Policy proposes that increased building height be supported for grouped dwellings in R60 areas (from two storeys to three storeys), and boundary walls for multiple dwellings be supported to both side boundaries, where additional deep soil area is provided. The additional one storey for R60 grouped dwellings is considered appropriate, given that the draft building heights for R60 in the Medium Density Codes is three storeys.

If Council is not supportive of this approach, the following resolution may be made where the Draft Broadway Precinct Design Response Local Planning Policy is modified by:

Removing the option for three storey grouped dwellings (where 20% deep soil area is provided) in the Residential R60 zone.

* 1. **Node and frame approach to development on Broadway**

The Policy identifies specific mixed-use areas of activity along Broadway (identified as ‘Broadway Nodes’), where the Scheme requirement for non-residential land uses at ground floor is upheld. The Policy also identifies pockets between the nodes (Broadway Frame), where non-residential uses are not required at ground level. Instead, development can provide non-active uses (e.g. office or consulting room/medical centre) or residential use (with adaptable design) at ground level. Where such development is proposed, the building height is to be reduced to five storeys, and the building is to have increased street setbacks at lower levels (similar to R160 built form).

If Council are not supportive of this nodal approach, the following resolution may be made whereby the Draft Broadway Precinct Design Response Local Planning Policy is modified by:

Removing provisions for the Broadway Frame sub-precinct, and instead having these areas subject to the provisions for the Broadway Node sub-precinct.

* 1. **Increased building height for development at the corner of Stirling Highway and Broadway, where lot amalgamation is proposed**

The Policy introduces acceptable outcome building heights for Stirling Highway, ranging from 7 to 12 storeys. The greatest building height is proposed on the corner of Stirling Highway and Broadway, to allow for a landmark development at the entrance of both the Precinct and the City of Nedlands.

If Council are not supportive of this approach, the following resolution may be made whereby the Draft Broadway Precinct Design Response Local Planning Policy is modified by:

removing provisions for the portion of the Stirling Highway sub-precinct fronting onto Broadway, and instead having this area subject to the provisions for the Broadway Node sub-precinct.

The effect of this change is that the full length of Broadway would be subject to the same provisions, including an acceptable outcome building height of six storeys.

If Council wishes to proceed with each of these modifications the wording of the Council resolution would be as follows (noting that 6 a, b and c reflect the changes outlined above).

That Council:

1. Adopts the Draft Broadway Precinct Design Response Local Planning Policy for advertising in accordance with Clause 4 of the Deemed Provisions of Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015;

1. Notes that the advertising period will be for a minimum of 28 days;

1. Requests the Mayor to send a letter to the Minister for Planning requesting coordinated planning be undertaken at State level for the full length of the Stirling Highway Activity Corridor;

1. Requests the CEO to prepare a Discussion Paper to consider the merits and implications of the Policy’s proposed star rating for building sustainability, which is to be discussed at a concept Forum prior to the Policy being considered for final approval;
2. Requests the Chief Executive Officer prepare a Discussion Paper to consider appropriate residential building heights, including possible amendments to the City’s Residential Development LPP, which is to be discussed at a Concept Forum prior to the Policy being considered for final approval:
3. Requests the CEO to modify the Draft Broadway Precinct Design Response Local Planning Policy by:

1. Removing the option for three storey grouped dwellings (where 20% deep soil area is provided) in the Residential R60 zone;
2. Removing provisions for the Broadway Frame sub-precinct, and instead having these areas subject to the provisions for the Broadway Node sub-precinct; and
3. Removing provisions for the the portion of the Stirling Highway sub-precinct fronting onto Broadway, and instead having this area subject to the provisions for the Broadway Node sub-precinct.

**Conclusion**

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

**Further Information**

An updated Policy is included in this Agenda as Attachment 1.

The Officer recommendation in the report has also been updated to reflect a response to the question in relation to heights (see recommendation 5).

**Question**

Councillor Mangano – can we do something more to rein in the height from 21 metres?

What has already been approved so far?

**Officer Response**

Further consideration of the building height should be considered holisticly and it is recommended that this occur via a Discussion Paper. An additional recommnedation has been added to the officer recommedation (see recommedation 5) to faciliate further consideration of the appropriate residential building heights, including possible amendments to the City’s Residential Development Local Planning Policy.

Specifically for the proposed Broadway policy, the policy seeks to establish that new development will be massed towards Broadway and will be designed to account for topographical differences between Broadway and Kingsway, in order to minimise building bulk impacts on the R60 properties to the rear. The policy achieves this by increasing the rear setback for development on Broadway from nil under the R-Codes to 6m-9m. This policy intervention effectively pushes the bulk of the building towards the lowest part of the site, adjoining Broadway, thereby reducing impacts of bulk on the rear properties. This increased rear setback area also allows for deep soil and trees in the rear, further improving the interface with rear properties.

**Question**

Councillor Bennett – has land use been avoided in this policy?

**Officer Response**

The zoning table in the City’s Planning Scheme establishes the permissibility of land uses in each of the zones within the City. A local planning policy provides guidance on preferred land uses within certain areas.

The draft policy provides guidance on the preferred land uses for the Mixed Use zone within the precinct, which is located along Stirling Highway and Broadway.

For the Stirling Highway sub-precinct, the policy sets out that development with no residential component (i.e. purely commercial development) may be supported.

For Broadway, the policy establishes a Node sub-precinct, which is intended to be the focus of new mixed-used development, with active ground floor uses. For this sub-precinct, the policy sets out a preference for active non-residential uses at ground floor, such as cafes, shops and small bars.

Between the nodes, the policy establishes the Frame sub-precinct, which may be developed at a slightly lower intensity, and may provide less active land uses at ground level. For this sub-precinct, the policy sets out a preference for certain less active non-residential uses at ground floor, such as medical centre or office, which are considered to be more in keeping with traditional residential areas.

**Figure 1 – Broadway Precinct and Sub-Precincts**



Councillor Bennett returned to the meeting at 9.08pm.

# PD39.06.22 Consideration of Adoption of Local Planning Policy for Advertising – Draft Hollywood Precinct Design Response

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting – 28 June 2022 |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | The author, reviewers and authoriser of this report declare they have no financial or impartiality interest with this matter.  There is no financial or personal relationship between City staff involved in the preparation of this report and the proponents or their consultants. |
| **Report Author** | Roy Winslow – Manager Urban Planning |
| **Director** | Tony Free - Director Planning & Development/Bill Parker- CEO |
| **Attachments** | 1. Draft Hampden Hollywood Precinct Design Response Local Planning Policy 2. Summary of changes – Hampden Hollywood Precinct Design Response LPP Relationship to SPP 7.3 R-Codes Vol. 1 & 2. |

**Councillor Hodsdon – Financial / Proximity Interest**

Councillor Hodsdon disclosed a financial / proximity interest in Item 16.5 – PD39.06.22 Consideration of Adoption of Local Planning Policy for Advertising – Draft Hollywood Precinct Design Response, his interest being that he has a property in the area. Councillor Hodsdon advised he would leave the room during this item.

Councillor Hodsdon left the meeting at 9.08pm.

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

Moved – Councillor Combes

Seconded – Councillor Youngman

**Council Resolution**

**That Council:**

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

**CARRIED 6/5**

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

Recommendation

That Council:

1. adopts the draft Hampden Hollywood Precinct Design Response Local Planning Policy for advertising in accordance with Clause 4 of the Deemed Provisions of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*; and
2. notes that the advertising period for the draft Hampden Hollywood Precinct Design Response Local Planning Policy will be for a minimum of 28 days.

**Purpose**

The purpose of this report is for Council to adopt for advertising the draft Hampden Hollywood Design Response Local Planning Policy (the Policy), found in **Attachment 1**.

**Voting Requirement**

Simple Majority.

**Executive Summary**

The Policy seeks to nuance the built form guidance of State Planning Policy 7.3 - Residential Design Codes (R-Codes), providing localised and contextually appropriate built form controls and design guidance for the Hampden Hollywood Precinct. This report provides an overview of the process the City undertook to create the Policy, a breakdown of the Policy structure and its strategic intent.

The Policy process began with an extensive community engagement program and was followed by research into the context and character of the Precinct and built form modelling for future development provisions in consideration of this character and context. Key character drivers for the Hampden Hollywood Precinct were identified as open, leafy streetscapes within the Residential zone, landscaping in the form of deep soil and trees and the commercial function of Hampden Road. The engagement and modelling phase was followed by a review of the Policy provisions by industry experts.

This report provides detail on the results of community engagement, and how the outcomes of this engagement have influenced the provisions of the Policy.

The Policy separates the Hampden Hollywood Precinct into six sub-precinct areas, including three Mixed Use sub-precincts, and three Residential sub-precincts. Each of the Mixed Use sub-precincts have their own existing and desired future character statement, while the Residential sub-precincts share a common desired future character. The sub-precincts are detailed in a Precinct map included as **Figure 1** at the end of this report. Each sub-precinct has provisions written specifically for them that are consistent with these character statements, as well as their density code, zoning and lot orientation. The report discusses the specific aspects of the character and context research, built form modelling and engagement outcomes that have influenced these provisions.

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

**Background**

**Built Form Modelling and Community Engagement**

In accordance with State Planning Policy 7.2 – Precinct Design Guidelines (SPP 7.2), the intent of Precinct planning policies is to promote the contextually appropriate development of the areas identified for an increase in density by the Scheme. The Hampden Hollywood Precinct Policy seeks to promote the contextually appropriate development of the Hampden Hollywood Precinct, as identified in **Figure 1**. In June 2021, the City engaged consultants to undertake community engagement and built form modelling for the Hampden Hollywood Precinct.

The Policy provisions have been informed by the outcomes of the built form modelling work, community engagement outcomes, and technical input. The Community Engagement programme is discussed in detail in the Consultation section of this report.

As well as taking on board the community’s feedback, the provisions also align with the strategic intent of the R-Codes, SPP 7.2 and the State Government’s strategic plan for population growth, Perth and Peel@ 3.5 million. The Policy has been reviewed internally and externally, to ensure that the provisions translate into effective and appropriate built form outcomes.

**Discussion**

**Draft State Planning Policy 4.2 Activity Centres for Perth and Peel**

The northern and eastern portion of the Precinct is identified within draft State Planning Policy 4.2 Activity Centres for Perth and Peel as part of the UWA-QEIIMC Specialised Centre. Specialised centres focus on regionally significant economic and institutional activities, such as knowledge-bases for health and tertiary education precincts. These areas are developed as places with a concentration of linked businesses and institutions providing a major contribution to the economy, with excellent transport links and potential to accommodate future growth in jobs and housing.

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

SPP 7.2 sets out the criteria an area should meet to require precinct planning work, and the process a local government should follow to prepare a precinct planning policy. Given part of the Hampden Hollywood Precinct is located within the UWA/QEII Specialised Activity Centre, it is considered both an Activity Centre Precinct and a Residential/Mixed Use Precinct. Due to this context, the Policy focusses on the following key objectives:

* Providing an appropriate mix of land uses to enable business activity, service provision and employment opportunities.
* Guiding zoning and subdivision to achieve desired densities and land use mix to support well located and designed higher-density residential and commercial development.
* Guide subdivisions, amalgamation, and development to increase density and high-quality outcomes;
* Strengthening green networks through the enhancement of urban tree canopy and improved interfaces between the public and private realm; and
* Ensure the design supports safe access and encourages public transport, walking and cycling.

The City followed the process set out in SPP 7.2 to create the Policy, including identifying the precinct area, engaging with the local community, creating a vision, ensuring the development proposal is feasible, and investigating how the precinct plan can result in benefit to the communities they are developed within. A precinct plan for the entirety of the UWA/QEII Specialised Activity Centre is currently being prepared by the City of Perth, in collaboration with the City of Nedlands and the Department of Planning, Lands and Heritage (DPLH).

**Local Planning Strategy**

The City’s Local Planning Strategy identifies the following points of relevance to the Hampden Hollywood Precinct:

* Retain and enhance the character and streetscape of the existing residential areas.
* Ensure the height, scale and bulk of redevelopment smoothly integrates back to the established residential character of the area.
* Facilitate medium rise, medium intensity predominately residential redevelopment adjoining Hampden Road, and low rise, diverse residential built form elsewhere.
* Facilitate appropriate non-residential land uses.
* Consider a range of knowledge-based uses and accommodation types that complement the function of the UWA-QEII Specialised Centre.

The Policy responds to the Strategy’s vision for the Hampden Hollywood Precinct by clearly outlining the desired future character of the Hampden Hollywood Precinct. The desired future character is contextually aligned with the Precinct’s zoning, density coding and consideration of its function within the UWA-QEII Specialised Activity Centre.

The gazettal of the City’s Local Planning Scheme No. 3 (the Scheme) resulted in an increase in the density coding of the area surrounding the Hampden Road Mixed Use zone. In accordance with the Scheme and the Strategy, the Policy highlights the importance of quality urban design that interacts with the streetscape, protects the amenity of existing properties, and provides high quality living environments for the residents of new developments.

The Policy identifies that the Precinct’s character is defined by generous setbacks, mature landscaping, and a small lot pattern with adjacent rear laneways. The Policy encourages the preservation of the Precinct’s character and heritage through the maintenance of generous setbacks and mature landscaping, while also requiring developments to acknowledge the history of the area by using appropriate and high quality colour and material pallets. These requirements promote new development that is respectful of the existing character of the area and contributes to maintaining the Precinct’s unique character.

**City of Nedlands Local Planning Scheme No. 3**

The Scheme identifies the lots fronting Hampden Road (and two lots fronting Hardy Road), Monash Avenue and Leura Street as being within the Mixed Use zone (R-AC3). All other portions of the Precinct are zoned Residential, coded R40, R60 or R160.

The Policy has been prepared in accordance with clause 9 – Aims of the Scheme, in particular:

1. Protects and enhances local character and amenity;
2. Respect the community vision for the development of the district;
3. Achieve quality residential outcomes for the growing population; and
4. To develop and support a hierarchy of activity centres.

The Policy is consistent with the objectives of the relevant zones:

Residential zone

* Encourages a range of housing types to meet the changing needs of the community;
* Encourages high quality design and streetscapes;
* Proposes preferred land uses that are complimentary to the surrounding residential development; and
* Provides street specific requirements for development to be compatible with the future desired character of the area in terms of bulk, height, scale and setbacks.

Mixed Use zone

* Residential development preferred at all levels above ground level;
* Encourages well-designed, high-quality development that considers the existing new development, and the future desired character of the area; and
* Includes a list of preferred active uses, to be located at ground level, which also provides for a mix of varied but compatible land uses that will assist in activating the streetscape.

**Draft Hampden Hollywood Precinct Design Response – Local Planning Policy**

Informing Studies

The draft Policy provisions are the culmination of the findings of the Community Engagement outcomes report and Built Form Modelling studies, which have provided a sound basis for the creation of the existing future character statements. The Built Form Modelling studies have provided examples of forms of development, detailing them in a manner that informs the choices made for appropriate setbacks and massing.

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

Strategic Intent

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

The Policy seeks to:

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

Character Statements

An existing character statement has been provided for each sub-precinct within the Policy. The existing character statements and community vision from the pre-engagement workshops, in addition to the further refined outcomes from the CRG, survey and Open House, contribute to the creation of the desired future character statement for the sub-precincts. SPP 7.2 refers to ‘desired future character’ as an important aspect of determining whether a development meets certain objectives and, therefore, whether a development should be approved. The Policy’s character statement outlines the strategic intent of the Policy, and the expectations for new development.

Sub-Precincts

Considering the zoning, density coding, lot orientation and existing landscape and streetscape characteristics, the City identified six distinct sub-precincts within the Hampden Hollywood Precinct. The Policy includes a map that separates the overall precinct into:

* Residential R40 sub-precinct;
* Residential R60 sub-precinct;
* Residential R160 sub-precinct;
* Hampden Road Mixed Use sub-precinct;
* Monash Avenue Mixed Use sub-precinct; and
* Leura Street Mixed Use sub-precinct.

These sub-precincts are detailed in **Figure 1**, attached to this report. By combining the extensive background work noted previously, as well as key existing character elements (including lot sizes, setbacks, landscape character, building heights, density transition and typology), contextually appropriate provisions for the sub-precincts have been developed.

**Policy Scope**

Single House and Grouped Dwellings

The draft Policy seeks to amend the deemed-to-comply provisions of the R-Codes Volume 1 for the following elements:

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

These elements can be modified without WAPC approval.

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

Multiple Dwellings

The Policy amends the following acceptable outcomes of the R-Codes Volume 2:

* Element 2.2 - Building Height
* Element 2.3 - Street setback
* Element 2.4 – Side and rear setback

These elements can be modified without WAPC approval.

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

Residential Sub-Precincts (R40, R60, R160)

The key considerations for this sub-precinct were identified as a leafy green streetscape and the area’s unique built form character.

The western side of Leura Street (R60) serves as a transitional street from the higher density Mixed Use R-AC3 on Leura Street’s eastern side to the R40 density on Clifton Street. The northern side of Hardy Road (R60) also serves as a transitional street from the higher density Mixed Use R-AC3 sites on Monash Avenue and the R40 sites on the southern side of Hardy Road. The Policy’s built form provisions for these streets reflect their transitional role within the Precinct.

The R160 sites on Williams Road, Meriwa Street and Clifton Street serve as a transition between the R60 sites and the RAC-1 sites facing Stirling Highway, which are within the Nedlands Stirling Highway Activity Corridor (NSHAC) Precinct. As the R160 sub-precinct is relatively small, being only two to three sites deep, their role is pivotal in transitioning from the potentially large developments that may be established on the R-AC1 sites, to three storeys within a few lots.

A key component of the existing character within the R40, R60 and R160 Residential sub-precincts is the leafy streetscapes. The outcomes of community engagement highlighted that the leafy streetscapes were also an integral part of the desired future character of the area. In response to this, and to ensure that the transitions within this Precinct are dealt with sensitively, the Policy proposes street setbacks that are larger than the requirements of the R-Codes, allowing for increased deep soil and tree requirements. The Policy also requires boundary walls to be located away from the street, to maintain the appearance of a detached streetscape character. Rear setbacks have been increased throughout the Residential sub-precinct, to assist in maintaining the leafy character of the area.

Mixed Use Sub-Precinct’s (RAC-3 - Hampden Road, Monash Avenue, Leura Street)

The R-AC3 Mixed Use zone consists of Hampden Road, Monash Avenue and Leura Street. The City’s Local Planning Strategy identifies the Mixed Use sub-precincts as the best opportunities for an increase in dwelling density, as well as ideal locations for non-residential land uses. These sub-precincts are compact commercial areas, characterised by a mix of architectural styles and materials, with the original low-rise, fine-grain commercial buildings creating a contrast with newer, larger developments in the Precinct.

Each of these streets have a unique character and purpose within the Precinct. Hampden Road is the main commercial hub, comprising a mix of retail, restaurants, cafes, and related uses. Monash Avenue faces the QEII hospital precinct and, although it currently largely consists of residential dwellings, is poised through its Mixed Use zoning to provide ancillary uses that complement the hospital, such as medical and allied health services. Leura Street backs onto Hampden Road and serves as the interface between the busy commercial hub of Hampden Road, and the R60 residential sites on the western side of Leura Street. Leura Street’s transitional nature lends itself to commercial uses that will be complementary to residential development, such as cafes, offices, and communal working spaces.

Street, side and rear setbacks, as well as deep soil and tree canopy provisions, have been nuanced to respect the prevailing streetscape and to manage the interface between higher and lower density development. On Hampden Road, the minimum building height proposed is two storeys, to allow for smaller buildings and developments alongside the expected larger five to six storey developments. This is to encourage a mixed built form character on the street that will allow for the organic establishment of the varying types of development and provide an authentic high-street feel.

**General Provisions**

Sustainability

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

A second motion of Council was made on the 21 October 2021, where Council endorsed a Notice of Motion relating to the protection of existing and future solar panels. The R-Codes have existing provisions that protect solar panels. Under R-Codes Volume 1 (Single and Grouped Dwellings), there is a maximum proportion of overshadowing that is permitted for each density code. The calculation is based on a worst-case scenario, being 12pm June 21st. Further, Design Principle P2.2 considers the impact of development on solar collectors. Under the R-Codes Volume 2 (Apartments), the form of development is constrained by its impact on adjoining properties’ solar panels via Element Objective 3.2.2. There is also a maximum proportion of overshadowing permitted for each density code, under Acceptable Outcome 3.2.3. Given this, the City has not identified a need, specific to the Hampden Hollywood Precinct, that would reasonably require provisions relating to solar panels, over and above those in the R-Codes.

Landscaping

The Policy requires all new developments to follow the principles of Water Sensitive Urban Design, including use of permeable surfaces and onsite water filtration and detention systems. The Policy defines tree sizes (small, medium and large) in line with the R-Codes Volume 2 and states a preference for the use of endemic species, especially ones which are drought tolerant. Where planting on structure is proposed, a landscaping plan is to be provided with development applications, detailing the design, water supply, species suitability and ongoing maintenance measures.

Subdivision and public open space

The Policy states a preference for lot amalgamation to create development efficiencies and to facilitate the retention of existing trees. Where a subdivision is proposed which would create six or more residential lots, the Policy highlights the requirement for contributions (either land or cash-in-lieu) towards public open space under the WAPC’s *Development Control Policy 2.3 – Public Open Space in Residential Areas*.

Vehicle access and parking

The Policy proposes to keep vehicle accessways to a functional minimal width to maximise space in the street setback area and verge for deep soil areas and tree retention and provision. The Policy classifies the Hampden Hollywood Precinct as ‘Location A’ for the purpose of car parking assessments under the R-Codes Volume 1 and 2, for which reduced parking provision may be supported. This classification reflects the presence of the high frequency Purple CAT (Central Area Transit) and Transperth 950 bus routes along Hampden Road, and the Hampden Hollywood Precinct being located within the UWA-QEII Specialised Activity Centre. The Policy also provides parking ratios for preferred non-residential land uses within the Mixed Use zone.

**Consultation**

**Community Engagement Program**

A comprehensive community pre-engagement program has been completed to inform the Policy and engage on the key outputs of the Policy. On behalf of the City, engagement consultants established a focussed Community Reference Group (CRG), after community members were invited to submit an Expression of Interest. Fourteen people responded and all were selected to participate in five workshops held between August 2021 and December 2021. One CRG member withdrew before the first workshop.

The CRG program was designed to provide participants with additional knowledge and skills relating to town planning, so that they could provide meaningful feedback on built form, including (but not limited to) landscaping, tree canopy, streetscape, land use. The workshop structure is detailed below.

**Workshop 1:** Get to know the CRG and project team, understand the process, understand the existing context, understand the initial perspectives and values of the community.

**Workshop 2:** Take values established in Workshop 1 and consider these in the context of the desired future character of the area, consider built form design elements for the Precinct through a live sketching exercise, propose changes to existing State Planning controls for a successful place in accordance with community values.

**Workshop 3:** Present back testing results based on preliminary changes to State Planning controls by the CRG refine and confirm key recommendations for controls.

**Workshop 4:** Ask the CRG which character elements they wanted to see retained and what their land use preferences for the Precinct are, review and refine the R60 controls based on the project team’s testing of R80 controls for the R60 lots, refine laneway controls and trade-offs.

**Workshop 5:** Present the final urban form element principles that would be recommended to the City for the LPP, develop a vision (objectives and aims) for the Precinct and for each of the R-Codes.

Built Form

* New developments should be of human scale at street level, set back from footpaths and reference the current residential buildings.
* Maintain the existing ‘feel’ of the streets, including the road widths, how buildings interact with the street (porches and front fences), increased street and rear setbacks, footpaths and limited driveways.
* Expectations for more housing for students and hospital staff, which in turn will provide a more permanent population.
* Upgrading of the Hampden Lane at the rear of the Hampden Road shops.
* Supportive of lot amalgamation to achieve better built form outcomes.

Landscaping

* Mature landscaping and tree canopy are considered fundamental components of the existing Nedlands character.
* Expectations for meaningful areas of public open space and trees to be visible from the street.
* Green space was considered important to encourage trees and gardens.

Amenity

* Value walkability, open frontages, pedestrian, family, children and dog friendly streets, and how walking creates community and neighbourliness.
* Preference to reduce the visibility of parked vehicles and to conceal parking.
* Concern with diminishing the amenity of the laneways and the adjacent green canopy.
* Retain the existing positive attributes – “village feel”, a good range of shops and cafes/restaurants, walkability, human scale, accessibility by walking and cycling.
* Improve green spaces, street lighting, footpaths and cycling infrastructure.

Movement

* Consideration of residents’ access to hospitals, aged care facilities and medical treatments.
* More parking and parking controls on side streets and verges, traffic speed controls.
* Concern with diminishing the amenity of the laneways and the adjacent green canopy by prioritising parking access from the laneways.
* Public transport should be prioritised, as should active transport forms through public transport links and bike paths.
* Maintain walkability of the Precinct, as walking creates community and neighbourliness.

Land Use

* Retain a good range of cafes restaurants and small, local shops that make Hampden Road an attractive and useful local street.
* Retain a good range of cafes, restaurants, services and small (local) shops that make Hampden Road an attractive and useful local street.

Sustainability

* Sustainable building design.
* Encouraging passive modes of transport such as walking and cycling.
* Consideration of water wise principles and endemic plant species in landscaping plans.

The sustainability elements were identified as being part of an important theme running through the Hampden Hollywood engagement program and have been incorporated into the Policy to provide an aspect of future proofing to the design guidelines for the Precinct.

Survey and Open House

To understand the wider community’s vison for the Precinct, and to confirm that the CRG’s recommendations accurately reflected their views, the community was invited to respond to a survey that was available between 5 November 2021 – 19 November 2021. In total, 7 surveys were completed by residents and business owners.

The community were also invited to attend a Community Open House on 8 November 2021 from 5.00pm – 7.00pm. Attendees were provided the opportunity to review feedback gathered from the CRG and provide their own input on key design considerations. In total, 14 community members and 3 Councillors attended the information session.

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

* Hampden Hollywood Precinct Context and Character Report;
* Hampden Hollywood Precinct Built Form Modelling Report;
* Community Engagement Outcomes Report; and
* Justification Table – providing detailed analysis of the changes that were made to the R-Codes provisions, and why.

Council Briefings

Two briefings were held with the City’s Councillor’s in May 2022 to provide information on the Policy provisions, and receive feedback. The following modifications were made in response to the feedback received:

* Inclusion of General Provision 4.4.4: ensures that the policy does not allow for the Acceptable Outcome of a development’s on-structure planting be permitted in lieu of DSA in residential areas;
* Removed the mandatory minimum height of two storeys for all Mixed Use areas. The maximum height of 6 storeys (Hampden Road and Monash Avenue) and 5 storeys (Leura Street) remain;
* Removed the mandatory nil setback for ground storey to second storey in all Mixed Use areas. Nil setback remains as the Acceptable Outcome, but is not a mandatory requirement;
* Changed the rear setback for R160 dwellings from a uniform setback to 3m for the first three storeys, then 6m for the fourth and fifth storeys;
* Inclusion of Clause 4.10.1, requiring all applications for development approval that include residential dwellings to outline how the development responds to and accommodates anticipated noise pollution from the QEII Hospital Precinct.

**Community consultation**

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

* 28-day advertising period – this is specific to the Precinct policy projects, to ensure that interested parties have adequate time to make a submission.
* Letters to notify owners and occupiers within the Precinct of the draft Policy and to make a submission
* Notice in the local newspaper
* A notice on the City’s Notice board
* A notice on the City’s Your Voice engagement portal
* Social media
* Community engagement session

**Strategic Implications**

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

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

**Values Great Natural and Built Environment**

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

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

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

Encouraging sustainable building

**Budget/Financial Implications**

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

The Policy will facilitate infill development within the Hampden Hollywood Precinct, which may result in a rating revenue increase.

**Legislative and Policy Implications**

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

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

**Decision Implications**

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

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

**Conclusion**

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

**Further Information**

**Question**

Councillor Mangano – Has the requirement for mandated minimums been removed from the policy.

**Officer Response**

This has ocurred.

**Question**

Hampden Road Policy – in the Hollywood area town houses are recommended not to have a 3rd storey.

**Officer Response**

Within the policy R60 single and group dwellings are limited to two storeys.

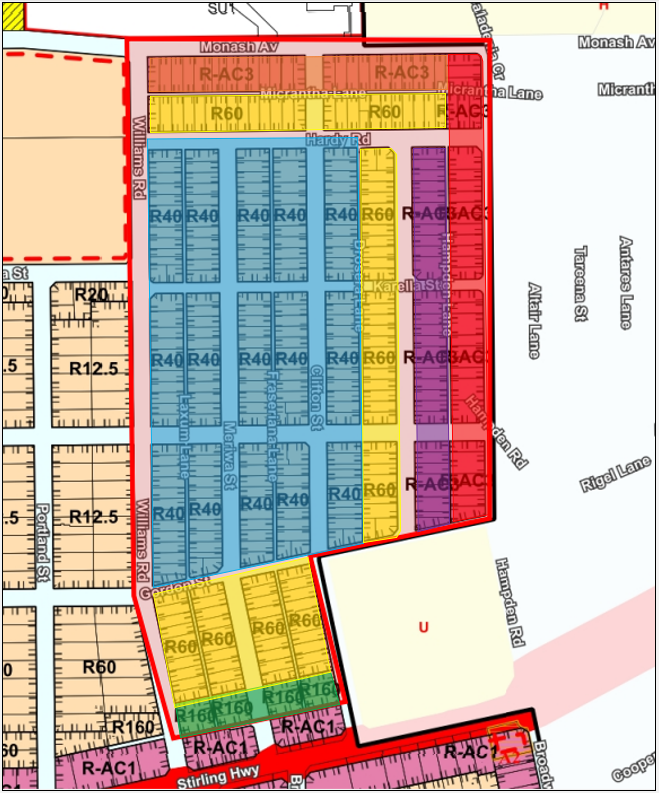
**Revised Officer Recommendation**

To ensure consistency with the Broadway Policy recommendation an alternative officer recommendation is provided which incorporates the proposal for a Discussion Paper to be prepared in relation to residential building heights and building efficiency measures prior to Council considering the policy following the public consultation process.

**That Council:**

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

**Figure 1 – Hampden Hollywood Precinct and Sub-Precincts**



Councillor Hodsdon returned to the meeting at 9.10pm.

# PD40.06.22 Initiation of Scheme Amendment No. 12 – Tree Retention on Private Land

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting – 28 June 2022 |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | The author, reviewers and authoriser of this report declare they have no financial or impartiality interest with this matter.  There is no financial or personal relationship between City staff involved in the preparation of this report and the proponents or their consultants. |
| **Report Author** | Roy Winslow – Manager Urban Planning |
| **Director** | Tony Free–Director Planning & Development |
| **Attachments** | 1. Scheme Amendment No 12 – Justification Report 2. Outline of Supporting Local Planning Policy 3. Unwanted Tree Species List |

**Regulation 11(da) - Council considered that the same requirements should apply to the landowner on who’s land the tree is and the neighbouring landowner in the event that the tree grows and encroaches into the neighbours property.**

Moved – Mayor Argyle

Seconded – Councillor McManus

**Council Resolution**

**That Council:**

1. **Pursuant to Section 75 of the *Planning and Development Act 2005*, adopt Amendment No. 12 to Local Planning Scheme No. 3 by inserting the following provisions into Schedule 1 – Supplemental Provisions:**

**60. Requirement for development approval**

**60A. No person shall cause or permit the removal, destruction, or damage to any tree that meets the following criteria on a lot zoned Residential with a density code of R20 or below unless development approval has been granted in accordance with Part 8 of the Deemed Provisions:**

1. **Canopy diameter of 6m or greater; or**
2. **Height of 8m or greater; or**
3. **In the case of a tree with a single trunk, a trunk circumference of 1.5m or greater, measured 1.4m above the ground; or**
4. **In the case of a tree with multiple trunks, a total trunk circumference of 1.5m or greater, with an average trunk circumference of 625 millimeters or greater, measured 1.4m above the ground.**

**61. Development for which development approval is not required**

|  |  |  |
| --- | --- | --- |
|  | **Column 1**  **Works** | **Column 2**  **Conditions** |
| **22.** | **The removal, destruction or damage to a tree which meets the criteria set out in Clause 60A.** | **Either -**   1. **The tree is identified in a local planning policy as an unwanted species; or** 2. **Tree pruning in accordance with Australian Standards for Pruning of Amenity Trees (AS4373); or** 3. **Tree pruning or removal required for bushfire management purposes, in accordance with the Bush Fires Act 1954; or** 4. **Tree pruning or removal to achieve necessary clearances from utilities; or** |

1. **In accordance with Regulation 35(2) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, the City is of the opinion that Amendment No. 12 to Local Planning Scheme No. 3 is a Complex Amendment, as it aligns with the definition specified under Regulation 34 as follows:**

**r34 (b) an amendment that is not addressed by any local planning strategy; and**

**r34 (c) an amendment relating to development that is of a scale, or will have an impact, that is significant to development in the locality.**

1. **Pursuant to Section 81 of the *Planning and Development Act 2005*, refers Amendment No. 12 to Local Planning Scheme No. 3 to the Environmental Protection Authority.**
2. **In accordance with Regulation 37(2) of the *Planning and Development (Local Planning Schemes) Regulations 2015* submit two (2) copies of the proposed Scheme Amendment No. 12 to the West Australian Planning Commission for approval to advertise.**

1. **Subject to Section 84 of the *Planning and Development Act 2005* advertises Amendment No. 12 to Local Planning Scheme No. 3 in accordance with Regulation 38 of the *Planning and Development (Local Planning Schemes) Regulations 2015* and the City of Nedlands Local Planning Policy – Consultation of Planning Proposals.**

Amendment

Moved - Councillor Senathirajah

Seconded - Councillor Youngman

Add the words “ applying for approval of a development” in the clause starting with “60A. No person……”  so that the amended clause will read as:

60A.  No person applying for approval of a development shall cause or permit the removal, destruction, or damage to any tree that meets the following criteria on a lot zoned Residential with a density code of R20 or below unless development approval has been granted in accordance with Part 8 of the deemed Provisions:

Add new clause 60B as follows:

60B.  If there are no significant trees on the site at the time of development application, the City may, as a condition of approval, require the planting of advanced trees approved by the City on a ratio of one tree for every 500 square metre (or part thereof) of site area.

Advanced Tree’ - means a tree which requires planting in at least a 90-litre container or greater size and which is at least 2 metres in height and at least 2 years of age.

The AMENDMENT was PUT and was

Lost 5/7

(Against: Mayor Argyle Crs. Brackenridge Coghlan

McManus Smyth Bennett & Mangano)

**The Original Motion was PUT and was**

**CARRIED 8/4**

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

**Purpose**

The purpose of this report is for Council to provide consent to prepare (adopt for advertising) the proposed Scheme Amendment No 12, which would require development approval for the removal of trees meeting certain criteria from Residential lots with a coding of R20 or lower.

**Recommendation**

**That Council:**

1. **Pursuant to Section 75 of the *Planning and Development Act 2005*, adopt Amendment No. 12 to Local Planning Scheme No. 3 by inserting the following provisions into Schedule 1 – Supplemental Provisions:**

**60. Requirement for development approval**

**60A. No person shall cause or permit the removal, destruction, or damage to any tree that meets the following criteria on a lot zoned Residential with a density code of R20 or below unless development approval has been granted in accordance with Part 8 of the Deemed Provisions:**

1. **Canopy diameter of 6m or greater; or**
2. **Height of 8m or greater; or**
3. **In the case of a tree with a single trunk, a trunk circumference of 1.5m or greater, measured 1.4m above the ground; or**
4. **In the case of a tree with multiple trunks, a total trunk circumference of 1.5m or greater, with an average trunk circumference of 625 millimeters or greater, measured 1.4m above the ground.**

**61. Development for which development approval is not required**

|  |  |  |
| --- | --- | --- |
|  | **Column 1**  **Works** | **Column 2**  **Conditions** |
| **22.** | **The removal, destruction or damage to a tree which meets the criteria set out in Clause 60A.** | **Either -**   1. **The tree is identified in a local planning policy as an unwanted species; or** 2. **Tree pruning in accordance with Australian Standards for Pruning of Amenity Trees (AS4373); or** 3. **Tree pruning or removal required for bushfire management purposes, in accordance with the Bush Fires Act 1954; or** 4. **Tree pruning or removal to achieve necessary clearances from utilities; or** 5. **Cutting back overhanging branches or roots of a tree on a neighbouring property, back to the shared property boundary.** |

1. **In accordance with Regulation 35(2) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, the City is of the opinion that Amendment No. 12 to Local Planning Scheme No. 3 is a Complex Amendment, as it aligns with the definition specified under Regulation 34 as follows:**

**r34 (b) an amendment that is not addressed by any local planning strategy; and**

**r34 (c) an amendment relating to development that is of a scale, or will have an impact, that is significant to development in the locality.**

1. **Pursuant to Section 81 of the *Planning and Development Act 2005*, refers Amendment No. 12 to Local Planning Scheme No. 3 to the Environmental Protection Authority.**
2. **In accordance with Regulation 37(2) of the *Planning and Development (Local Planning Schemes) Regulations 2015* submit two (2) copies of the proposed Scheme Amendment No. 12 to the West Australian Planning Commission for approval to advertise.**

1. **Subject to Section 84 of the *Planning and Development Act 2005* advertises Amendment No. 12 to Local Planning Scheme No. 3 in accordance with Regulation 38 of the *Planning and Development (Local Planning Schemes) Regulations 2015* and the City of Nedlands Local Planning Policy – Consultation of Planning Proposals.**

**Voting Requirement**

Simple Majority.

**Executive Summary**

The purpose of this report is for Council to consider the merits of preparing a scheme amendment to require development approval to remove trees on private land meeting specific criteria. The report also discusses a supporting local planning policy to guide the discretion and process for the determination of such an application for development approval. Both planning instruments have been proposed in response to the 14 December 2021 Council decision relating to the retention of trees on private land.

**Background**

At the 14 December 2021 Ordinary Council Meeting (OCM), Council resolved that an amendment to Local Planning Scheme No. 3 (the Scheme) be prepared, for the purpose of requiring development approval for the removal of trees that meet certain criteria on lots with a coding of R20 or less (the Amendment).

The December OCM report included draft scheme amendment provisions, however, it was noted that the criteria would be refined in the subsequent report to Council. The tree criteria for the scheme amendment have now been refined based on further research relating to the tree protection criteria used by other jurisdictions and advice from relevant specialists.

**Discussion**

Gaps Analysis

Since the Scheme was gazetted in April 2019, several ‘gaps’ have been identified by Administration in the City’s strategic planning framework. These gaps have become apparent through the City’s difficulty in negotiating outcomes in the development application process that are satisfactory in terms of the local area’s context and character.

In consultation with the Department of Planning, Lands and Heritage (DPLH), the City undertook a strategic analysis of the existing local planning framework, and developed a list of the key planning issues arising from the implementation of the Scheme, referred to as the Gaps Analysis. The intent of the Gaps Analysis is to:

* Secure agreement on the nature, priority and associated objectives of the perceived gaps; and
* Identify the investigations required to substantiate the extent of the gap and demonstrate need for a new planning instrument to resolve the gap.

The Gaps Analysis was endorsed by Council at the February 2021 OCM.  The Amendment is intended to address Item 3 of the Gaps Analysis, being ‘loss of existing trees on private land’. The required investigations for this item included review of other local government planning instruments to deal with the issue, which has now been undertaken to inform the preparation of the Amendment.

The detail and planning justification for the Amendment, and supporting local planning policy, is provided in the Scheme Amendment No 12 – Justification Report, included as **Attachment 1**.

An outline of the supporting local planning policy is included as **Attachment 2**. It is proposed that this local planning policy will be presented to Council for their consideration at a future council meeting.

Consideration as a Complex Amendment

The proposed Amendment is consistent with the City’s endorsed Local Planning Strategy. Notwithstanding, the Amendment is considered to be a Complex Amendment as defined by Regulation 34 of the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations). This is due to sub-regulation 34(b), with the matter not being addressed by the City’s Urban Forest Strategy, and sub-regulation 34(c), the significant departure it proposes from the existing requirements for development approval. This classification will also allow for the most rigorous community consultation period to be undertaken.

**Community consultation**

The application is required to be advertised in accordance with Regulation 38 of the Regulations,and the City of Nedlands Local Planning Policy – Consultation of Planning Proposals. Advertisement of a Complex Amendment is as follows:

* The City must prepare a notice in a form approved by the WAPC giving details of the purpose of the Amendment, 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 on the City’s website;
  + Publishing the notice in a newspaper circulating throughout the scheme area;
  + Publishing the notice via the City’s social media channels;
  + Providing letters to affected owners and occupiers;
  + Providing a community information session;
  + Displaying the notice in the Administration building; and
  + Providing a copy of the notice to all public authorities which are likely to be affected by the Amendment.
* The advertising period can be no less than 60 days, commencing on the day that the notice is published in a newspaper circulating in the scheme area.

In addition to the regulatory advertising of the amendment, opportunities to provide meaningful engagement with the community on this matter will be explored. In the event the amendment is initiated, a community engagement plan will be prepared prior to formal advertising commencing. This plan will consider other forms of engagement, such as providing an easy-to-use portal to make a brief submission.

**Strategic Implications**

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

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

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

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

**Reflects Identities**

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

**Budget/Financial Implications**

If Council were to proceed with the Amendment, there would be no immediate cost to the City other than those associated with advertising.

If the Amendment were to be approved, implementation costs associated with staff resourcing would depend upon the number of development applications received for tree removal. Staff resourcing would include planning officers to assess development applications, technical services officers for assisting with arboriculture aspects of development applications and compliance officers for enforcing tree retention and provision requirements. Quantifying additional staff resources required at this stage is not feasible, and this matter could be reviewed during implementation.

**Legislative and Policy Implications**

As outlined in Schedule 7 of the [Planning and Development Act 2005](https://www.legislation.wa.gov.au/legislation/prod/filestore.nsf/FileURL/mrdoc_44857.pdf/$FILE/Planning%20and%20Development%20Act%202005%20-%20%5B04-p0-00%5D.pdf?OpenElement), the “conservation of the natural environment of the scheme area including the protection of natural resources, the preservation of trees, vegetation and other flora and fauna, and the maintenance of ecological processes and genetic diversity” are matters which may be dealt with by a planning scheme.

The intent of the Amendment is to provide an improved framework for the protection of the City’s urban tree canopy. The Amendment is therefore within the limitations of what may be dealt with by the Scheme.

**Decision Implications**

In accordance with Regulation 37 of the Regulations, the Council, upon consideration of the Amendment, must resolve:

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

If the Amendment is granted consent to advertise by Council as per Regulation 37(a) OR (b) above, the City must, within 21 days of the Council resolution, refer the application to the Western Australian Planning Commission (WAPC) for approval to advertise in accordance with Regulation 37 of the Regulations. The WAPC then has 60 days to advise the City whether any modifications to the documents are required before the Amendment is advertised.

The City must also refer the application to the Environmental Protection Agency (EPA) in accordance with Section 81 of the *Planning and Development Act 2005*.

If the Amendment is granted consent to advertise by the WAPC, the City will advertise the Amendment as outlined in the ‘Community Consultation’ section of this Report.

At the close of the submission period, the City must acknowledge in writing the receipt of each submission on the Amendment.  A 90-day consideration period for a complex 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 Amendment.

Once Council has made their decision on the Amendment, all documents will be referred to the WAPC. The WAPC will consider the proposed Amendment and submissions before delivering a recommendation to the Minister for Planning. The Minister will then make the final decision on whether the Amendment will proceed to be Gazetted and placed in the Scheme, or if it will not be supported.

If Council choose not to proceed with the Amendment as per Regulation 37(c) above, the City must provide a copy of the Resolution to the WAPC within 21 days of the decision. No further action will be taken with the Amendment after the Resolution is provided to the WAPC.

**Conclusion**

The Amendment creates a mechanism within the Scheme for development approval to be required for the removal of trees from private land in certain circumstances. The intent of the Amendment is to provide an improved framework for the protection of the City’s urban tree canopy, which aligns with the vision for the City of Nedlands, as set out in the Local Planning Strategy.

The Amendment is considered to be a Complex Amendment under section (b) and (c) of r.34 of the Regulations due to the matter not being considered by the City’s Urban Forest Strategy, and the significant departure it proposes from the existing requirements for development approval. The classification of the Amendment as complex will also allow for the most rigorous community consultation process to be undertaken, ensuring that affected agencies and residents are provided with ample opportunity to comment on the proposal.

**Further Information**

**Question**

Councillor Senathirajah – what percentage of trees removed are from applying for those building houses or requesting demolition permits?

**Office Response**

The City does not have this information

**Question**

Can we add to the policy that it applies when applying for demolition permit?

**Office Response**

The Scheme Amendment will require that planning approval is required for the removal of trees on R20 lots and below, when the tree criteria is met, when a demolition is occurring.

**Question**

Councillor Senathirajah – does this only apply to native trees? (Unwanted tree species list).

**Office Response**

The Scheme Amendment will apply all trees expect for those included on the Unwanted Tree Species List (see Attachment 3)

# PD41.06.22 West Melvista Precinct Parking Restriction

|  |  |
| --- | --- |
| **Meeting & Date** | Council – 27 June 2022 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil |
| **Report Author** | Jessica Bruce A/Manager Health & Compliance |
| **Director** | Tony Free Director Planning and Development |
| **Attachments** | 1. 1. Current West Melvista Precinct Parking Restrictions 2. 2. Proposed West Melvista Precinct Parking Restrictions |

**Regulation 11(da) - Council wished to ensure that there is certainty around the advertising period and the treatment of submissions when received.**

Moved – Councillor Coghlan

Seconded – Councillor McManus

**That the Recommendation be adopted subject to that an additional clause 2 be added as follows:**

**2. approves the consultation period for the introduction of the timed parking be for a minimum of 28 days and that Councillors receive the Public Submissions de-identified.**

**CARRIED UNANIMOUSLY 12/-**

**Council Resolution**

**That Council:**

* + - 1. **approves the proposed consultation with residents, businesses, and community/sporting organisations to introduce timed parking for the streets surrounding the development; and**
      2. **approves the consultation period for the introduction of the timed parking be for a minimum of 28 days and that Councillors receive the Public Submissions de-identified.**

Recommendation

That Council approves the proposed consultation with residents, businesses, and community/sporting organisations to introduce timed parking for the streets surrounding the development.

**Purpose**

To seek community consultation within the West Melvista Precinct to introduce timed parking restrictions. This is to alleviate parking impacts on residents and business in response to increased construction activities particularly around the Oryx Development.

**Voting Requirement**

Simple Majority.

**Background**

Oryx Developments will be shortly commencing construction of ‘The Melvista Nedlands’ at 16-18 Betty Street & 73-75 Doonan Road Nedlands. This four-storey development will provide 80 aged care rooms and suites.

The majority of on-street parking surrounding the development is currently unrestricted and primarily used for residential purposes with very few commercial entities operating within the vicinity. It is anticipated that the demand for on street parking will increase markedly when the development begins its construction phase.

**Discussion**

The Administration will continue to require builders to address parking as part of their construction management plans. However, the City is limited in its ability to encourage and enforce builders to manage their parking associated with their development without changes to the existing parking restrictions. It is expected that vehicles associated with the construction will predominately park in the residential areas close to the building sites leading to potential concerns from residents being unable to have access to parking in their street if no parking restrictions are implemented. By taking this proactive action on this issue it is expected this will reduce the likelihood of impact on residents.

In order to alleviate the impact of this on residents of the area the City is proposing the temporary implementation of two hour time restricted parking on one side of the streets in precinct with No Parking applying to the other side surrounding this development. A section of verge on College Park on Melvista Avenue will be allocated to the construction company at a cost and designated as ‘Authorised Vehicles Only.’ It is anticipated that this will ensure equitable use of the on street parking surrounding the development. This reflects similar arrangements recently adopted by Council in February 2022 for the Broadway Precinct Parking Restrictions and the allocation of land on Bruce Street for trades vehicle parking.

In support, the City currently offers parking permits to residents in accordance with the *City of Nedlands Parking and Parking Facilities Local Law 2017*. This allows residents and their visitors to park over the time limitation on streets near their property when displaying a valid permit. Residents will be advised through this consultation process of this option and how they can apply.

The current parking restrictions for the West Melvista Precinct are illustrated in the maps below (Attachment 1). The proposed parking restrictions in this precinct will be largely uniform from Monday to Saturday (Attachment 2). Table 1 provides a list of current restrictions and proposed restrictions.

**Table 1: Current and Proposed Temporary Parking Restrictions**

|  |  |  |  |
| --- | --- | --- | --- |
| **Street** | **Section** | **Current** **Restriction** | **Proposed** **Restriction (either side)** |
| Bostock Road | Melvista Avenue – Princess Road | No Restriction | No Parking Mon – Sat  2P Mon – Sat  No Parking – Auth Only |
| Leopold Street | Melvista Avenue – Princess Road | No Restriction | No Parking Mon – Sat  2P Mon - Sat |
| Betty Street | Princess Road – Granby Crescent | No Parking | No Parking – Permits Exempt  No Parking |
| Granby Crescent – Melvista Avenue | No Stopping | No Parking – Permits Exempt  No Stopping |
| Doonan Road | Princess Road – Melvista Avenue | No Parking | No Parking – Permits Exempt  No Parking |
| Granby Crescent | Betty Road – Leopold Street | No Restriction | No Parking Mon – Sat  2P Mon - Sat |
| Vincent Street | Princess Road – Melvista Avenue | No Restriction | No Parking Mon – Sat |
| Louise Street | Princess Road – Melvista Avenue | No Restriction | No Parking Mon – Sat  2P Mon - Sat |
| Stone Road | Melvista Avenue – Goldsmith Road | No Restriction | No Parking Mon – Sat  2P Mon - Sat |
| Sherwood Road | Melvista Avenue – Goldsmith Road | No Restriction | No Parking Mon – Sat  2P Mon - Sat |
| Hackett Road | Watkins Road – Melvista Avenue | No Restriction | No Parking Mon – Sat  2P Mon - Sat |
| Kathryn Crescent | Hackett Road – Adelma Road | No Restrictions | No Parking Mon – Sat  2P Road/Verge Mon-Sat |
| Garland Road | Watkins Road – Kathryn Crescent | No Restriction | No Parking Mon – Sat  2P Mon - Sat |
| Sutcliffe Street | Melvista Avenue – Hotchin Street | No Restriction | No Parking Mon – Sat  2P Mon – Sat |
| Melvista Avenue | Loton Road – Stone Road | No Restriction | No Parking Mon – Sat  2P Mon – Sat |
| Stone Road – Bostock Road | No Restriction | No Parking – Auth Only  2P Mon - Sat |
| Bostock Road – Sherwood Road | No Restriction | No Parking Mon – Sat  2P Mon - Sat |
| Sherwood Road – Sutcliffe Street | No Restriction | No Parking Mon – Sat  2P Mon - Sat |
| Adelma Road | Melvista Avenue – Stephanie Street | No Restriction | No Parking Mon – Sat |
| Riley Road | Stone Road – Hackett Road | No Restriction | No Parking Mon – Sat  2P Mon - Sat |
| Goldsmith Road | Stone Road – Garland Street | No Restriction | No Parking Mon – Sat  2P Mon - Sat |
| Stephanie Street | Garland Street – Adelma Road | No Restriction | No Parking Mon – Sat  2P Mon - Sat |
| Hotchin Street | Adelma Road – Sutcliffe Street | No Restriction | No Parking Mon – Sat  2P Mon - Sat |
| Watkins Road | Stone Road – Adelma Road | No Restriction | No Parking Mon – Sat  2P Mon - Sat |
| Stone Road | Watkins Road – Melvista Avenue | No Restriction | One side Town of Claremont  2P Mon - Sat |

**Consultation**

The City will consult residents, businesses and sporting/community groups in the areas affected by letter to explain proposed parking restrictions along with the impacts if these parking measures are not in place. As part of the consultation residents would be advised of their option to apply for parking permits in line with the current scheme to allow them or their visitors on street parking where posted restrictions are proposed to be implemented.

Further information regarding the changes to the parking restrictions will be communicated to the UWA Nedlands FC, Westside Wolves Hockey Club, Western Suburbs Cricket Club, Aim Archery Group, Claremont Nedlands Cricket Club (Juniors) and Kidz Galore. The City will work with the clubs and groups to consult alternative use of land within the management area or other facilities for parking during competitions and events.

The Community Consultation of the proposal will include a targeted letter campaign to the residents of the precinct likely to be affected by the changes along with an online community engagement through Your Voice on the City website. This will be advertised for two weeks following a resolution by Council. This will be undertaken in accordance with the Community Engagement Council Policy as it relates to engagement processes with respect to consultation.

This feedback obtained through the consultation period will be then collated and the information presented to Council for adoption.

**Strategic Implications**

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

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

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

**Easy to Get Around**

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

**Priority Area** Managing parking

**Budget/Financial Implications**

The consultation will be budgeted through the already existing operational accounts.

**Legislative and Policy Implications**

City of Nedlands Parking and Parking Facilities Local Law 2017.

**Conclusion**

Increased demand for parking is anticipated in the West Melvista Precinct due to increased building construction activity resulting from the adoption of Local Planning Scheme 3.

The Administration, therefore, recommends Council approve a consultation period to obtain feedback to introduce parking restrictions in the surrounding streets and progress parking arrangements with builders for the exclusive use of a section of verge on College Park.

**Further Information**

Table 1 – Current and proposed Temporary Parking Restrictions contained within the officer report has been updated in the report following the Council Agenda Forum.

Attachment 2 - Proposed West Melvista Precinct Parking Restrictions has also been updated following the Council Agenda Forum.

**Question**

Councillor Coghlan - Public Agenda did not include maps.

**Officer Response**

The maps are included in the PDF version of the agenda. The maps are freely available to the public.

**Question**

Can maps be checked for clear no stopping or standing at intersections

**Officer Response**

The installation of ‘No Stopping’ signs at each intersection will align with the proposed parking map, Australian Standards and the Road Traffic Code.

**Question**

Some streets will require greater protection as they are closer to the development site e.g., Doonan and Betty Streets from Princess Rd to Melvista Avenue. No parking on roads and verges?

**Officer Response**

The proposed parking restrictions includes ‘No Parking’ at all times on the road. Implementing ‘No Parking on Road and Verge’ will prohibit residents from parking on their adjacent verge. This option may impact on amenity and parking availability.

In accordance with the *City of Nedlands Parking and Parking Facilities Local Law 2017* Section 5.14(1) a vehicle shall not park on a verge unless authorised to park there by the adjacent property owner or occupier. If a construction vehicle parks on a verge without authorisation, Rangers will issue an infringement notice upon complaint from the owner or occupier.

**Question**

Can no parking on both sides of Doonan Road be introduced?

**Officer Response**

The proposed parking restrictions includes ‘No Parking’ at all times on the eastern side of Doonan Road allowing for buses and vehicles to travel along the thoroughfare without the obstruction of parked vehicles.

The western side of Doonan Road can include ‘No Parking – City of Nedlands Permit Holders Exempt’ allowing residents with a parking permit to park contrary to the No Parking signage. The advantage of this option restricts parking on both sides of Doonan Road without reducing the parking availability for residents.

**Question**

Bus Stop outside Melvista Lodge area is marked as being removed off the map? What is happening here?

**Officer Response**

Two bus zones on Melvista Avenue have been reinstated on the map and will be included as part of this proposal. TransPerth confirmed that bus number 25 route includes a detour from Princess Road onto Doonan Road and Betty Street to service residents at Melvista Lodge.

**Question**

Possibility of signs – Local Traffic Only?

**Officer Response**

The City will monitor the installation and effectiveness of the proposed parking restrictions before considering Local Traffic Only signs.

**Question**

In what direction will most construction vehicles enter the area. Will they come down Vincent Street and along Melvista Ave?

**Officer Response**

It is expected that construction vehicles will used the local distributors (Princess Road, Vincent Street, Melvista Avenue, Bay Road etc.) to arrive in the area. Access Roads including Betty Street and Doonan Road may be used when accessing the site directly.

**Question**

Granby Crescent has been called Granby Street in our agenda and has been left off the parking map entirely, can this be reviewed?

**Officer Response**

Amendments have been made to the map and the report.

**Question**

How is it proposed to look after Granby Park?

**Officer Response**

It is an offence to park on a reserve under the *City of Nedlands Parking and Parking Facilities Local Law 2017*. The City proposes to include ‘No Parking on Reserve’ signs around the park as a deterrent to drivers. Compliance activities from Ranger Services will support the protection of Granby Park.

**Question**

How is it proposed to look after Masons Gardens?

**Officer Response**

Bollards surrounding Masons Gardens will restrict vehicles from parking on the reserve. The verge on Kathryn Crescent is proposed to include two hour restriction on the road and verge to control construction vehicles parking there. The time restriction will allow users of the reserve to park for up to two hours.

**Question**

Consideration of closing Granby Crescent at the Betty Street end for the duration of construction?

**Officer Response**

It is not proposed to close part of Granby Crescent. Residents can provide written submissions regarding closure provisions as part of the consultation process. The partial closure of the road will need to follow a separate process.

**Question**

How can we ensure that parking for users of Masons Gardens and the child care centre drop off area is not used for construction vehicles?

**Officer Response**

The proposed parking restrictions of 2P 8am-5pm, Monday to Saturday will be installed on Hackett Road and including the 13 parking bays. The time restriction will allow users of Masons Gardens to park for up to two hours. The City can accommodate parking for the childcare facility with parking permits allowing vehicles to park unrestricted.

**Question**

Containment of all construction materials on Oryx’s site there should be no material left elsewhere?

**Officer Response**

To occupy the verge or thoroughfare for the storage of materials or the creation of a working zone during construction works, a verge use permit is required. Controls around the placement of the materials will be addressed as part of their Verge Permit Application, Construction Management Plan and Traffic Management Plan.

**Question**

After construction, there should be no parking on Doonan Road and Betty Street 24/7, particularly Doonan Road?

**Officer Response**

The proposed parking restrictions are intended to be temporary for the duration of the construction period. It is proposed that a report will be presented to Council to consult with residents after the construction to modify the parking restrictions. The City will take into consideration parking amenity and availability for all residents along Betty Street and Doonan Road as part of consultation.

**Question**

Protection of residents’ amenity?

**Officer Response**

The implementation of these parking restrictions will assist to protect resident’s amenity. Without these temporary parking restrictions, residents of Betty Street and Doonan Road will be significantly impacted by construction vehicles being parked on the thoroughfare without restriction.

**Question**

Councillor Mangano – Consider plan for vehicles delivering to site without impacting neighbours.

**Officer Response**

This will be required as part of the site’s Construction Management Plan and Traffic Management Plan.

**Question**

Is it possible to build basement first and then contain parking on site during construction?

**Officer Response**

If parking can be accommodated on site, this will be addressed as part of the site’s Constructions Management Plan. It is noted that the basement car park associated with this development is relatively small.

**Question**

Councillor Bennett – Will we have enough Ranger resources to monitor and enforce these restrictions?

**Officer Response**

The current resource allocation will be appropriate to monitor and enforce these temporary parking restrictions. Reducing this resource will decrease the services level in this area. This may result in longer response times and less enforcement activities.

**Question**

Can administration please review out of hours reporting system to rangers?

**Officer Response**

The out of hours reporting system to ranagers can be reviewed. Currently all calls outside ordinary administration office hours (8:30am – 5pm Monday to Friday) are directed to the out of hours’ service provider. This provider escalates the call to the appropriate ‘on-call’ officer based on the scenario and risk of the call. Ranger Services are able respond effectively to a variety of calls including call of serious thoroughfare obstructions, damages to Council infrastructure etc. as to not expose the organisation to unnecessary risk.

**Question**

Councillor Smyth – Can we please refine location of signage and bollards to prevent accidents and to protect trees at College park?

**Officer Response**

Bollards around Collage Park should be retained in their current location to prevent vehicles from parking on the reserve and to allow the verge to be used as adhoc parking facility for users of the reserve and adjacent residents. As part of the Construction Management Plan for this site, the ‘Authorised Vehicles Only’ area will be charged in accordance with the City’s Fees and Charges. A bond will also be charged as to ensure the protection of the trees.

**Question**

Councillor Youngman – can the word “temporary” be added after the word introduce in the recommendation?

**Officer Response**

It is proposed that the recommended parking restrictions be reviewed following the construction works are completed. If Council wishes to make clear that the proposed parking restrictions are only temporary the following wording is suggested;

That Council:

Approves the proposed consultation with residents, businesses, and community/sporting organisations to introduce **temporary** timed parking for the streets surrounding the development.

Councillor McManus left the meeting at 9.51pm.

# PD42.06.22 Bird Watering Stations

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting – 28 June 2022 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil |
| **Report Author** | Jessica Bruce – Acting Manager Health and Compliance |
| **Director** | Tony Free - Director Planning and Development |
| **Attachments** | Nil. |

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

Moved – Councillor Youngman

Seconded – Councillor Hodsdon

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

(Printed below for ease of reference)

**CARRIED 9/2**

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

**Council Resolution / Recommendation**

**That Council:**

1. **notes the purchase of a bird watering station for Hollywood Reserve in the 2021/22 financial year utilising $2,000 donation funding from the Friends of Hollywood Reserve;**
2. **notes the donation from the Friends of Hollywood Reserve towards of the provision of the bird watering station;**
3. **lists for consideration six bird watering stations in the 10 year forward works plan as part of consideration of the 2023/24 Capital budget subject to supporting grant funding; and**
4. **notes that the City has regular bird census data available through the Birdata platform provided by BirdLife Australia.**

**Purpose**

The purpose of this report is to respond to Council’s request to investigate the installation of bird watering stations and to consult with Bird Life Australia to establish a regular bird census similar those conducted for the Lake Claremont Advisory Committee.

**Voting Requirement**

Simple Majority.

**Background**

Council at its meeting on 22 March 2022 under item 22.5 agreed to investigate the installation of bird watering stations, appropriate locations, possible grants and funding options, and consult with Bird Life Australia to establish a regular bird census similar to those conducted for the Lake Claremont Advisory Committee.

**Discussion**

**Nedlands Bird Survey Data**

The City of Nedlands manages approximately 63 hectares (ha) of remnant bushland for conservation purposes. The bushland areas within the City consist of six main bushlands and a number of smaller bush blocks and greenways. All the City’s bushlands are actively managed and contain a variety of bird species which are supported by varied vegetation types and habitats such as coastal, estuarine and woodlands areas.

There are a number of ongoing bird surveys being undertaken within Nedlands which include:

* Bird banding at Shenton Bushland by Edith Cowan University (ECU) in conjunction with BirdLife Australia at monthly intervals for more than a decade;
* Ongoing regular surveys at Allen Park, Point Resolution and Hollywood Reserve; and
* Irregular surveys at Mt Claremont Oval and Birdwood Parade bushlands.

Some of the surveys are undertaken by community ‘Friends of’ groups and the survey information is only accessible to the volunteer groups who have undertaken the surveys. Other surveys are reported in Birdata which is an online platform that enables volunteers and researchers to enter bird survey data into a web portal.

Birdata was established to help protect Australian birds and the program links with other bird conservation programs including the Atlas Program, Shorebirds 2020, WA Black-Cockatoos and Birds in Backyards. Birdata can be accessed online at [Explore | Birdata (birdlife.org.au)](https://birdata.birdlife.org.au/explore#map=-22.5083100_136.0786120_4).

To ensure increased reporting of Nedlands bird survey data, the City’s Administration have liaised with the five City of Nedlands ‘Friends of’ groups to raise awareness of the Birdata platform. After liaising with the Friends of Point Resolution some of their members who are responsible for undertaking the bird census for the Lake Claremont Advisory Committee have kindly agreed to survey Point Resolution quarterly and update the survey results into Birdata.

In addition to raising awareness of the Birdata platform and additional surveys being undertaken at Point Resolution, the City asked if BirdLife Australia could engage their volunteers to undertake regular bird surveying at Allen Park, Mt Claremont Oval, Hollywood Reserve and Birdwood Parade bushlands. BirdLife Australia have agreed to survey these bushland areas at regular intervals provided they have volunteers available.

**Bird Watering Stations**

Bird watering stations have been installed in parks and reserves across a number of local governments in the metropolitan area. They provide clean drinking water for birds and a safe environment for them to drink where there is a consistent water supply during warmer months. Many bird species benefit from bird watering stations including the *Endangered* Carnaby’s Black-Cockatoo and the *Threatened* Forest Red-tailed Black-Cockatoos that have roost sites in Nedlands and regularly frequent the City’s bushland areas.

Car strikes are another threat to Black-Cockatoos within Nedlands especially where they forage close to the roadside. Drinking from puddles along roadsides are also leading to car strikes. Bird watering stations help protect the birds by providing a reliable water source away from dangerous road ways.

The bird watering stations are designed and supplied by the Town of Victoria Park and in addition to providing a clean reliable water source they are also attractive and are a way of incorporating artwork into public areas.

There are potentially seven suitable locations including six within the City’s six main bushland areas and one in the bushland protection zone at Montario Quarter. The total cost to supply each bird watering station is approximately $6,100 (ex gst) which includes $4,100 for supply and between $1,000 - $2,000 for installation which is dependent on the distance they are installed from a Mains water source. With approximately seven possible locations to install bird watering stations within the City, it would cost a total of approximately $42,700 (ex gst).

The City’s Administration has been liaising with the Friends of Hollywood Reserve to install a bird watering station at Hollywood Reserve since the unplanned fire in January 2022. The Friends of Hollywood Reserve received a number of donations after the unplanned fire at Hollywood Reserve and they would like to offer $2,000 of their donation money to the City to assist with the purchase of a bird watering station for Hollywood Reserve.

Provided Council agrees to accept the Friends of Hollywood Reserve’s donation money then Administration can move ahead with purchasing one bird watering station in the 2021-22 financial year by utilising $2,000 donation money and $2,100 of operational funding. The remaining $2,000 for installation of the bird watering station could be completed in the 2022-23 financial year.

With regards to the remaining six potential bird watering stations these would cost approximately $36,600 and therefore need to be included in the ten year forward works program. There are two possible grants that could be applied for including the State Natural Resource Management (NRM) grants and Lotterywest grants which are highly competitive and vary in available grant value. Both grant funding bodies require joint funding contribution and sufficient scientific evidence that the watering stations are needed in addition to their normal feeding and watering activities in order to be eligible. Furthermore, the City is not in a position to apply for the current grant rounds as budget contribution has not been allocated towards the grant project and applications have closed.

If the Council approves funding of $30,000 in the 2023/24 Capital budget then the City would be in a position to apply for a grant for multiple bird watering stations to support the costs and install.

**Consultation**

The City’s Environmental Conservation program actively engages with the five ‘friends of’ groups in the management of the City’s bushland areas and has raised awareness of the Birdata platform and the bird watering stations with the groups.

**Strategic Implications**

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

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

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

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

**Great Governance and Civic Leadership**

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

**Great Communities**

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

**Reflects Identities**

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

**Priority Area** Retaining remnant bushland and cultural heritage

**Budget/Financial Implications**

The bird watering stations cost approximately $6,100 to supply and install. There is currently $2,100 in the 2021-22 operational budget which can be utilised along with $2,000 of the Friends of Hollywood Reserve’s donation money to purchase one bird watering station prior to the end of the 2021-22 financial year.

As the outcome of this report item will only be known on the 28 June and close to the end of the 2021-22 financial year, the installation costs of $2,000 of the bird watering station would need to be paid for out of the 2022-23 operational budget.

In order to seek grant funding to purchase six additional bird watering stations totalling $30,000, this will need to be included in the 2023/24 Capital budget.

**Legislative and Policy Implications**

The following legislative and policy implications relate to this item:

* [Greenways Council Policy.docx (live.com)](https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww.nedlands.wa.gov.au%2Fsites%2Fdefault%2Ffiles%2FGreenways%2520Council%2520Policy.docx&wdOrigin=BROWSELINK)
* [Natural Areas Management Council Policy.docx (live.com)](https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww.nedlands.wa.gov.au%2Fsites%2Fdefault%2Ffiles%2FNatural%2520Areas%2520Management%2520Council%2520Policy.docx&wdOrigin=BROWSELINK)

**Decision Implications**

N/A

**Conclusion**

The City of Nedlands is committed to protecting bird species and will continue to assist volunteers to survey and record bird data within the City through the City’s ‘Friends of’ activities and BirdLife Australia’s Birdata platform.

There is funding available in the 2021-22 Council budget to purchase one bird watering station using $2,000 donation money from the Friends of Hollywood Reserve and $2,100 from the operational budget. It is recommended that the City purchase a bird watering station for Hollywood Reserve this financial year and seek Council and grant funding for an additional six bird watering stations by including $30,000 in the 2023/24 Capital budget.

**Further Information**

**Question**

Mayor Argyle – can photos be supplied of the installed water station.

**Officer Response**

Photos will be distributed.

# Divisional Reports - Corporate & Strategy Report No’s CPS23.06.22 to CPS26.06.22

# CPS23.06.22 Differential Rates 2022/23 – Approval for Advertising

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting – 28 June 2022 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil |
| **Report Author** | Stuart Billingham – Manager Financial Services |
| **Director** | Michael Cole – Director Corporate Services |
| **Attachments** | 1. Statement of Objects and Reasons for imposing the Differential Rates for 2022/23 |

**Regulation 11(da) - Council did not support advertising an increase in differential rates and minimums, with the exception of residential vacant properties.**

Moved – Councillor Hodsdon

Seconded – Councillor Senathirajah

That the Recommendation be adopted.

(Printed below for ease of reference)

Councillor McManus returned to the meeting at 9.52pm.

Councillor Bennett left the meeting at 9.53pm and returned at 9.54pm.

Lost on the Casting Vote 7/6

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

Moved – Councillor Mangano

Seconded – Councillor Coghlan

**Council Resolution**

**That Council:**

1. **approves the advertising of the proposed differential rates for 2022/23 for:**
   1. **for a period of 21 days by local public notice, in accordance with Section 6.36(1) of the Local Government Act 1995; and**
   2. **post on the City’s website, in accordance with Section 6.36(3)(c)(ii) of the Local Government Act 1995;**

1. **endorses proposed differential rates and minimums as follows:** 
   1. **Residential 0.065578 and minimum $1,484;**
   2. **Residential Vacant 0.09268 and minimum $1,950;and**
   3. **Non-residential 0.07314 and minimum $1,957; and**

1. **subject to updating differential rates and minimums as per 2 above, endorses the Statement of Objects and Reasons for each differential rate and minimum rate as detailed in Attachment 1.**

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

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

Recommendation

That Council:

1. approves the advertising of the proposed differential rates for 2022/23 for:
   1. for a period of 21 days by local public notice, in accordance with *Section 6.36(1)* of the *Local Government Act 1995*; and
   2. post on the City’s website, in accordance with *Section 6.36(3)(c)(ii)* of the *Local Government Act 1995*;
2. endorses proposed differential rates and minimums as follows:
   1. Residential 0.06722 and minimum $1,521;
   2. Residential Vacant 0.09268 and minimum $2,000; and
   3. Non-residential 0.07496 and minimum $2,006; and
3. endorses the Statement of Objects and Reasons for each differential rate and minimum rate as detailed in Attachment 1.

**Purpose**

The purpose of this report is to seek Council approval for the advertising of the proposed differential rates and minimum rates for the 2022/23 financial year in accordance with *Section 6.36 of the Local Government Act 1995*.

**Voting Requirement**

Simple Majority.

**Background**

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

Change in City of Nedlands Landgate Valuations

|  |  |  |  |
| --- | --- | --- | --- |
| **GRV Category** | **2021/22** | **2022/23** | **% change** |
| Residential | $299,553,429 | $301,771,849 | 0.74 |
| Residential Vacant | $9,964,800 | $10,859,650 | 8.98 |
| Non-Residential | $53,129,577 | $55,994,977 | 5.39 |

Number of assessments

|  |  |  |  |
| --- | --- | --- | --- |
| **GRV Category** | **2021/22** | **2022/23** | **% change** |
| Residential | 8,304 | 8,301 | -0.036 |
| Residential Vacant | 275 | 331 | 20.363 |
| Non-Residential | 554 | 558 | 0.722 |

**Discussion**

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

1. Residential

2. Residential Vacant

3. Non-Residential

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

The draft Annual Budget for 2022/23 has been developed in consultation with Elected Members and it is proposed to bring the Annual Budget to a Special Council Meeting in early August 2022. In order to meet the statutory requirements under Section 6.36 of the Local Government Act 1995, the City proposes the following differential rates to be advertised for public comment:

Proposed increase from the 2021/22 Budget of 2.5% in the rate in the dollar and minimum rates for Residential and Non-residential categories. Proposed an increase of 2.5% in the rate in the dollar Residential Vacant category however -7.6% reduction in minimum to ensure compliance with less than 50% of the Residential Vacant Land category on a minimum.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Differential Rate** | **Minimum Rate 2021/22** | **Minimum Rate Proposed** | **Rate in the**  **Dollar ($) 2021/22** | **Rate in the Dollar ($) Proposed** |
| Residential | $1,484 | $1,521 | 0.06558 | 0.06722 |
| Non-Residential | $1,957 | $2,006 | 0.07314 | 0.07496 |
| Residential Vacant | $2,165 | $2,000 | 0.09042 | 0.09268 |

The proposed rates have been achieved through a critical review of operational costs to continue delivering services and achieving a capital program that matches delivery capacity.

In accordance with *Section 6.36 of the Local Government Act 1995*, the City is required to give local public notice of its intention to impose differential rates prior to adopting its budget for the 2022/23 financial year.

**Consultation**

The Council was presented with the draft budget information at a series of Councillor Briefings held during April, May, and June 2022. Proposed rates have been included in these discussions.

**Strategic Implications**

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

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

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

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

**Great Governance and Civic Leadership**

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

**Priority Area**

* Urban form - protecting our quality living environment
* Renewal of community infrastructure such as roads, footpaths, community and sports facilities
* Underground power
* Encouraging sustainable building
* Retaining remnant bushland and cultural heritage
* Providing for sport and recreation
* Managing parking
* Working with neighbouring Councils to achieve the best outcomes for the western suburbs as a whole

**Budget/Financial Implications**

The proposed differential rates for 2022/23 budget ($26,036,164) will provide additional revenue of $1,058,509 compared to the 2021- 22 budget ($24,977,655) to the City.

Can we afford it? The proposed differential rates have been rate modelled in order to achieve the optimum level of service and infrastructure delivery for the City.

**Legislative and Policy Implications**

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

**Decision Implications**

Should Council endorse the recommendation then the City will fulfill its Statutory obligations under *s6.36 of the Local Government Act 1995* to advertise proposed differential rates for 2022/23 by giving Local Public Notice for 21 days and consider any submissions received.

Should council not endorse the recommendation, this would result in delays to the adoption of the final budget for 2022/23.

**Conclusion**

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

**Further Information**

Administration had inadvertently included the incorrect rates in the dollar for the report that went to the Agenda Briefing Forum on 14 June 2022. These have been amended to align with the recommendations from the table in the discussion section of the report and to the Statement of Objects and Reasons attached to the report.

**Question**

Councillor Senathirajah - How much will be carried over from this year’s capital works program?

**Officer Response**

The estimated carry over for capital works from 2021/22 to 2022/23 is $5,059,850 of which $2,106,136 relates to the Swanbourne Surf Club.

**Question**

How much of the infrastructure budget has the City delivered?

**Officer Response**

Net of carry forwards, the City has budgeted to deliver the following capital works:

2021/22 - $7,080,889

2020/21 - $5,595,131

2019/20 - $8,212,465

2018/19 - $10,921,229

2017/18 - $10,565,910

**Question**

Councillor McManus - Has the Montario Quarter been handed back to the City?

**Officer Response**

Montario assets such as parks and street lights has been handed over to the City. However, the City is yet to receive any rate assessments. We expect them to commence during 2022/23 with interim rates budgeted accordingly.

**Question**

Mayor Argyle – What were the staff numbers 20 years ago?

**Officer Response**

The 2001/2002 Annual Report p.12, states that “The City of Nedlands employs approximately 121 full-time equivalent employees, across a wide range of positions”.

**Question**

Councillor Mangano – can the minimum rate be raised rather than a rate increase?

**Officer Response**

Residential and Non-Residential categories can have the minimums increased up to 50% of total, however Vacant Land Residential is already at 49% of class on minimums. The Objects and Reasons may require to be updated to provide justification if greater increases are applied to minimums than proposed.

**Question**

Councillor Smyth – who would be impacted the most?

**Officer Response**

Assessments with the lower GRV valuations would be affected first. This would be mix of units and houses. For example, in the 2.5% rates model, in the residential minimum category of the 1,472 properties, we have estimated 716 units and 756 houses.

# CPS24.06.22 Monthly Financial Report – May 2022

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting – 28 June 2022 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil. |
| **Report Author** | Hassan Shiblee – Coordinator Financial Accounting |
| **Director/CEO** | Michael Cole – Director Corporate Services |
| **Attachments** | 1. Financial Summary (Operating) by Business Units – 31 May 2022  2. Capital Works & Acquisitions – 31 May 2022  3. Statement of Net Current Assets – 31 May 2022  4. Statement of Financial Activity – 31 May 2022  5. Borrowings – 31 May 2022  6. Statement of Financial Position – 31 May 2022  7. Operating Income & Expenditure by Reporting Activity – 31 May 2022  8. Operating Income by Reporting Nature & Type – 31 May 2022 |

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

Moved – Councillor Youngman

Seconded – Councillor Hodsdon

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

(Printed below for ease of reference)

**CARRIED 9/2**

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

**Council Resolution / Recommendation**

**That Council receives the Monthly Financial Report for 31 May 2022.**

**Purpose**

Administration is required to provide Council with a monthly financial report in accordance with *Regulation 34(1)* of the *Local Government (Financial Management) Regulations 1996*.

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

**Voting Requirement**

Simple Majority.

**Background**

Nil.

**Discussion**

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

This report gives an overview of the revenue and expenses of the City for the year-to-date 30 April 2022 together with a Statement of Net Current Assets as at 31 May 2022.

The operating revenue at the end of May 2022 was $31.6m which represents $2.6m favourable variance compared to the year-to-date budget.

The operating expense at the end of May 2022 was $35.5m, which represents $1.1m favourable variance compared to the year-to-date budget.

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

**Governance**

Expenditure: Favourable variance of $ 434,146

Revenue: Favourable Variance of $ 909

The favourable expenditure variances are mainly due to:

* Governance and HR professional fees and other employee costs of $358k not spent.
* Savings in Communication salary of $62k due to delay in filling the position.

The small favourable revenue variance of due to profiling.

**Corporate and Strategy**

Expenditure: Favourable variance of $ 886,496

Revenue: Favourable variance of $ 838,663

The favourable expenditure variances are mainly due to:

* Corporate services professional fees and ICT expenses of $171k not spent.
* ICT expenses salary, professional fees, special projects of $801k offset by overspent One council project expense of $260k. This is a timing difference and will even out at the end of year.
* Land and Property salaries expenses of $64k not spent due to delay in filling current vacancy.
* Shared services office expenses and professional fees of $94k not spent.

The favourable revenue variance is mainly due to:

* Higher income from interim rates collected of $169k.
* Higher General purpose Grants operating of $700k due to the advance payment of Financial assistant grant.
* Offset by lower General purpose Interest of $49k.

**Community Development and Services**

Expenditure: Favourable variance of $ 129,842

Revenue: Favourable variance of $ 270,260

The favourable expenditure variances are mainly due to:

* NCC, PRCC and Library salaries of $274k not spent yet, which is expected to be in line with the budget by year end.
* Offset by Community development salaries and donations of $162k overspent.

The favourable income variance is mainly due to:

* Increased Tresillian and PRCC fees & charges of $319k.
* Offset by Community facilities council property Income being less by $48k.

**Planning and Development**

Expenditure: Favourable variance of $ 1,055,423

Revenue: Unfavourable variance of $ (248,692)

The favourable expenditure variances are mainly due to:

* Urban planning office, professional fees and projects expenses of $417k not spent yet.
* Urban planning and Environmental health salary of $306k not expensed yet due to delay in filling current vacancy.
* Operational activities of $295k not spent.
* Environmental health other expenses of $31k not spent.

The unfavourable revenue variance is mainly due to:

* Lower fees & charges income from building services and Town Planning of $223k.

**Technical Services**

Expenditure: Favourable variance of $ 137,489

Revenue: Favourable variance of $ 318,637

The favourable expenditure variance is mainly due to:

* Parks maintenance cost of $491k not expensed yet.
* Offset by less Plant on cost recovery of $536k,
* Infrastructure professional expense of $182k not spend.

The favourable revenue variance is mainly due to:

* Income from Street roads & depots of $123k
* Income from Waste of $96k.
* Income from Park of $63k

**Borrowings**

As at 31 May 2022, we have a balance of borrowings of $172k.

**Net Current Assets Statement**

At 31 May 2022, net current assets were $9.79m compared to $7.7m as at 31 May 2021.Current assets increased by $4.67m compared to 31 May 2021 offset by increased current liabilities of $2.95m.

Outstanding rates debtors are $61k as at 31 May 2022 compared to $73k as at 31 May 2021. Breakdown as follows:

|  |  |  |  |
| --- | --- | --- | --- |
|  | **31 May 2022**  **($000)** | **31 May 2021**  **($000)** | **Variance**  **($000)** |
| **Rates** | $409 | $506 | ($97) |
| **Rubbish & Pool** | $64 | $68 | ($4) |
| **Pensioner Rebates** | $84 | $94 | ($10) |
| **ESL** | $56 | $59 | ($3) |
| **Other Service Charges** | $4 | $4 | $0 |
| **Debtors Other** | $0 | $0 | $0 |
| **Total** | $617 | $731 | ($114) |

**Capital Works Program**

As at 31 May, expenditure on capital works was $2.78m with additional capital commitments of $2.09m which represents 55% of a total budget of $8.91m.

**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 | 189 |
| Number of contract employees (temporary/agency) as of the last day  of the previous month | 4 |
| \*Occupied FTE (Full Time Equivalent) count as of the last day of the previous month | 163.72 |
| Number of unfilled employee positions at the end of each month | 21 |

**Consultation**

N/A

**Strategic Implications**

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

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

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

The approved budget was based on zero based budgeting concept which requires all income and expenses to be thoroughly reviewed against data and information available to perform the City’s services at a sustainable level.

**Budget/Financial Implications**

As outlined in the Monthly Financial Report.

**Legislative and Policy Implications**

*Local Government Act 1995*

**Decision Implications**

Nil.

**Conclusion**

The statement of financial activity for the period ended 31 May 2022 indicates that operating expenses are under the year-to-date budget by 7.72% or $2.64m, and revenue is over the budget by 3.43% or $1.18m.

**Further Information**

Nil.

# CPS25.06.22 Monthly Investment Report – May 2022

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting – 28 June 2022 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil. |
| **Report Author** | Hassan Shiblee – Coordinator Financial Accounting |
| **Director/CEO** | Michael Cole – Director Corporate Services |
| **Attachments** | 1. 1. Investment Report for the period ended 31 May 2022. |

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

Moved – Councillor Youngman

Seconded – Councillor Hodsdon

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

(Printed below for ease of reference)

**CARRIED 9/2**

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

**Council Resolution / Recommendation**

**That Council receives the Investment Report for the period ended 31 May 2022.**

**Purpose**

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

**Voting Requirement**

Simple Majority.

**Background**

Nil.

**Discussion**

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

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

The Investment Summary shows that as at 31 May 2022 and 31 May 2021 the City held the following funds in investments:

|  |  |  |
| --- | --- | --- |
|  | **31-May-2022** | **31-May-2021** |
| **Municipal Funds** | $12,602428 | $6,080,776 |
| **Reserve Funds** | $5,509,611 | $6,212,654 |
| **Total Investments** | **$18,112,039** | **$12,293,430** |

The City has $2.3m in a Westpac online saver account which returns an interest rate of 0.40% per annum. As this rate is higher than the rates quoted for the term deposits as of end May, the surplus cash is maintained in the Westpac online saver account.

The total interest earned from investments as at 31 May 2022 was $43,486.

The Investment Portfolio comprises holdings in the following institutions:

|  |  |  |  |
| --- | --- | --- | --- |
| **Financial**  **Institution** | **Funds Invested** | **Interest Rate** | **Proportion of**  **Portfolio** |
| NAB | $6,170,442 | 0.35% - 0.54% | 34.07% |
| Westpac | $5,005,379 | 0.26% - 1.68% | 27.63% |
| ANZ | $2,189,478 | 0.05% - 0.15% | 12.09% |
| CBA | $4,746,740 | 0.17% - 0.93% | 26.21% |
| **Total** | **$18,112,039** |  | **100%** |

**Consultation**

N/A

**Strategic Implications**

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

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

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

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

**Budget/Financial Implications**

The May 2022 YTD Actual interest income from investments is $43,486 compared to the YTD May 2022 Budget of $38,500.

**Legislative and Policy Implications**

N/A

**Decision Implications**

N/A

**Conclusion**

The Investment Report is presented to Council.

**Further Information**

N/A

# CPS26.06.22 List of Account Paid – May 2022

|  |  |
| --- | --- |
| **Meeting & Date** | Council – 28 June 2022 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil |
| **Report Author** | Purvi Chudasama – Finance Officer (Accounts Payable) |
| **Director/CEO** | Michael Cole - Director Corporate Services |
| **Attachments** | 1. Creditor Payment Listing – May 2022; and 2. Credit Card and Purchasing Card Payments May 2022 |

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

Moved – Councillor McManus

Seconded – Mayor Argyle

**That the Recommendation be adopted.**

(Printed below for ease of reference)

**CARRIED 9/3**

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

**Council Resolution / Recommendation**

**Council receives the List of Accounts Paid for the month of May 2022 as per attachments.**

**Purpose**

The purpose of this report is to present list of accounts paid for the month of May 2022.

**Voting Requirement**

Simple Majority.

**Background**

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

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

**Discussion**

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

**Consultation**

Not applicable.

**Strategic Implications**

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

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

We have local services delivered to a high standard that take the needs of our diverse community into account. The 2021/22 budget was prepared in line with the City’s level of tolerance of risk and it is managed through budgetary review and control. All relevant information has been provided in this report and through the attachments.

**Priority Area**

Not applicable

**Budget/Financial Implications**

The payments are made in accordance with the approved budget.

**Legislative and Policy Implications**

In accordance with *Regulation 13* of the *Local Government (Financial Management) Regulations 1996* Administration is required to present the List of Accounts Paid for the month of May 2022 to Council.

**Decision Implications**

This does not have any impact upon the rates.

**Conclusion**

The List of Accounts Paid for the months of May 2022 complies with the relevant legislation and can be received by Council (see attachments).

**Further Information**

Nil.

# Reports by the Chief Executive Officer CEO05.06.22

# CEO05.06.22 Review of Local Laws under section 3.16 of the Local Government Act 1995

|  |  |
| --- | --- |
| **Meeting & Date** | Council – 28 June 2022 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil |
| **Report Author** | Chris Liversage – Consultant- Conway Highbury |
| **Officers** | Nicole Ceric – Executive Officer  Sam Curulli – Governance Officer |
| **Attachments** | Nil |

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

Moved – Councillor Youngman

Seconded – Councillor Hodsdon

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

(Printed below for ease of reference)

**CARRIED 9/2**

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

**Council Resolution / Recommendation**

**Council approves that:**

1. **local public notice be given stating that the City proposes to review its local laws under s3.16 of the *Local Government Act 1995*;**

1. **a copy of the local laws may be inspected or obtained at the City offices or from its website;**
2. **submissions about the local laws may be made to the City before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given; and**
3. **the results of the above advertising be presented to Council for consideration of any submissions received.**

**Purpose**

Section 3.16 of the *Local Government Act 1995* requires local governments to undertake a review of their local laws every eight years. The City’s local laws are due for review.

This involves a process of calling for public comment, after which any changes required can then be made or redundant local laws repealed.

**Voting Requirement**

Absolute Majority.

**Background**

Section 3.16 of the Local Government Act 1995 requires Local Governments to undertake a review of their local laws every eight years.

A number were made after 2013 but it will be more efficient to undertake a review of all local laws at once so that the exercise does not need to be repeated for individual local laws in future.

All local laws that the City has in place, when they were made, and comments about them are shown below. Without pre-empting the outcome of the review, possible action that may be required is also shown to assist:

| **Title** | **Gazettal date(s)** | **Comments** | **Possible outcome** |
| --- | --- | --- | --- |
| Health Local Law 2017 | Date: 9-1-2018; Page: 69-111 | Repeals the City of Nedlands Health Local Law 1997 published 9 February 1998 | Leave as is |
| Waste Local Law 2016 | Date: 7-6-2017; Page: 2837-2844 |  | Leave as is |
| Waste Amendment Local Law 2017 | Date: 20-4-2018; Page: 1313-1317 | Amends the City of Nedlands Waste Local Law 2016 as published in the Government Gazette on 7 June 2017 | No change; this is an Amendment local law. |
| Repeals Local Law | Date: 4-10-2016 Page: 4240 | Repeals the City of Nedlands Signs Local Law 2007 published in the Government Gazette on 13 February 2008, Fencing Local Law 2007 published in the Government Gazette on 13 February 2008. | Leave as is |
| Parking and Parking Facilities Local Law 2013 | Date: 23-10-2013 Page: 4777-4796 |  | Update to reflect changes to Regulations regarding disabled persons parking |
| Parking and Parking Facilities Amendment Local Law 2016 | Date: 27-1-2017 Page: 1037 | Amends Parking Local Law gazetted on 23/10/2013 | No change; this is an Amendment local law. |
| Halls, Council | Date: 1-9-2000 Page: 5016-5018 |  | Repeal and combine into potential new Local Government Property and Public Places Local Law |
| Long Service Leave | Date: 25-7-1988 | Covered by Local Government (LSL) regulations | Repeal |
| Eating Areas In Streets & Public Areas | Date: 5-2-1988 Page: 2836 |  | Repeal and combine into potential new Local Government Property and Public Places Local Law |
| Refuse Removal of | Date: 4-6-1982 Page: 1833 |  | Check if covered by s3.25 etc of Local Government Act 1995; likely repeal |
| Old Refrigerators - Cabinets | Date: 15-1-1982 Page: 97 |  | Repeal and combine into potential new Local Government Property and Public Places Local Law |
| Bathing Boundaries Extension of - Metric Conversion | Date: 5-9-1975 Page: 3243 |  | Repeal and combine into potential new Local Government Property and Public Places Local Law |
| Fencing - Metric Conversion | Date: 25-7-1975 Page: 2745 |  | Repeal |
| Footpaths Prevention of Damage - Metric Conversion | Date: 25-7-1975 Page: 2746 |  | Repeal and combine into potential new Local Government Property and Public Places Local Law |
| Signs, Blinds, Awnings, Advert Hoardings & Bill Posting - Metric Conversion | Date: 25-7-1975 Page: 2476-8 |  | Check if Signs covered under Local Planning Scheme; otherwise repeal |
| Amusements | Date: 8-11-1974 Page: 5026-28 |  | Repeal |
| Long Service Leave | Date: 13-1-1971 Page: 80 | Covered by *Local Government (LSL) Regulations* | Repeal |
| Reserve Fees To Be Charged For Admission To Point Resolution | Date: 29-11-1962 Page: 3822 |  | Dealt with in annual budget - repeal |
| Buildings - Application of Part XV Municipal Corp Act to Whole | Date: 18-5-1956 Page: 1226 | Dealt with by Building Act | Repeal |
| Reserves Foreshores and Beaches | Date: 19-3-2001; Page: 1409-1417 |  | Repeal and combine into potential new Local Government Property and Public Places Local Law |
| Trading in Public Places | Date: 13-3-2001; Page: 1373 | Crosscheck against 2000 Local Law below | Repeal and combine into potential new Local Government Property and Public Places Local Law |
| Thoroughfares Local Law | Date: 10-11-2000; Page: 6219-6230 |  | Repeal and combine into potential new Local Government Property and Public Places Local Law |
| Trading in Public Places Local Law 2000 | Date: 11-7-2000 Page: 3809 | Crosscheck against Local Law above | Repeal and combine into potential new Local Government Property and Public Places Local Law |
| Refuse Removal of | Date: 9-5-2000 Page: 2235 | Check content but repeal if covered by Waste Local Law and/or s3.25 LG Act | Repeal |
| Stalls | Date: 2-3-1990 Page: 1313 |  | Repeal and combine into potential new Local Government Property and Public Places Local Law |
| Street Alignment New - Aberdare Rd | Date: 19-10-1978 Page: 3804/5 | Check if still required/ used. | Repeal |
| Fencing - Metric Conversion (29.12.33) | Date: 25-7-1975 Page: 2748 |  | Repeal |
| Building Line Stirling Highway - Metric Conversion | Date: 25-7-1975; Page: 2748 |  | Repeal |
| Old Refrigerators & Cabinets - Metric Conversion | Date: 25-4-1975; Page: 1228/9 |  | Repeal |
| Halls Control & Management of | Date: 22-5-1972; Page: 1334 |  | Repeal and combine into potential new Local Government Property and Public Places Local Law |
| Footpaths | Date: 4-5-1971 Page: 1326/8 |  | Repeal and combine into potential new Local Government Property and Public Places Local Law |
| Old Refrigerators & Cabinets - Draft Model By-Law No. 8 | Date: 12-10-1962 Page: 3439 | Check content but repeal if covered by Waste Local Law and/or s3.25 LG Act | Repeal |
| Refuse Removal of | Date: 17-8-1960; Page: 2485/6 | Check content but repeal if covered by Waste Local Law and/or s3.25 LG Act | Repeal |
| Television | Date: 25-3-1960 Page: 896 | Not used | Repeal |
| Petrol Pump | Date: 11-12-1959 Page: 3027/9 | Superseded by State legislation | Repeal |
| Signs Blinds, Awnings, Advertising, Hoardings & Bill Posting | Date: 11-12-1959; Page: 3030-7 | Check controls in Local Planning Scheme and other places (eg MRWA Regulations re advertising devices Stirling Highway) | Repeal |
| Superannuation | Date: 19-9-1957 | Dealt with by Local Government (Long Service Leave) Regulations | Repeal |
| Schedule XI | Date: 3-8-1956; Page: 1928 | Unclear what by-law relates to | Repeal |
| Standing Orders Local Law 2009 | Date: 13-5-2009 Page: 1601-1621 |  | Amend as required by Council |
| Standing Orders Amendment Local Law 2016 | Date: 19-8-2016 Page: 3571-3572 | Amends Standing Orders - 13/5/2009 | Nil |
| Standing Orders Amendment Local Law 2014 | Date: 14-3-2014 Page: 630 | Amends Standing Orders - 13/5/2009 | Nil |
| Standing Orders Amendment Local Law 2011 | Date: 8-3-2011 Page: 800-1 | Amends Standing Orders - 13/5/2009 | Nil |
| Site Erosion and Sand Drift Local Law 2014 | Date: 5-8-2014 Page: 2827-9 |  | Leave as is |
| City of Nedlands Dogs Local Law | Date: 11-10-2012 Page: 4837-4847 | Repeals City of Nedlands Local Law Relating to Dogs that was gazetted on 10 November 2000. | Review to ensure provisions relating to dog exercise areas are correctly made |
| City of Nedlands Dogs Amendment Local Law 2013 | Date: 5-7-2013 Page: 3012 | Amends the City of Nedlands Dogs Local Law gazetted on 11 Oct 2012. | Nil |
| Reserves Foreshores and Beaches | Date: 20-11-2001 Page: 6012 |  | Repeal and combine into potential new Local Government Property and Public Places Local Law |
| Old Refrigerators and Cabinets | Date: 9-5-2000 Page: 2235 | Check if dealt with by Waste Local Law | Repeal |
| Street Lawns & Gardens & Laying of Pipes Under Carriage Ways | Date: 23-12-1994 Page: 7101-2 |  | Repeal and combine into potential new Local Government Property and Public Places Local Law |
| Street Alignment New - Stirling Hwy | Date: 15-9-1989 Page: 3431 |  | Repeal and combine into potential new Local Government Property and Public Places Local Law |
| Stalls | Date: 15-4-1983; Page: 1214/6 |  | Repeal and combine into potential new Local Government Property and Public Places Local Law |
| Footpaths Prevention of Damage | Date: 4-7-1980; Page: 2188 |  | Repeal and combine into potential new Local Government Property and Public Places Local Law |
| Roads Regulate Laying of Pipes & Pipelines Beneath - Metric Conversion | Date: 25-7-1975; Page: 2749 |  | Repeal and combine into potential new Local Government Property and Public Places Local Law |
| Signs, Blinds, Awnings | Date: 29-11-1962; Page: 3821 | Check if dealt with by Local Planning Scheme. | Repeal |

**Consultation**

As part of a review of local laws under section 3.16 of the *Local Government Act* *1995*, a local government is required to give local public notice, inviting submissions for a period of not less than 6 weeks.

Any feedback from the public consultation process will be presented to council; and in addition any changes to local laws must then be undertaken under s3.12 of the Act to make a new, amendment or repeal local law.

**Strategic Implications**

Keeping local laws up to date ensures the City is well placed to deal with any issues that may arise.

**Budget/Financial Implications**

There are costs associated with the review and advertising of the City’s local laws for public comment, as well as any costs that may arise as a result of any amendments that may then be required. Funds have been allocated in the budget.

To reduce these costs, local laws used by local governments of a similar nature to the City or models developed by the WA Local Government Association can be used.

**Legislative and Policy Implications**

Under section [3.16 of the Local Government Act 1995](https://www.legislation.wa.gov.au/legislation/prod/filestore.nsf/FileURL/mrdoc_43454.pdf/$FILE/Local%20Government%20Act%201995%20-%20%5B07-t0-00%5D.pdf?OpenElement) Local Laws are required to be reviewed within 8 years from the day when a local law commenced.

[Section 3.12 of the Local Government Act 1995](https://www.legislation.wa.gov.au/legislation/prod/filestore.nsf/FileURL/mrdoc_43454.pdf/$FILE/Local%20Government%20Act%201995%20-%20%5B07-t0-00%5D.pdf?OpenElement) outlines the procedure to be followed when making or reviewing local laws.

**Decision Implications**

Council is required under the Local Government Act 1995 to review all of its local laws periodically within 8 years of the adoption date. Should Council decide not to proceed with a local law review the City would be in breach of the Local Government Act 1995.

In addition to fulfilling its statutory obligation under the Act to regularly review its local laws, keeping local laws up to date ensures the City is well placed to deal with any issues that may arise, as well as the community benefit of removing redundant or unnecessary regulation.

**Conclusion**

Therefore, it is recommended that Council approve to commence the review process as required under the Local Government Act.

**Further Information**

N/A

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



# Councillor Mangano – Nature Strip Development Policy

On the 8 June 2022 Councillor Mangano gave notice of his intention to move the following motion.

Moved – Councillor Mangano

Seconded – Councillor Bennett

**Council Resolution**

**That Council review the Nature Strip Development Policy to deal with illegal verge developments including fill, illegal structures, tree plantings, including prosecutions where necessary, and control of verge plantings, with the Administration to prepare a Discussion Paper including these issues to be considered at a Concept Forum in August 2022.**

Councillor Hodsdon left the meeting at 10.20pm.

**CARRIED 9/2**

**(Against: Crs. Youngman & Combes)**

Justification

The current policy is weak in regard to placement of fill on verges which are City land. Historically there have been trees planted on verges which are now a major problem for the City ( eg gum trees, Norfolk island pines etc) Illegal structures that could create safety issues to the general public – for example an unfenced water feature on a verge, which also creates a public liability issue for the City Insufficient clearance of verge plantings (should be at least 2m from kerbline) results in sightline obstructions (particularly on corners) and pedestrians walking on roadways – another public liability issue for the City

Administration Comment

The Administration supports the review of the Nature Strip Development Policy in accordance with the stated timeline.

# Councillor Mangano – Residential Development Local Planning Policy Amendment

On the 14 June 2022 Councillor Mangano gave notice of his intention to move the following motion.

Moved – Councillor Mangano

Seconded – Councillor Bennett

Council Resolution

The Chief Executive Officer be requested to present to Council modifications to the Residential Development Local Planning Policy, for consent to advertise, incorporating consideration of the following:

1. No fill against fences – retaining wall must be provided;
2. All fill exceeding 500mm not associated with an approved structure requires planning approval;
3. Limits to amounts of fill above natural ground level to 1 metre even with planning approval;
4. Boundary retaining walls are to be located wholly inside the property boundary and require planning approval and building approval in all cases; and
5. Planning and Building approvals are to give consideration of the requirement for traffic management, dust control and other relevant site management requirements.

**CARRIED 10/1**

**(Against: Cr. Senathirajah)**

Justification

We need to very clear about what is acceptable otherwise this will happen again and again.

Administration Comment

It is appropriate that the issues of fill be addressed via the Residential Development Policy.

# Councillor Mangano – Cardno Briefing to Council Members – Laneway associated with Woolworths & Aldi Development

On the 17 June 2022 Councillor Mangano gave notice of his intention to move the following motion.

Moved – Councillor Mangano

Seconded – Councillor Youngman

**Council Resolution**

**That the City provide a briefing at a Concept Forum to Council Members by Cardno into the issues associated with the laneways between Stanley Street and Dalkeith Road especially the dog leg intersection.**

**CARRIED 10/1**

**(Against: Cr. Combes)**

Justification

1. On 29th September 2020, a Technical Memorandum titled Florence Road Public Realm Preliminary Design - Florence Road Traffic Review by Cardno (now Stantec) was presented to Council.

2. The Council resolved that the Laneway 01 line up with Laneway 02.

3. It appears that this Council resolution was not acted upon, and it is a safety issue as well as an amenity issue to the residential properties adjacent.

4. This needs to be resolved as it affects the design of both laneways and therefore the budgeted cost.

5. It relates to the proposed Woolworths development application.

Administration Comment

The briefing can be arranged.

# Councillor Coghlan – Local Planning Policy for Apartment Developments

On the 17 June 2022 Councillor Coghlan gave notice of her intention to move the following motion.

Moved – Councillor Coghlan

Seconded – Councillor Mangano

**Council Resolution**

**Subsequent to advertising for public comment and reviewing feedback, the City shall present the draft Local Planning Policy Primary Controls for Apartment Developments to Council for consideration at the Ordinary Council Meeting on 26 July 2022.**

**CARRIED 10/1**

**(Against: Cr. McManus)**

Justification

The draft Policy seeks to provide guidance to decision-makers and establish Council’s preference for apartment development to be consistent with the default standards of the State Planning Policy 7.3 - Residential Design Codes Volume 2 - Apartments.

At the September 2021 Ordinary Council Meeting, Council resolved to prepare and advertise the draft LPP – Primary Controls for Apartment Developments.

The community was invited to submit feedback during the Submission Period: 11 February to 7 March 2022. A Community Information Session was also held on 24 February 2022 at the City of Nedlands Council Chamber.

Following the conclusion of advertising and assessment of submissions, a report has been prepared by the City’s Strategic Planning Officer and the draft Policy is now to be presented to Council for consideration. Council will then resolve to either proceed, proceed with modifications, or not proceed with the Policy.

There was almost overwhelming support from for the LPP Primary Controls to go our for advertising.

Once the submissions were collated the policy is ready to be presented to Council at the next OCM July 2022. This needs to occur in a timely way.

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Administration Comment

A Discussion Paper will be prepared for a Concept forum in July ahead of a report to Council in August.

The advice provided to Council previously in relation to this [proposed policy stands, which was provided to council in September 2021 and is repeated here:

The wording of the proposed policy may present some significant challenges in terms of the consideration that the Policy would be given.

As background, the R-Codes Volume 2 state on page (iv);

**‘This is a performance-based policy. Applications for development approval need to demonstrate the design that achieves the objectives of each Design Element. While addressing the Acceptable Outcomes is likely to achieve the objectives, they are not a deemed-to-comply pathway and the proposal will be assessed in context of the entire design solution to ensure the objectives are achieved. Proposals may also satisfy the objectives by alternative means or solutions.’**

Whether or not a particular aspect of a proposed development ‘complies’ with the Acceptable Outcomes for that Design Element does not determine whether or not that aspect of the development is acceptable. Rather, in each case a determination must be made as to whether the Element Objective is achieved. For a variety of reasons, an Acceptable Outcome may be appropriate on certain lots but not on others (topography, existing land uses, adjacent development, lot configuration etc).

As stated in a State Administrative Tribunal decision of 2020 (WASAT 115):

**82 “The R Codes are primarily focused on whether the Element Objectives are achieved or demonstrated. The answer to that question, regardless of what the Acceptable Outcomes may provide, is always as an assessment of the proposed development in its context. A proposed development must demonstrate how the relevant Element Objectives are demonstrated, achieved or met.”**

Thus, the ultimate assessment must always be carried out against the performance-based Element Objectives, which may or may not be achieved by the identified Acceptable Outcomes.

If a policy purports to set an absolute development standard incapable of variation (for example by saying that satisfying the Acceptable Outcomes will satisfy the Element Objectives for every application) the policy maybe inoperative. A policy which attempts to set a standard which is incapable of variation would also be legally ineffective, as while a local planning policy can guide the exercise of a discretionary power, it cannot fetter the power of the decision maker. It is an error of law to treat a policy as if it is binding.

The most appropriate approach is that a local design response be prepared as is currently proposed within the four identified precincts (Waratah, Broadway, Stirling Highway and Hollywood-Hampden). This will allow for potential street by street responses, rather than catch all policies statements which lack the support of a detailed local assessment.

# Urgent Business Approved by the Presiding Member or by Decision

Urgent Business approved by the Presiding Member or By Decision will be dealt with at this point.

Nil.

# Confidential Items

Confidential items to be discussed at this point.

Nil.

# Declaration of Closure

There being no further business, the Presiding Member declared the meeting closed at 10.25pm.