

***Agenda***

***Council Meeting***

***28 September 2021***

Dear Council Member

The next Ordinary Meeting of the City of Nedlands will be held on Tuesday 28 September 2021 in the Council Chamber, 71 Stirling Highway, Nedlands commencing at 7 pm. This meeting will also be livestreamed.

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



Bill Parker

Chief Executive Officer

22 September 2021

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**City of Nedlands**

**Notice of an Ordinary Meeting of Council to be held in the Council Chambers, 71 Stirling Highway, Nedlands on Tuesday 28 September 2021 at 7 pm. This meeting will be livestreamed.**

###### Council Agenda

# Declaration of Opening

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

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

**Leave of Absence** None.

**(Previously Approved)**

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

**Disclaimer**

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

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

# Public Question Time

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

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

# Addresses by Members of the Public

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

# Requests for Leave of Absence

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

# Petitions

Petitions to be tabled at this point.

# Disclosures of Financial / Proximity Interest

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

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

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

# Disclosures of Interests Affecting Impartiality

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

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

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

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

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

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

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

# Confirmation of Minutes

## Ordinary Council Meeting 24 August 2021

The Minutes of the Ordinary Council Meeting held 24 August 2021 are to be confirmed.

# Announcements of the Presiding Member without discussion

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

# Members announcements without discussion

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

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

# Matters for Which the Meeting May Be Closed

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

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

## Minutes of Council Committees

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

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

**CEO Performance Review Committee 26 August 2021**

Confirmed, Circulated to Councillors on 31 August 2021

**CEO Performance Review Committee 31 August 2021**

Unconfirmed, Circulated to Councillors on 22 September 2021

**Audit & Risk Committee 30 August 2021**

Unconfirmed, Circulated to Councillors on 13 September 2021

**Council Committee 7 September 2021**

Unconfirmed, Circulated to Councillors on 22 September 2021

**Audit & Risk Committee 21 September 2021**

Unconfirmed, Circulated to Councillors on 22 September 2021

**Note: As far as possible all the following reports under items 12.2, 12.3, 12.4, 13.1 and 13.2 will be moved en-bloc and only the exceptions (items which Councillors wish to amend) will be discussed.**

## Planning & Development Report No’s PD28.21 to PD33.21 (copy attached)

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

|  |  |
| --- | --- |
| **PD28.21** | **Consideration of Development Application for a Change of Use from ‘Animal Establishment’ to ‘Industry-Light’ at 29 Carrington Street, Nedlands** |
|  | |
| **Committee** | 14 September 2021 |
| **Council** | 28 September 2021 |
| **Applicant** | Hatch Roberts Day |
| **Landowner** | Hamlet Properties Pty Ltd |
| **Director** | Tony Free – Director Planning & Development |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | The author, reviewers and authoriser of this report declare they have no financial or impartiality interest with this matter.  There is no financial or personal relationship between City staff and the proponents or their consultants.  Whilst parties may be known to each other professionally, this relationship is consistent with the limitations placed on such relationships by the Codes of Conduct of the City and the Planning Institute of Australia. |
| **Report Type**  Quasi-Judicial | When Council determines an application/matter that directly affects a person’s right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications and other decisions that may be appealable to the State Administrative Tribunal. |
| **Reference** | DA21-62959 |
| **Previous Item** | Nil |
| **Delegation** | In accordance with the City’s Instrument of Delegation, Council is required to determine the application due to objections being received. |
| **Attachments** | 1. Applicant Cover Letter 2. Summary of Submissions |
| **Confidential Attachments** | 1. Development Plans 2. Business Management Plan 3. Submissions |

**Committee Recommendation**

**In accordance with clause 68(2)(b) of the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015*, Council approves the development application received on 13 April 2021 in accordance with the plans date stamped 23 April 2021 (DA21-62959) for the Change of Use from ‘Animal Establishment’ to ‘Industry-Light’ at Lot 387 (No. 29) Carrington Street, Nedlands, subject to the following conditions:**

1. **This approval is for a ‘Industry-Light’ land use as defined under the City’s Local Planning Scheme No.3 and the subject land may not be used for any other use without prior approval of the City of Nedlands.**
2. **A maximum of 10 staff (inclusive) shall be permitted on the premises at any one time.**
3. **Prior to the issue of a Building Permit, the Waste Management Plan dated 28 June 2021, is to be updated in accordance with the City of Nedlands Waste Management Local Planning Policy and Guidelines to include:**
4. **Detailing of waste generation for the bakery premises; and**
5. **Inclusion of the SUEZ agreement and waste truck specifications.**

**The updated Waste Management Plan is to be implemented prior to occupation and maintained at all times, to the satisfaction of the City of Nedlands.**

1. **The bin enclosure location and construction is to comply with the City’s Health Local Laws 2017 and maintained at all times, to the satisfaction of the City of Nedlands.**
2. **The premises is required to comply with the requirements of the Environmental Protection (Noise) Regulations 1997 at all times, to the satisfaction of the City of Nedlands.**
3. **All car parking dimensions, manoeuvring areas, crossovers and driveways shall comply with Australian Standard AS2890.1 to the satisfaction of the City of Nedlands.**
4. **Service and/or delivery vehicles must not service the premises before 7.00am or after 7.00 pm Monday to Saturday, and/or before 9.00 am or after 7.00 pm on Sundays and Public Holidays unless prior approval from the City of Nedlands is granted.**
5. **All staff parking bays and deliveries (drop off and pick up) will be serviced from the rear of the site from Government Road at all times, to the satisfaction of the City of Nedlands.**
6. **The development shall at all times comply with the application and the approved plans, subject to any modifications required as a consequence of any conditions of this approval.**
7. **Prior to the issue of a Building Permit the applicant prepare a plan in consultation with the City to formally demarcate via appropriate landscaping treatment, the privately owned land from the City’s road reserve at the front of the current building at 29 Carrington Street, with a view also to line marking parking bays in the City’s road reserve consistent with other parking bays so marked in the City’s road reserve on Carrington Street.**

Recommendation to Committee

In accordance with clause 68(2)(b) of the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015*, Council approves the development application received on 13 April 2021 in accordance with the plans date stamped 23 April 2021 (DA21-62959) for the Change of Use from ‘Animal Establishment’ to ‘Industry-Light’ at Lot 387 (No. 29) Carrington Street, Nedlands, subject to the following conditions:

1. This approval is for a ‘Industry-Light’ land use as defined under the City’s Local Planning Scheme No.3 and the subject land may not be used for any other use without prior approval of the City of Nedlands.
2. A maximum of 10 staff (inclusive) shall be permitted on the premises at any one time.
3. Prior to the issue of a Building Permit, the Waste Management Plan dated 28 June 2021, is to be updated in accordance with the City of Nedlands Waste Management Local Planning Policy and Guidelines to include:
4. Detailing of waste generation for the bakery premises; and
5. Inclusion of the SUEZ agreement and waste truck specifications.

The updated Waste Management Plan is to be implemented prior to occupation and maintained at all times, to the satisfaction of the City of Nedlands.

1. The bin enclosure location and construction is to comply with the City’s Health Local Laws 2017 and maintained at all times, to the satisfaction of the City of Nedlands.
2. The premises is required to comply with the requirements of the Environmental Protection (Noise) Regulations 1997, to the satisfaction of the City of Nedlands.
3. All car parking dimensions, manoeuvring areas, crossovers and driveways shall comply with Australian Standard AS2890.1 to the satisfaction of the City of Nedlands.
4. Service and/or delivery vehicles must not service the premises before 7.00am or after 7.00 pm Monday to Saturday, and/or before 9.00 am or after 7.00 pm on Sundays and Public Holidays unless prior approval from the City of Nedlands is granted.
5. All staff parking bays and deliveries (drop off and pick up) will be serviced from the rear of the site from Government Road at all times, to the satisfaction of the City of Nedlands.
6. The development shall at all times comply with the application and the approved plans, subject to any modifications required as a consequence of any conditions of this approval.

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| **PD29.21** | **Consideration of Development Application - 6 Grouped Dwellings at 29 Martin Avenue, Nedlands** |
|  | |
| **Committee** | 14 September 2021 |
| **Council** | 28 September 2021 |
| **Applicant** | HJ Architect |
| **Landowner** | J. Harden Jones |
| **Director** | Tony Free – Director Planning & Development |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | The author, reviewers and authoriser of this report declare they have no financial or impartiality interest with this matter.  There is no financial or personal relationship between City staff and the proponents or their consultants.  Whilst parties may be known to each other professionally, this relationship is consistent with the limitations placed on such relationships by the Codes of Conduct of the City and the Planning Institute of Australia. |
| **Report Type**  Quasi-Judicial | When Council determines an application/matter that directly affects a person’s right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications and other decisions that may be appealable to the State Administrative Tribunal. |
| **Reference** | DA21/64480 |
| **Previous Item** | Nil |
| **Delegation** | In accordance with the City’s Instrument of Delegation, Council is required to determine the application due to the application proposing 6 dwellings. |
| **Attachments** | 1. Aerial Image and Zoning Map 2. Design Review Panel Assessment |
| **Confidential Attachments** | 1. Plans  2. Submissions |

**Committee Recommendation / Recommendation to Committee**

**In accordance with clause 68(2)(b) of the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations* 2015, Council approves the development application received on 19 May 2021 in accordance with the plans date stamped 5 August 2021 (DA21/61309) for six (6) grouped dwellings at 29 Martin Avenue, Nedlands, subject to the following conditions:**

1. **This approval is for a ‘Residential’ (Grouped Dwellings) land use and development as defined under the City’s Local Planning Scheme No.3 and the subject land may not be used for any other use without prior approval of the City.**
2. **Prior to occupation of the development, a notification pursuant to Section 70A of the *Transfer of Land Act 1893* shall be prepared at the expense of the owner and registered against the Certificate of Title to the land the subject of the proposed development advising the owners and subsequent owners of the land of the following matter(s):**

**“This lot is situated in the vicinity of a transport corridor and is currently affected or may in the future be affected by transport noise. Additional planning and building requirements may apply to development on this land to achieve an acceptable level of noise reduction.”**

1. **Prior to the lodgement of Building Permit, a Construction Management Plan shall be submitted and approved to the satisfaction of the City. The approved Construction Management Plan shall be observed at all times throughout the construction process to the satisfaction of the City. Adjoining landowners shall be notified in writing no less than 14 days prior to construction.**
2. **Prior to the lodgement of a Building Permit, a detailed Landscaping Plan, prepared by a suitably qualified person, shall be submitted to and approved by the City of Nedlands.**
3. **Prior to the lodgement of a building permit, a Landscape Management Plan, shall be submitted and approved by the City of Nedlands. It shall in addition to include a comprehensive maintenance plan for all proposed landscaping on the site and contingencies for replacement of dead and diseased plants. Landscaping shall be installed and maintained in accordance with that plan, or any modifications approved thereto, for the lifetime of the development thereafter, to the satisfaction of the City of Nedlands.**
4. **Prior to occupation of the development, all communal and private open space areas shall include a water tap for the purpose of irrigation.**
5. **Prior to the commencement of excavation works, a Dilapidation Report prepared by a practising Structural Engineer should be submitted to the City of Nedlands for approval, and the owners of the adjoining properties listed below detailing the current condition and status of all buildings (both internal and external together with surrounding paved areas and rights of ways), including ancillary structures located upon these properties:**
6. **Lot 423 (No.27) Martin Avenue, Nedlands;**
7. **Lot 425 (No.31) Martin Avenue, Nedlands;**
8. **Lot 436 (No.20) Broome St, Nedlands;**
9. **Lot 435 (No.22) Broome St, Nedlands;**
10. **Lot 434 (No.24) Broome St, Nedlands;**

**In the event that access for undertaking the dilapidation survey is denied by an adjoining owner, the applicant must demonstrate in writing to the satisfaction of the City of Nedlands that all reasonable steps have been taken to obtain access and advise the affected property owner of the reason for the survey and that these steps have failed.**

1. **Prior to the lodgement of a Building permit a Sustainability Report prepared by a suitably qualified consultant shall be submitted and approved to the satisfaction of the City. Recommendations contained within the report are to be carried out and maintained for the lifetime of the development to the satisfaction of the City of Nedlands.**
2. **All building works to be carried out under this development approval are required to be contained within the boundaries of the subject lot.**
3. **Prior to occupation of the development, all visual privacy screens and obscure glass panels to major openings and unenclosed active habitable areas, as annotated on the approved plans, shall be screened in accordance with the Residential Design Codes by either:**
4. **Fixed obscure or translucent glass to a height of 1.6 metres above finished floor level;**
5. **Timber screens, external blinds, window hoods and shutters to a height of 1.6m above finished floor level that are at least 75% obscure;**
6. **A minimum sill height of 1.6 metres as determined from the internal floor level; or**
7. **An alternative method of screening approved by the City.**

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

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

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

1. **Prior to occupation, the parking bays and vehicle access areas shall be drained, paved and constructed in accordance with the approved plans and are to comply with the requirements of AS/NZS 2890.1:2004.**
2. **A Waste Management plan shall be submitted to the City prior to the lodgement of a Building Permit. The development shall comply with the approved Waste Management Plan to the satisfaction of the City of Nedlands. Any modification to the approved waste management plan will require further approval by the City.**
3. **All stormwater from the development, which includes permeable and impermeable areas shall be contained onsite.**
4. **Prior to occupation of the development, all external fixtures including, but not limited to, TV and radio antennae, satellite dishes, plumbing ventes and pipes, air conditioners, hot water systems and utilities shall be integrated into the design of the building and not be visible from the primary street to the satisfaction of the City.**
5. **Prior to occupation, each grouped dwelling is to have an adequate area set aside for clothes drying screened so as to not be highly visible from any adjacent public place in accordance with the requirements of the Residential Design Codes to the satisfaction of the City of Nedlands.**
6. **The pergola shall remain with an open-framed roof, permeable to water.**
7. **The development shall at all times comply with the application and the approved plans, subject to any modifications required as a consequence of any condition(s) of this approval.**

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| **PD30.21** | **Consideration of Development Application - Single House at 67 Dalkeith Road, Nedlands** |
|  | |
| **Committee** | 14 September 2021 |
| **Council** | 28 September 2021 |
| **Applicant** | Residential Building WA Pty Ltd |
| **Landowner** | L & D Marshall |
| **Director** | Tony Free – Director Planning & Development |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | The author, reviewers and authoriser of this report declare they have no financial or impartiality interest with this matter.  There is no financial or personal relationship between City staff and the proponents or their consultants.  Whilst parties may be known to each other professionally, this relationship is consistent with the limitations placed on such relationships by the Codes of Conduct of the City and the Planning Institute of Australia. |
| **Report Type**  Quasi-Judicial | When Council determines an application/matter that directly affects a person’s right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications and other decisions that may be appealable to the State Administrative Tribunal. |
| **Reference** | DA21/62397 |
| **Previous Item** | Nil |
| **Delegation** | In accordance with the City’s Instrument of Delegation, Council is required to determine the application due to an objection being received. |
| **Attachments** | 1. Aerial image and zoning plan |
| **Confidential Attachments** | 1. Plans  2. Submissions |

Recommendation to Committee

In accordance with Clause 68(2)(b) of the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015,* Council approves the development application received on 29 March 2021 in accordance with amended plans date stamped 20 August 2021 for a Single House at 67 Dalkeith Road, Nedlands, subject to the following conditions:

1. Prior to the lodgement of a Building Permit, a detailed Landscaping Plan, prepared by a suitably qualified person, shall be submitted to and approved by the City of Nedlands.
2. Landscaping shall be installed and maintained in accordance with the approved Landscaping Plan for the lifetime of the development thereafter, to the satisfaction of the City. Any modifications to the plans are subject to further approval by the City of Nedlands.
3. All building works to be carried out under this development approval are required to be contained within the boundaries of the subject lot.
4. Prior to occupation of the development the finish of the parapet walls is to be finished externally to the same standard as the rest of the development or in:
5. Face brick;
6. Painted render;
7. Painted brickwork; or
8. Other clean material as specified on the approved plans

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

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

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| **PD31.21** | **Consideration of Development Application - Single House at 92 Kingsway, Nedlands** |
|  | |
| **Committee** | 14 September 2021 |
| **Council** | 28 September 2021 |
| **Applicant** | R. L. Cumace |
| **Landowner** | Y Qiu |
| **Director** | Tony Free – Director Planning & Development |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | The author, reviewers and authoriser of this report declare they have no financial or impartiality interest with this matter.  There is no financial or personal relationship between City staff and the proponents or their consultants.  Whilst parties may be known to each other professionally, this relationship is consistent with the limitations placed on such relationships by the Codes of Conduct of the City and the Planning Institute of Australia. |
| **Report Type**  Quasi-Judicial | When Council determines an application/matter that directly affects a person’s right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications and other decisions that may be appealable to the State Administrative Tribunal. |
| **Reference** | DA21/64480 |
| **Previous Item** | Nil |
| **Delegation** | In accordance with the City’s Instrument of Delegation, Council is required to determine the application due to objections being received. |
| **Attachments** | 1. Aerial image and zoning plan |
| **Confidential Attachments** | 1. Plans  2. Submissions |

**Committee Recommendation / Recommendation to Committee**

**In accordance with Clause 68(2)(b) of the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015,* Council approves the development application received on 17 May 2021 in accordance with amended plans date stamped 27 July 2021 for a Single House at Lot 31 (No.92) Kingsway, Nedlands:**

1. **Prior to the lodgement of a Building Permit, a detailed Landscaping Plan, prepared by a suitably qualified person, shall be submitted to and approved by the City of Nedlands.**
2. **Landscaping shall be installed and maintained in accordance with the approved Landscaping Plan for the lifetime of the development thereafter, to the satisfaction of the City. Any modifications to the plans are subject to further approval by the City of Nedlands.**
3. **All building works to be carried out under this development approval are required to be contained within the boundaries of the subject lot.**
4. **Prior to occupation of the development the finish of the parapet walls is to be finished externally to the same standard as the rest of the development or in:**
   1. **Face brick;**
   2. **Painted render;**
   3. **Painted brickwork; or**
   4. **Other clean material as specified on the approved plans**

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

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

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| **PD32.21** | **Consideration of Development Application (Single House) at 20A Vincent Street, Nedlands** |
|  | |
| **Committee** | 14 September 2021 |
| **Council** | 28 September 2021 |
| **Applicant** | Broadway Homes Pty Ltd |
| **Landowner** | S Boughton and A Basu |
| **Director** | Tony Free – Director Planning & Development |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | The author, reviewers and authoriser of this report declare they have no financial or impartiality interest with this matter.  There is no financial or personal relationship between City staff and the proponents or their consultants.  Whilst parties may be known to each other professionally, this relationship is consistent with the limitations placed on such relationships by the Codes of Conduct of the City and the Planning Institute of Australia. |
| **Report Type**  Quasi-Judicial | When Council determines an application/matter that directly affects a person’s right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications and other decisions that may be appealable to the State Administrative Tribunal. |
| **Reference** | DA21/64295 |
| **Previous Item** | Nil |
| **Delegation** | In accordance with the City’s Instrument of Delegation, Council is required to determine the application due to objections being received. |
| **Attachments** | 1. Aerial Image and Zoning Map |
| **Confidential Attachments** | 1. Plans 2. Submissions |

**Committee Recommendation / Recommendation to Committee**

**In accordance with Clause 68(2)(b) of the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015,* Council approves the development application received on 13 May 2021 in accordance with amended plans date stamped 13 August 2021 for a Residential - Single House at 20A Vincent Street, Nedlands, subject to the following conditions:**

1. **All footings and structures to retaining walls shall be constructed wholly inside the site boundaries of the subject lot.**
2. **Prior to occupation of the development the finish of the parapet walls is to be finished externally to the same standard as the rest of the development or in:**
3. **Face brick;**
4. **Painted render;**
5. **Painted brickwork; or**
6. **Other clean material as specified on the approved plans and maintained thereafter to the satisfaction of the City of Nedlands.**
7. **All stormwater from the development, which includes permeable and non-permeable areas shall be contained onsite.**
8. **In the event that the windows to the upper storey stairwell and landing are deleted to meet Building Code requirements, an alternative façade treatment that provides visual articulation to the northern boundary wall is to be submitted and approved by the City of Nedlands prior to construction commencing.**
9. **The development shall at all times comply with the application and the approved plans, subject to any modifications required as a consequence of any condition(s) of this approval.**

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| **PD33.21** | **Consideration of Development Application – 5 Grouped Dwellings at 25 Mountjoy Road, Nedlands** |
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| **Committee** | 14 September 2021 |
| **Council** | 28 September 2021 |
| **Applicant** | CF Town Planning and Development |
| **Landowner** | Willem Investments One Pty Ltd |
| **Director** | Tony Free – Director Planning & Development |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | The author, reviewers and authoriser of this report declare they have no financial or impartiality interest with this matter.  There is no financial or personal relationship between City staff and the proponents or their consultants.  Whilst parties may be known to each other professionally, this relationship is consistent with the limitations placed on such relationships by the Codes of Conduct of the City and the Planning Institute of Australia |
| **Report Type**  Quasi-Judicial | When Council determines an application/matter that directly affects a person’s right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications and other decisions that may be appealable to the State Administrative Tribunal. |
| **Reference** | DA21-65012 |
| **Previous Item** | Nil |
| **Delegation** | In accordance with the City’s Instrument of Delegation, Council is required to determine the application due to the application proposing 5 dwellings. |
| **Attachments** | 1. Aerial Image & Zoning Map |
| **Confidential Attachments** | 1. Plans |

**Committee Recommendation / Recommendation to Committee**

**In accordance with clause 68(2)(b) of the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations* 2015, Council approves the development application received on 4 June 2021 in accordance with the amended plans date stamped 25 August 2021 for five (5) Grouped Dwellings at Lot 225 (No.25) Mountjoy Road, Nedlands, subject to the following conditions:**

1. **Prior to the issue of a Building Permit, a revised Waste Management Plan shall be submitted and approved to satisfaction of the City. The Waste Management Plan shall be complied with at all times to the satisfaction of the City.**
2. **The Acoustic Report dated 6 May 2021 prepared by Lloyd George Acoustics forms part of this development approval and shall be complied with at all times to the satisfaction of the City. Recommendations contained within the acoustic report to achieve compliance with the *Environmental Protection (Noise) Regulations 1997* are to be carried out and maintained for the lifetime of the development to the satisfaction of the City of Nedlands.**
3. **The Landscaping Plan forms part of this approval. Landscaping shall be installed and maintained in accordance with the approved landscaping plan prepared by Propagule dated 18 August 2021, or any modifications approved thereto, for the lifetime of the development thereafter, to the satisfaction of the City.**
4. **Prior to occupation, the applicant is to install a one (1) x 500 L tree located on Mountjoy Road verge, at the expense of the applicant and to the satisafaction of the City of Nedlands.**
5. **Prior to occupation, the parking bays and vehicle access areas shall be drained, paved and constructed in accordance with the approved plans and are to comply with the requirements of AS/NZS2890.1:2004.**
6. **Prior to the issue of a Demolition Permit or Building Permit, a Demolition and 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. The approved Construction Management Plan shall be observed at all times throughout the construction process to the satisfaction of the City. Adjoining landowners shall be notified in writing no less than 14 days prior to construction.**
7. **All stormwater from the development, which includes permeable and impermeable areas shall be contained onsite.**
8. **All building works to be carried out under this development approval are required to be contained within the boundaries of the subject lot.**
9. **Prior to occupation of the development, all major openings and unenclosed outdoor active habitable spaces, which have a floor level of more than 0.5m above natural ground level located behind the street setback area shall satisfy the deemed to comply criteria of element 5.4.1 of the Residential Design Codes Volume 1. Screening referred to in c1.1(ii) of the Residential Design Codes Volume 1 is to be in the form of;**
10. **Fixed obscured or translucent glass to a height of 1.60 metres above finished floor level;**
11. **Timber screens, external blinds, window hoods and shutters to a height of 1.6m above finished floor level that are at least 75% obscure;**
12. **A minimum sill height of 1.60 metres as determined from the internal floor level; or**
13. **An alternative method of screening approved by the City of Nedlands.**

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

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

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

1. **Prior to occupation of the development, all external fixtures including, but not limited to, TV and radio antennae, satellite dishes, plumbing vents and pipes, solar panels, air conditioners, hot water systems and utilities shall be integrated into the design of the building and not be visible from the primary street to the satisfaction of the City.**
2. **The development shall at all times comply with the application and the approved plans, subject to any modifications required as a consequence of any condition(s) of this approval.**

## 

## Community Services & Development Report No’s CSD09.21 to CSD12.21 (copy attached)

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

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| **CSD09.21 CSRFF Forward Planning Grants – Peak Trampoline Inc & UWA Sports** |

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| **Committee** | 14 September 2021 |
| **Council** | 28 September 2021 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 of the *Local Government Act 1995*** | Nil. |
| **Officer** | Marion Granich - Executive Manager Community |
| **Attachments** | Nil. |
| **Confidential Attachments** | Nil. |

**Committee Recommendation / Recommendation to Committee**

**Council:**

1. **advises Department of Local Government, Sport and Cultural Industries that it has ranked and rated the application to the Community Sport and Recreation Facilities Fund Forward Planning Grant round as follows:**
   1. **Peak Trampoline Inc for construction of the UWA Peak Community Gymsports facility - A Rating: Well-planned and needed by municipality; and**
   2. **UWA Sports for UWA Sports Park western precinct amenities development - A Rating: Well-planned and needed by municipality;**
2. **endorses each of the above applications to Department of Local Government, Sport and Cultural Industries, conditional on the projects receiving the necessary statutory approvals.**

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| **CSD10.21 CSRFF Club Night Lights Grant Applications - Collegians Amateur Football Club & UWA Sports** |

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| **Committee** | 14 September 2021 |
| **Council** | 28 September 2021 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 of the *Local Government Act 1995*** | Nil. |
| **Officer** | Marion Granich - Executive Manager Community |
| **Attachments** | Nil. |
| **Confidential Attachments** | Nil. |

**Committee Recommendation**

**Council:**

1. **advises Department of Local Government, Sport and Cultural Industries that it has ranked and rated the applications to the Community Sport and Recreation Facilities Fund Club Night Lights Grant round as follows:**

* 1. **University of WA - Upgrade of Lighting at UWA Sports Park Tennis Centre - A Rating: Well planned and needed by Municipality; and**

1. **endorses the application from UWA to Department of Local Government, Sport and Cultural Industries for its tennis court lighting project, conditional on all necessary approvals being obtained by the applicant.**

Recommendation to Committee

Council:

1. advises Department of Local Government, Sport and Cultural Industries that it has ranked and rated the applications to the Community Sport and Recreation Facilities Fund Club Night Lights Grant round as follows:
   1. Collegians Football & Sporting Club – Upgrade of Lights at David Cruickshank Reserve - A Rating: Well, planned and needed by Municipality; and
   2. University of WA - Upgrade of Lighting at UWA Sports Park Tennis Centre - A Rating: Well planned and needed by Municipality;
2. endorses the application from Collegians Football & Sporting Club to Department of Local Government, Sport and Cultural Industries conditional on:
   1. all necessary statutory approvals being obtained by the applicant; and
   2. the project receives DLGSC funding; and
3. endorses the application from UWA to Department of Local Government, Sport and Cultural Industries for its tennis court lighting project, conditional on all necessary approvals being obtained by the applicant.

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| **CSD11.21 Point Resolution Child Care Centre Financial Viability Review** |

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| **Committee** | 14 September 2021 |
| **Council** | 28 September 2021 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 of the *Local Government Act 1995*** | Nil. |
| **Director** | Marion Granich – Executive Manager Community |
| **Attachments** | Nil. |
| **Confidential Attachments** | Nil. |

**Committee Recommendation / Recommendation to Committee**

**Council agrees to the continued provision of childcare services at Point Resolution Child Care Centre.**

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| **CSD12.21 Strategic Active Sports Facilities Plan 2020-2050** |

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| **Committee** | 14 September 2021 |
| **Council** | 28 September 2021 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 of the Local Government Act 1995** | Nil. |
| **Officer** | Marion Granich – Executive Manager Community |
| **Attachments** | Nil. |
| **Confidential Attachments** | Attachment 1 - Draft Strategic Active Sports Facilities Plan 2020 – 2050 |

Recommendation to Committee

That Council:

1. receives the Draft Strategic Active Sports Facilities Plan 2020 – 2050; and

2. approves the Draft Strategic Active Sports Facilities Plan 2020-2050 to be advertised for community comment.

## Corporate & Strategy Report No’s CPS16.21 to CPS17.21 (copy attached)

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

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| **CPS16.21 Rate Exemption Approval – Religious Organisation** |

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| **Committee** | 14 September 2021 |
| **Council** | 28 September 2021 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under *section 5.70 Local Government Act 1995*** | Nil. |
| **Director** | Ed Herne – Director Corporate & Strategy |
| **Attachments** | 1. Statutory Declaration, Application for Rates Exemption and ATO Endorsement for Charity Tax Concession 2. Financial Statement, Independent Auditor Report and Auditor Declaration 3. Extract of Local Government Act 1995 Section 6.26 (2)(d) |
| **Confidential Attachments** | Nil. |

**Committee Recommendation / Recommendation to Council**

**That Council approves the rates exemption application by the Perth Diocesan Trustees for 58, Tyrell Street, Nedlands under the Local Government Act 1995 for 2021-22.**

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| **CPS17.21 List of Accounts Paid – August 2021** |

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| **Committee** | 14 September 2021 |
| **Council** | 28 September 2021 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under *section 5.70 Local Government Act 1995*** | Nil. |
| **Director** | Ed Herne – Director Corporate & Strategy |
| **Attachments** | 1. Creditor Payment Listing – August 2021; and 2. Credit Card and Purchasing Card Payments – August 2021 |
| **Confidential Attachments** | Nil. |

**Committee Recommendation / Recommendation to Committee**

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

# Reports by the Chief Executive Officer

## Review of Various Council Policies

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| --- | --- |
| **Committee** | 14 September 2021 |
| **Council** | 28 September 2021 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil. |
| **Officer** | Nicole Ceric, Executive Officer |
| **CEO** | Bill Parker |
| **Attachments** | 1. Record Keeping for Council Members Council Policy 2. Legal Representation for Council Members & Employees Council Policy 3. Council Member Fees, Expenses, Allowances and Other Provisions Council Policy 4. Council Member and CEO Attendance at Events Council Policy 5. Council Member Professional Development Council Policy |
| **Confidential Attachments** | Nil. |

**Committee Recommendation**

**That the item be adjourned to March 2022.**

Recommendation to Council

That Council:

1. by Simple Majority, adopts the following policies:
2. Record Keeping for Council Members Council Policy (previously named Management of Information for Elected Members Council Policy), as per attachment 1; and
3. Legal Representation for Council Members & Employees Policy, as per attachment 2;
4. by Absolute Majority, adopts the following policies:
5. Council Member Fees, Expenses, Allowances and Other Provisions Policy (previously named Elected Member Expenses and Equipment Council Policy), as per attachment 3;
6. Council Member & CEO Attendance at Events Policy (previously named Council Member and Employee Training and Conference Attendance Council Policy), as attachment 4; and
7. Council Member Professional Development Policy (previously names Council Member and Employee Training and Conference Attendance Council Policy), as per attachment 5.

## Use of the Common Seal and Execution of Documents Council Policy

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| --- | --- |
| **Committee** | 14 September 2021 |
| **Council** | 28 September 2021 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil. |
| **Officer** | Nicole Ceric, Executive Officer |
| **CEO** | Bill Parker, Chief Executive Officer |
| **Attachments** | 1. Use of the Common Seal and Execution of Documents Council Policy |
| **Confidential Attachments** | Nil. |

**Committee Recommendation / Recommendation to Committee**

**That Council adopt the Use of the City of Nedlands Common Seal and Execution of Documents Council Policy as per attachment 1.**

## Internal Audit Plan & Appointment of Internal Auditor

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| --- | --- |
| **Committee** | 21 September 2021 |
| **Council** | 28 September 2021 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 *Local Government Act 1995*** | Nil. |
| **Director** | Ed Herne – Director Corporate & Strategy |
| **Attachments** | Nil. |
| **Confidential Attachments** | 1. Proposed Internal Audit Plan (Committee request) 2022-2024,  2. Proposed Internal Audit Plan (Management request) 2022-2024. |

**Committee Recommendation**

**That Council:**

1. **approves the Internal Audit Plan and Moore Australia fee as proposed by management for the year ending 30 June 2022 and 2023 as per the table below:**

|  | Audit Projects for the year ending  30 June 2022 | Proposed Hours | Proposed Budget |
| --- | --- | --- | --- |
| 1 | Procurement and planning for the implementation of the new finance system | 75 | 15,500 |
| 2 | Risk Management (including Fraud and Corruption) | 50 | 10,300 |
| 3 | Conflict of Interest (including Gifts and Benefits) | 50 | 10,300 |
| 4 | Occupational Safety and Health | 75 | 15,500 |
|  | **TOTAL PROPOSED HOURS FOR AUDIT TOPICS** | **250** | **51,600** |
|  | Audit and Risk Committee Attendance- preparation of report, attendance and validation of internal audit recommendations | 75 | NIL  (value = $32,300) |
|  | **TOTAL PROPOSED HOURS AND FEE** | **325** | **51,600** |
|  | **BLENDED RATE** |  | **$158** |

|  | Audit Projects for the year ending  30 June 2023 | Proposed Hours | Proposed Budget |
| --- | --- | --- | --- |
| 1 | Asset Management | 75 | 15,500 |
| 2 | Audit and Risk Committee Effectiveness | 37.5 | 7,700 |
| 3 | Planning approvals- review of potential bias, compliance, approval rates, SAT determinations, historical statistical analysis, benchmarking, | 75 | 15,500 |
| 4 | Post implementation of the new finance system | 75 | 15,500 |
| 5 | Workforce Management- Recruitment, Induction, Performance Management, Terminations | 75 | 15,500 |
|  | **TOTAL PROPOSED HOURS FOR AUDIT TOPICS** | **337.50** | **69,700** |
|  | Audit and Risk Committee Attendance- preparation of report, attendance and validation of internal audit recommendations | 75 | NIL  (value = $32,300) |
|  | **TOTAL PROPOSED HOURS AND FEE** | **412.50** | **69,700** |
|  | **BLENDED RATE** |  | **$169** |

1. **approves for Moore Australia to be reappointed as the City’s internal auditor for the 3 years ending 30 June 2022 to 30 June 2024; and**
2. **requests Moore Australia to provide the proposed Audit Plan for the year ending 30 June 2024 for the consideration of the Audit & Risk Committee by the 30 June 2022.**

Recommendation to Committee

That Council:

1. approves the Internal Audit Plan recommended by management for the year ended 30 June 2022, 2023, and 2024; and
2. approves for Moore Australia to be reappointed as the City’s internal auditor for the 3 years ended 30 June 2022 to 30 June 2024.

**Executive Summary**

The purpose of this report is to approve the internal audit topics for the year ended 30 June 2022, 2023, and 2024 as recommended by management, and to approve for Moore Australia to be reappointed as the City’s internal auditor for the 3 years ended 30 June 2022 to 30 June 2024.

**Discussion/Overview**

1. **Internal Audit Plan for the years ending 2022 - 2024**

Following the last Audit and Risk Committee meeting on 30 August 2021, Moore Australia has prepared the internal audit plan for the years ending 30 June 2022 to 30 June 2024 based on topics recommended by the Committee (refer Attachment 1).

With the upcoming ERP implementation now being identified as a KRA for the City, management has considered the workload associated with the audit plan further and its impact on the timing of the ERP implementation and proposed an alternate internal audit plan (refer Attachment 2).

1. **Approval for Moore Australia to be reappointed as the City’s internal audit provider for the 3 years ending 30 June 2022 to 2024**

Moore Australia are seeking approval to continue as the City’s internal audit provider to undertake the Strategic Audit Plan for the 3 years ending 30 June 2022 to 2024. The experience and expertise of Moore Australia’s key personnel are provided in the proposal to provide internal audit services (refer to Attachments 1 and 2).

**Key Relevant Previous Council Decisions:**

Nil.

**Consultation**

Nil.

**Strategic Implications**

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

The City of Nedlands relies on internal audit as the third line of defense to provide insight and improvement opportunities to the system of internal control.

**Who benefits?**

The City will benefit from having a Strategic Internal Audit Plan. This provides a strategic view of the internal audit topics planned for the next year to demonstrate the risks being mitigated by the work performed by the internal audit function, Office of the Auditor General via their financial and performance audit function and what work needs to be performed by the City of Nedlands.

**Does it involve a tolerable risk?**

The work included within the Strategic Internal Plan aims to reduce the residual risk identified by the City of Nedlands by identifying controls and improvement opportunities.

**What level of risk is associated with the option? How can it be managed?**

Nil.

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

Yes. The Strategic Internal Audit Plan identifies the internal audit topics for the years ending 30 June 2022 to 30 June 2024.

**Budget/Financial Implications**

**Can we afford it?**

The internal audit fees for the year ended 30 June 2022 have been included in the budget.

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

The impact of this option has already been included in the 2021-22 budget.

**Conclusion**

Therefore, it is recommended that the Audit and Risk Committee approves the internal audit topics recommended by management for the year ended 30 June 2022 to 30 June 2024 and approved the reappointment of Moore Australia as the City’s internal audit provider for the 3 years ending 30 June 2022 to 30 June 2024.

## Monthly Financial Report – August 2021

|  |  |
| --- | --- |
| **Council** | 28 September 2021 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil |
| **Director** | Ed Herne – Director Corporate & Strategy |
| **Attachments** | 1. Financial Summary (Operating) by Business Units – 31 August 2021 2. Capital Works & Acquisitions – 31 August 2021 3. Statement of Net Current Assets – 31 August 2021 4. Statement of Financial Activity –31 August 2021 5. Borrowings – 31 August 2021 6. Statement of Financial Position – 31 August 2021 7. Operating Income & Expenditure by Reporting Activity – 31 August 2021 8. Operating Income by Reporting Nature & Type – 31 August 2021 |

**Executive Summary**

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

**Recommendation to Council**

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

**Voting Requirement**

Simple Majority.

**Discussion/Overview**

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

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

The operating revenue at the end of August 2021 was $29.56m which represents $239k unfavourable variance compared to the year-to-date budget.

The operating expense at the end of August 2021 was $5.65m, which represents $1.24m 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 $ 254,920

The Favourable expenditure variance is mainly due to:

* Governance and HR Professional fees, Special projects and other employee costs of $189k not spent yet.
* Staff recruitment and Insurance cost of $63k not spent yet.

**Corporate and Strategy**

Expenditure: Favourable variance of $ 154,086

Revenue: Unfavourable variance of $ (92,415)

The favourable expenditure variances are mainly due to:

* ICT expenses for Corporate services and rates administration and collection charges of $49k not spent yet.
* ICT Professional fees, ICT expenses and office of $190k not spent yet. Offset against overspend in special projects expenses of $93k.

Unfavourable revenue variances are mainly due to:

* Lower income for land property leases of $25k due to timing of lease start date;
* Lower rates income of $68k mainly from instalment interest and admin charges.

**Community Development and Services**

Expenditure: Favourable variance of $ 35,819

Revenue: Favourable variance of $ 50,949

The favourable expenditure variance is mainly due to:

* Community development operational activities, donations and other special projects of $35k not expensed yet.

The favourable income variance is mainly due to:

* Increased Tresillian fees & charges of $50k.

**Planning and Development**

Expenditure: Favourable variance of $ 446,374

Revenue: Unfavourable variance of $ (234,238)

The Favourable expenditure variance is mainly due to:

* Urban Planning professional fees and projects expenses of $358k not spent yet.
* Environmental operation activities of $52k not spent yet.

The Unfavourable revenue variance is mainly due to:

* Lower fees & charges from planning and building services of $211k.

**Technical Services**

Expenditure: Favourable variance of $ 353,697

Revenue: Favourable variance of $ 36,622

The favourable expenditure variance is mainly due to:

* Maintenance expense for Waste management and park services of $354k not expensed yet.

The favourable revenue variance is mainly due to:

* Increased waste fees & charges of $24k.

**Borrowings**

As at 31 August 2021, we have a balance of borrowings of $1.19m.

**Net Current Assets Statement**

At 31 August 2021, net current assets were $48.84m compared to $42.95m as at 31 August 2020.Current assets increased by $5.89m compared to 30 June 2020 offset by increased current liabilities of $3.81m.

Outstanding rates debtors are $27.3m as at 31 August 2021 compared to $18.2m as at 31 August 2020. Breakdown as follows:

|  |  |  |  |
| --- | --- | --- | --- |
|  | **31August 2021**  **($000)** | **31August 2020**  **($000)** | **Variance**  **($000)** |
| **Rates** | $20,357 | $14,043 | $6,314 |
| **Rubbish & Pool** | $2,519 | $1,289 | $1,230 |
| **Pensioner Rebates** | $1,174 | $1,194 | ($20) |
| **ESL** | $3,198 | $1,691 | $1,508 |
| **Total** | $27,254 | $18,222 | $9,032 |

**Capital Works Programme**

As at 31 August, expenditure on capital works was $435k with additional capital commitments of $987k which represents 17% of a total budget of $8.24m.

**Employee Data**

|  |  |
| --- | --- |
| **Description** | **Number** |
| Number of employees (total of full-time, part-time and casual employees) as of the last day of the previous month | 164.0 |
| Number of contract employees (temporary/agency) as of the last day of the previous month | 9.0 |
| \*Occupied FTE (Full Time Equivalent) count as of the last day of the previous month | 139.50 |
| Number of unfilled employee positions at the end of each month | 42.0 |

Staff profile for August very similar to previous month of July. There are 42 unfilled positions, same as for previous month. Contractors remain stable at 8 positions. Recruitment activity remains high including recruitment of ERP Project positions having commenced.

**Conclusion**

The statement of financial activity for the period ended 31 August 2021 indicates that operating expenses are under the year-to-date budget by 18.05% or $1.24m, and revenue is under the budget by 0.8% or $256k.

**Key Relevant Previous Council Decisions:**

Nil.

**Consultation**

N/A

**Strategic Implications**

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

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

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

The approved budget was based on zero based budgeting concept which requires all income and expenses to be thoroughly reviewed against data and information available to perform the City’s services at a sustainable level.

**Budget/Financial Implications**

As outlined in the Monthly Financial Report.

## Monthly Investment Report – August 2021

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| --- | --- |
| **Council** | 28 September 2021 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil. |
| **Director** | Ed Herne – Director Corporate & Strategy |
| **Attachments** | 1. Investment Report for the period ended 31 August 2021 |

**Executive Summary**

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

**Recommendation to Council**

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

**Voting Requirement**

Simple Majority.

**Discussion/Overview**

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

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

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

|  |  |  |
| --- | --- | --- |
|  | **31 August 2021** | **31 August 2020** |
| **Municipal Funds** | $ 5,320,871 | $ 5,906,565 |
| **Reserve Funds** | $ 3,575,944 | $ 1,888,748 |
| **Total investments** | $ 8,896,815 | $ 7,795,313 |

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

The total interest earned from investments as at 31 Aug 2021 was $3,295.

The Investment Portfolio comprises holdings in the following institutions:

|  |  |  |  |
| --- | --- | --- | --- |
| **Financial Institution** | **Funds Invested** | **Interest Rate** | **Proportion of Portfolio** |
| NAB | $2,966,283 | 0.27% - 0.30% | 30.88% |
| Westpac | $1,995,282 | 0.22% - 1.05% | 33.34% |
| ANZ | $1,187,844 | 0.10% | 13.35% |
| CBA | $2,747,406 | 0.16% - 0.24% | 22.43% |
| **Total** | **$8,896,815** |  | **100.00%** |

**Conclusion**

The Investment Report is presented to Council.

**Key Relevant Previous Council Decisions:**

Nil.

**Consultation**

Required by legislation: Yes  No

Required by City of Redlands policy: Yes  No

**Strategic Implications**

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

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

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

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

**Budget/Financial Implications**

The July YTD Actual interest income from investments is $3,295 compared to the August YTD Budget of $7,000.

## Designated Senior Positions

|  |  |
| --- | --- |
| **Council** | 28 September 2021 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil. |
| **CEO** | Bill Parker |
| **Attachments** | Nil. |
| **Confidential Attachments** | Nil. |

**Executive Summary**

Section 5.37 of the *Local Government Act 1995* provides for Council to designate appropriate positions as senior employees. Under the Act, Council can designate employees or persons belonging to a class of employee to be senior employees.

The designation requires the CEO to keep the Council informed of any proposal to employ or dismiss an employee with the classification of Senior Employee.

It is recommended that the following positions be designated senior employees:

* Director Planning and Development
* Director Technical Services
* Director Corporate & Strategy

**Recommendation to Council**

**That Council designate the following positions as senior employees:**

1. **Director of Planning & Development**
2. **Director Technical Services**
3. **Director Corporate and Strategy**

**Voting Requirement**

Simple Majority.

**Discussion/Overview**

In accordance with section 5.2 of the *Local Government Act 1995*, Council must ensure that it has an appropriate structure for administering the local government.

Section 5.37 of the *Local Government Act 1995* provides for Council to designate senior employees. Under the Act, Council can designate employees or persons belonging to a class of employee to be senior employees.

When such a designation applies, the CEO is to inform the Council of each proposal to employ or dismiss a senior employee. The Council may accept or reject the CEO’s recommendation but if the council rejects a recommendation, it is to inform the CEO of the reasons for its doing so.

It is important to note that the operative effect of section 5.37(2) of the *Local Government Act 1995* when employing or dismissing senior employees is simply a directive to the CEO to first submit a recommendation to council for the council to accept or reject, before employing or dismissing a senior employee.

The responsibility for employing and dismissing senior employees rests with the CEO. For that reason, any non-compliance with section 5.37(2) does not deem the employment or termination invalid.

**Key Relevant Previous Council Decisions:**

Nil.

**Consultation**

The designation of senior employees was discussed with elected members at a briefing session on Tuesday 31 August 2021.

**Strategic Implications**

This report is aligned to the value statements outlined in Nedlands 2018-2028.

**Great Governance and Civic Leadership**

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

**Budget/Financial Implications**

There are no financial implications relating to this item.

**Conclusion**

It is therefore recommended that Council in accordance with the Act and appropriate governance and leadership of the City, the positions of Director Planning and Development, Director Technical Services and Director Corporate and Strategy are designated Senior Employees.

## Complaints Management Policy

|  |  |
| --- | --- |
| **Council** | 28 September 2021 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil. |
| **Officer** | Nicole Ceric, Executive Officer |
| **CEO** | Bill Parker |
| **Attachments** | 1. Draft Complaints Management Policy |
| **Confidential Attachments** | Nil. |

**Executive Summary**

The purpose of this report is for Council to consider adopting a policy which provides guidance for the management and handling of complaints.

**Recommendation to Council**

**That Council resolve to adopt the Complaints Management Policy as per attachment 1.**

**Discussion/Overview**

**Background**

The City of Nedlands (the City) is committed to providing an accessible, responsive, and accountable Complaints Management framework that promotes organisational learning and continuous improvement.

Accepting feedback, including complaints, assists the City in engaging with customers to continually enhance the City’s services.

This policy seeks to:

* promote the City’s organisational corporate values of, integrity, accountability, respect, community participation, diversity and environment,
* reflect best practice as outlined by the Australian Standards - Guidelines for complaint management in organisations, and the WA Ombudsman Guidelines on Complaint Handling; and
* support the City’s commitment to the wider community through effective and creative engagement, as well as a strong functional complaint handling process.

The Draft Policy is separate and distinct from Division 3 and 4 Complaints under Code of Conduct for Council Members, Committee Members, and Candidates for election, and:

* applies to a City policy, product, service, event, or facility,
* service provided by a council member, employee, or a contractor,
* A third party who is under the jurisdiction of the City – includes contractors, consultants, volunteers and work experience or placement employees.

The Draft Policy does NOT apply to:

* Complaints about public statements or positions of council members or interaction with residents, ratepayers, or stakeholders unless the matters relate to the City’s Code of Conduct for Council Members, Committee Members and Candidates for Election, or the City’s Code of Conduct for Employees
* Complaints made by City employees that are employment related
* Feedback obtained during stakeholder and community engagement processes
* Enquiries and requests for specific information
* A request for service or action by the City (unless there was inaction or an unsatisfactory response to the initial request for service)
* Reports concerning neighbours or neighbouring properties
* Matters currently being dealt with or have previously been dealt with by a court, tribunal, or external complaints agency
* Matters that have already been subjected to an internal review and an outcome has been determined
* Report of suspected minor or serious breach/misconduct by a council member or employee (which may fall within the jurisdiction of CCC or PSC, and for which the CEO is the principal officer of the City and therefore the notifying authority for the purposes of s28 Corruption and Crime Act 2003)

The principles to be applied include:

* Customer Focus
* Visibility
* Accessibility
* Accountability
* Confidentiality
* Responsiveness
* Fairness and Objectivity
* Remedies
* Continual Improvement
* Charges – none unless required by legislation

Actioning complaints will be addressed in the following terms:

* Telephone – acknowledged within 1 working day
* Email – distributed to relevant employee within 1 working day and responded to within 2 working days, actioned within 10 working days (where possible)
* In person visit to office – attended to within 2 minutes (where possible), if relevant employee not available, message to be referred for reply contact next business day

Right of review will be to the CEO, with a right of escalation to the WA Ombudsman Office.

The City had commenced a review of its complaint handling procedures and related matters, which proved timely given the Vic Ombudsman Office released a Report (July 2021) - Councils and complaints – A good practice guide 2nd edition – “…There is no single effective approach to managing complaints. A complaint handling system is the sum of many parts – legislative requirements; executive leadership and organisational culture; case and data management systems; and training and support for staff. Different combinations of these parts will work better in different contexts…”

The draft Policy draws on approaches by other local governments and reports and advice by relevant State Government bodies.

**Key Relevant Previous Council Decisions:**

Ordinary Council Meeting – 28 April 2020

14.4 Councillor Horley – Notice of Motion – Complaints Policy

“Council Resolution

That the City undertakes a customer service review and use this as the basis for a complaints management policy and procedure guide to be brought back to Council.”

As a customer service review is still pending Administration recommended that the Complaints Management Policy could be adopted in the interim and following completion of the Customer Service Review the policy would be reviewed and amended if required.

**Consultation**

Consideration was given to approaches taken by other local governments.

The draft Policy was canvassed with Council at a Council Member Workshop held on 3 August 2021 and the attached draft Policy reflects changes discussed and requested by Council Members at that session.

**Strategic Implications**

This report is aligned to the value statements outlined in Nedlands 2018-2028.

**Great Governance and Civic Leadership**

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

**Budget/Financial Implications**

No specific financial implications arise from the adoption of the draft Policy.

**Conclusion**

Council adopting a Policy on Complaint Handling will ensure residents, ratepayers and stakeholders are treated fairly, consistently and in a predictable and timely manner, when they lodge a complaint with the City.

The Policy will also ensure that City administration has a uniform approach to complaint handling across the organisation, as well as being aware of the Council’s expectations.

## Review of Interim Chief Executive Officer Key Results Areas & Priorities

|  |  |
| --- | --- |
| **CEO Performance Review Committee** | 31 August 2021 |
| **Council** | 28 September 2021 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure**  **under section 5.70 of**  **the Local**  **Government Act 1995** | Nil. |
| **Officer** | Shelley Mettam, Manager Human Resources |
| **Attachments** | Nil. |
| **Confidential Attachments** | Nil. |

**Executive Summary**

This report was provided to the CEO Performance Review Committee to provide information to the assist in the review and revise, as necessary, the Key Results Areas to be set for the Interim CEO for the next 12 months.

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

This report is now provided to Council for the purpose of adopting the Key Results Areas for the period ending 30 June 2022 for the Interim Chief Executive Officer as recommended by the CEO Performance Review Committee.

**Recommendation to Council**

**That Council:**

1. **adopts the following Key Results Areas for the period ending 30 June 2022 for the Interim Chief Executive Officer:**

|  |  |  |  |
| --- | --- | --- | --- |
| Key Results Areas | Requirements | Standards | Role of Council |
| 1. Enterprise Resource Planning (ERP) | Implement phase 1 of the Enterprise Resource Planning Project | 1. Planning & Team Recruitment complete November 2021 2. System Configuration and User Acceptance Testing complete May 2022 3. Staff Training complete June 2022 4. ERP Phase 1 Go Live July 2022 | Status Update Report on implementation via the Audit & Risk Committee. |
| 2. Workforce Plan | Council has a current Workforce Plan including:   * The current workforce profile and organisational structure; * Identification of gaps between the current profile and the organisational requirements; * Identification of organisational activities to foster and develop workforce * The Workforce Plan is budgeted for in Long Term Financial Plan. | Basic standard is met when local government has met all of the listed  requirements. | Each Councillor will be interviewed as part of the Workforce Planning Process to determine their expectations of the organisational review exercise as well as to gain an appreciation and understanding their views on the organisation in its service delivery. |
| 3. Asset Management Plans | Asset Management Plans exist for significant and critical asset classes including the identification of:   * Asset Consumption Ratio * Asset sustainability ratio * Asset Renewal Funding Ratio | Asset Consumption Ratio: Basic standard is met if ratio data can be identified and ratio is 50% or greater.  Asst Sustainability Ratio: Basic standard is met if ratio data can be calculated and ratio is 90% or greater.  Asset renewal funding ratio: Basic standard is met if ratio data can be identified and ratio is between 75% and  95%. | Council determines affordable, realistic and achievable priorities and is responsible for ensuring that  the local government’s Asset Management Policy is developed and implemented and that appropriate  resources are made available for asset management.  By making certain that Asset Management Plans are monitored and outcomes reported to the  community, Council ensures that it is making progress towards meeting long-term community needs. Council will be required to adopt the final plan. |
| 1. Long Term Financial Plan | Long Term Financial Plan exist including the identification of:   * Operating surplus ratio * Current ratio or working capital ratio * Debt service cover ratio | Operating surplus ratio: Basic standard is met if the operating surplus ratio is between 0% and 15%.  Current ratio or working capital ratio:  Basic standard is met if the ratio is equal to an expression of 1:1 or greater (e.g. 100% or 1.0).  Debt service cover ratio: Basic standard is met if this ratio is greater than or equal to 2. | Council will have significant input into the long term financial plan by contributing to the underlying assumptions, forward capital works programs and transformational projects. Council will be required to adopt the final plan. |
| 1. Governance Framework Policy | Develop a Governance Framework Policy | Final Policy ensures:   * Elected Members are engaged in the development of strategy and policy from initiation to adoption. * Elected Members are provided with accurate relevant and timely information by the Chief Executive Officer (CEO) to inform quality decision-making; and * Community members can participate in the decision-making process and have access to information used to inform Council decisions. | Council will be involved in the development of the policy and will be required to adopt the final policy. |

1. **instructs the CEO to provide a regular update on all KRAs to Council via the CEO Weekly Update; and**
2. **a copy of the Organisation Review from Gerard Daniels of 1998 be provided to Council Members via the Councillor Portal.**

Recommendation to Committee

That Council:

1. adopts the following Key Results Areas for the period ending 30 June 2022 for the Interim Chief Executive Officer:

|  |  |  |  |
| --- | --- | --- | --- |
| Key Results Areas | Requirements | Standards | Role of Council |
| 1. Enterprise Resource Planning (ERP) | Implement phase 1 of the Enterprise Resource Planning Project | 1. Planning & Team Recruitment complete November 2021 2. System Configuration and User Acceptance Testing complete May 2022 3. Staff Training complete June 2022 4. ERP Phase 1 Go Live July 2022 | Nil in implementation. |
| 2. Workforce Plan | Council has a current Workforce Plan including:   * The current workforce profile and organisational structure; * Identification of gaps between the current profile and the organisational requirements; * Identification of organisational activities to foster and develop workforce * The Workforce Plan is budgeted for in Long Term Financial Plan. | Basic standard is met when local government has met all of the listed  requirements. | Each Councillor will be interviewed as part of the Workforce Planning Process to determine their expectations of the organisational review exercise as well as to gain an appreciation and understanding their views on the organisation in its service delivery. |
| 3. Asset Management Plans | Asset Management Plans exist for significant and critical asset classes including the identification of:   * Asset Consumption Ratio * Asset sustainability ratio * Asset Renewal Funding Ratio | Asset Consumption Ratio: Basic standard is met if ratio data can be identified and ratio is 50% or greater.  Asst Sustainability Ratio: Basic standard is met if ratio data can be calculated and ratio is 90% or greater.  Asset renewal funding ratio: Basic standard is met if ratio data can be identified and ratio is between 75% and  95%. | Council determines affordable, realistic and achievable priorities and is responsible for ensuring that  the local government’s Asset Management Policy is developed and implemented and that appropriate  resources are made available for asset management.  By making certain that Asset Management Plans are monitored and outcomes reported to the  community, Council ensures that it is making progress towards meeting long-term community needs. Council will be required to adopt the final plan. |
| 1. Long Term Financial Plan | Long Term Financial Plan exist including the identification of:   * Operating surplus ratio * Current ratio or working capital ratio * Debt service cover ratio | Operating surplus ratio: Basic standard is met if the operating surplus ratio is between 0% and 15%.  Current ratio or working capital ratio:  Basic standard is met if the ratio is equal to an expression of 1:1 or greater (e.g. 100% or 1.0).  Debt service cover ratio: Basic standard is met if this ratio is greater than or equal to 2. | Council will have significant input into the long term financial plan by contributing to the underlying assumptions, forward capital works programs and transformational projects. Council will be required to adopt the final plan. |
| 1. Governance Framework Policy | Develop a Governance Framework Policy | Final Policy ensures:   * Elected Members are engaged in the development of strategy and policy from initiation to adoption. * Elected Members are provided with accurate relevant and timely information by the Chief Executive Officer (CEO) to inform quality decision-making; and * Community members can participate in the decision-making process and have access to information used to inform Council decisions. | Council will be involved in the development of the policy and will be required to adopt the final policy. |

**Discussion/Overview**

**Background**

CEO, Bill Parker presented his initial observations and a list of priority areas to Council at a Council Member Briefing on 17 August 2021. Upon agreement at that briefing, these priority areas were presented to the CEO Performance Review Committee on 26 August 2021. The Committee requested the CEO include further details in terms of target measure details and to include levels and opportunities for council member involvement.

At a subsequent CEO Performance Review Committee Meeting on 31 August 2021, CEO Bill Parker provided additional detail in terms of Requirements, Standards and Role of Council.

The Committee also requested that Council be regularly updated on one of the KRA’s in particular, the implementation of the Enterprise Resource Planning system.

**Key Results Areas**

The Chief Executive Officer (CEO) Performance Review Committee (the Committee) is required to work with Council to conduct assessment of a CEO’s performance every 12 months and review and revise, as necessary, the Key Results Areas to apply to the CEO for the next 12 months.

On 23 February 2021, the following Key Results Areas were proposed by the CEO Performance Review Committee to apply to the Interim CEO:

1. Create, agree and implement an organization wide reform plan (with Council agreement to fund it);
2. Create and implement a communication and community engagement strategy;
3. Implement accurate and streamlined financial reporting (Inc planning for Underground Power);
4. Revise all processes and ensure right people are in the right job (Performance Management);
5. Implement accurate Governance controls; and
6. Create a Corporate Business Plan.

On commencement, the Interim CEO reviewed the existing KRA’s. In order to complete these KRAs, significant prework needs to occur e.g., to develop a Corporate Business Plan, the City of Nedlands first needs to complete asset management, workforce and long term financial plans. Additionally, further refinement is recommended so that the KRAs are deliverable and measurable.

**Key Relevant Previous Council Decisions:**

CEO Performance Review Committee Meeting 26 August 2021

“That Council:

1. amend the CEO Performance Review Committee Terms of Reference to include an Independent Observer;

subject to confirmation by the Human Resources Manager regarding process, recommend to Council that Mr Andrew Edwards be invited to be appointed as the Independent Observer to the CEO Performance Review Committee as a non-voting member**.”**

and

“That the Committee:

1. instruct the CEO to:
2. review the 5 KRA areas adding further detail in terms of target measure details; and
3. provides levels and opportunities for Council Member involvement;
4. notes the report commissioned by the City of Nedlands by Core Business Australia’s Chris Morrison; and
5. retain and review the CEO KRAs for the permanent CEO incorporating 10 performance criteria recommended within the CEO Recruitment and Selection Guidelines adopted on 8th February 2021 and outlined within attachment (a) on the commencement of a permanent CEO.”

CEO Performance Review Committee Meeting 23 February 2021

CEO Key Results Areas Report – Key Issues and Next Steps

“Committee Recommendation

That Council:

1. seek the Department of Local Government’s assistance to recommend:
2. an interim-CEO with a corporate governance and community leadership focus; and
3. a change-focused transformation lead Chief Operating Officer (COO) specialising in local government organisational reform.

1. commence the recruitment process for a long-term CEO six months after the above reform team is in place;

1. the current Council approved KRAs to be incorporated into the long-term CEO’s employment contract when recruited;

1. recommend the following change-focused KRAs for the interim CEO, putting the community at the centre of what we do:
   * Create, agree and implement an organization wide reform plan (with Council agreement to fund it);
   * Create and implement a communication and community engagement strategy;
   * Implement accurate and streamlined financial reporting (Inc planning for Underground Power);
   * Revise all processes and ensure right people are in the right job (Performance Management);
   * Implement accurate Governance controls;
   * Create a Corporate Business Plan.

1. council ensures the engagement of a senior Governance and Risk Officer is employed to assist Council.”

**Consultation**

The Interim CEO presented his initial observations and a list of priority areas to Council at a Council Member Briefing on Tuesday 17 August 2021. Upon agreement at that briefing these priority areas were presented to the CEO Performance Review Committee on the 26 August 2021 where the Committee requested the CEO include further details in terms of target measure details, and to include levels and opportunities for council member involvement.

**Strategic Implications**

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

A majority of the KRAs are key components of the Integrated Planning and Reporting Framework. Once complete, the City can progress a robust review of the Strategic Community Plan and revisit the City’s vision and aspirations.

**Who benefits?**

The key benefit on all listed actions is the improvement of service delivery to

the Community and increase transparency.

**Does it involve a tolerable risk?**

The required changes are a major reform program for the City, and this will

need very tightly managed with clear risk mitigation at every level. The risks of change to core systems are the most significant and highest risk and this would be mitigated by a focused team and effective risk management.

**Budget/Financial Implications**

The CEO Performance Review is required annually under section 5.38 of the *Local Government Act 1995* and includes the setting of key results areas to apply to the CEO.

Within existing budget.

## CEO Performance Review Committee – Independent Observer

|  |  |
| --- | --- |
| **Council** | 28 September 2021 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil. |
| **CEO** | Bill Parker |
| **Attachments** | Nil. |
| **Confidential Attachments** | Nil. |

**Executive Summary**

The purpose of this report it to provide clarification of the Local Government Guidelines and seek Council’s decision on the CEO Performance Review Committee’s request from its meeting on 26 August 2021 to amend the Terms of Reference to include an Independent Observer to CEO Performance Review Committee and subject to clarification of process that if possible the independent observer be the same independent member as appointed to the CEO Recruitment & Selection Committee.

**Committee Recommendation**

**That Council:**

1. **amend the CEO Performance Review Committee Terms of Reference to include an Independent Observer; and**
2. **subject to confirmation by the Human Resources Manager regarding process, recommend to Council that Mr Andrew Edwards be invited to be appointed as the Independent Observer to the CEO Performance Review Committee as a non-voting member.**

**Discussion/Overview**

**Guidelines for Local Government CEO Performance Review**

The Local Government (Administrative) Amendment Regulations 2021 were released in February 2021 together with the Guidelines for Local Government CEO Recruitment and Selection, Performance Review and Termination*.* The stated intention of the reforms was to “ensure best practice and greater consistency in these processes” and to “assist local government in meeting the model standards” contained in the Regulations.

The Guidelines provide that in accordance with section *5.38* of the *Local Government Act*, for a CEO who is in employment for a term of more than one year, the performance is to be reviewed formally at least once in every year of their employment.

In terms of the makeup of the Committee, the Guidelines state:

**“Performance review panel**

It is recommended that the council delegates the CEO performance review to a panel (e.g. comprising certain council members and an independent observer). The panel has a duty to gather as much evidence as possible upon which to base their assessments. The role of the review panel includes developing the performance agreement in the first instance, conducting the performance review and reporting on the findings and recommendations of the review to council. It is also recommended that council develop a policy to guide the performance review process. A policy might include the composition of the panel, primary functions, the role and appointment of an independent consultant, and the responsibilities of review panel members.”

Regarding an Independent Observer, the CEO Performance Review Committee expressed interest in the current Independent Member of the CEO Recruitment and Selection Panel to recruit the Long-Term CEO, Mr Andrew Edwards, being invited to be an Independent Observer for the CEO Performance Review Panel. Although, the Guidelines provide for this and there is nothing to preclude this from occurring, the process to appoint Mr Edwards was specifically for the Recruitment Committee.

It is worth noting that the membership term for CEO Performance Review Committee will conclude immediately prior to the Ordinary Election on 16th October 2021. To ensure consistency across multiple committees and to coincide with the forthcoming election, it may be more appropriate to advertise for an independent observer position and simply amend the terms of reference to include an independent observer as part of this process.

**Consultation**

Nil.

**Strategic Implications**

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

A majority of the KRAs are key components of the Integrated Planning and Reporting Framework. Once complete, the City can progress a robust review of the Strategic Community Plan and revisit the City’s vision and aspirations.

The benefit of being clear and transparent with the CEO Performance Review methodology is to apply a fair, objective and workable process for all parties.

**Who benefits?**

Appointing an experienced Independent Consultant would assist the CEO Performance Review Committee in fulfilling its requirements when undertaking the review of the CEO’s performance.

**Does it involve a tolerable risk?**

The required changes for the City are already underway. There is a major reform program for the City and this is being tightly managed with clear risk mitigation at every level. The risks of change to core systems are the most significant and the highest risk and this will be mitigated by a focused team and effective risk management. Council and the Audit and Risk Committee will be regularly updated.

**Budget/Financial Implications**

The CEO Performance Review is required annually under section *5.38* of the *Local Government Act 1995* to review the CEOs performance.

Within existing budget.

**Conclusion**

It is recommended that Council engage the services of an Independent Consultant to assist with CEO Performance reviews. It appears of lesser importance to engage an Independent Observer as well although under the LG Guidelines, that is also open to Council if they wish to do so.

## RFT 21-NB01 Rehabilitation of Lobelia Street and Pine Tree Lane, Mount Claremont

|  |  |
| --- | --- |
| **Council** | 28 September 2021 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil |
| **Director** | Andrew Melville |
| **CEO** | Bill Parker |
| **Attachments** | Nil |
| **Confidential Attachments** | 1. Tender Evaluation and Recommendation Report - Rehabilitation of Lobelia Street and Pine Tree Lane, Mount Claremont (Confidential) |

**Executive Summary**

The City commenced a tender process to test the market and publicly invited bids from suitably qualified and experienced contractors to provide civil construction services for the rehabilitation of Pine Tree Lane and Lobelia Street in Mount Claremont. Both projects are identified in the Capital Works Program for renewal in 2021/22.

Onesubmission was received by the closing date of Friday 3 September 2021from 10 requests issued.

This process has now been finalised and Council is requested to accept the evaluation and recommendation for award of the new contract to West Coast Profilers Pty. Ltd. The attached RFT21NB01 Tender Evaluation and Recommendation Report is provided to assist you in your decision.

**Recommendation to Council**

**Council:**

1. **approves the award of the contract for Rehabilitation of Lobelia Street and Pine Tree Lane, Mount Claremont to West Coast Profilers in accordance with the City’s Request for Tender number RFT21NB01 and comprising of that request, the City’s Conditions of Contract, the West Coast Profilers tender submissions inclusive of the Lump Sum and all post tender clarifications and negotiations; and**
2. **instructs the CEO to arrange for a Letter of Acceptance and a Contract document to be sent to West Coast Profilers to be executed.**

**Voting Requirement**

Simple Majority.

**Discussion/Overview**

Submissions were rated against the following criteria, Relevant experience (30%), Key personnel skills and experience (30%) and Project Methodology (40%).

West Coast Profilers demonstrated recent experience with similar local government projects showing a solid capacity to deliver the proposed works. The personnel dedicated to the project are experienced and suitably qualified giving confidence that they can complete the requirements of the RFT.

West Coast Profilers provided a detailed program of works that is considered and reasonable, encompassing the entirety of the scope with a proposed program of 75 days between 8 October and 16 December 2021, which is in line with the requirements.

References provided by the Cities of Albany and South Perth both recommended West Coast Profilers services and have engaged the Contractor for similar works.

Following the due diligence processes that the City has undertaken, the City is confident that West Coast Profilers can complete the scope of work to the required standards and their offer represents good value for money to the City.

**Key Relevant Previous Council Decisions:**

Nil.

**Consultation**

No consultation is required as part of these works.

**Strategic Implications**

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

These works are listed within the endorsed Capital Works Program.

**Who benefits?**

Road users, pedestrians and home owners in the area benefit from the award of this contract, as it will ensure the City’s roads, pathways, driveway aprons and drainage are well maintained and performs to a high standard.

**Does it involve a tolerable risk?**

The RFT and Minor Works Contract Conditions is setup to ensure contractor is accountable for the delivery to the program. Contractor has submitted risks and mitigation strategies to minimize risk to project and ensure delivery by the required completion date. The risk has been reviewed and deemed an acceptable risk.

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

Specialist City Officers have the necessary skills to expertly advise Council on the best contractor to supply the services at best value to the City.

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

No.

**Budget/Financial Implications**

**Can we afford it?**

The Budget allocated for these works totals $462,992. The Tendered price is higher than the estimate due to the current high demand for civil works Contractors resulting from economic stimulus measures being implemented by both the State and Federal governments. Additional funds will be made available to address budget overrun during the mid-year Budget Review process and the subsequent Budget Adjustment.

**Costing Summary**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Project Number** | **Project Name** | **Budget** | **Tendered Cost** | **Difference** |
| 841 | Lobelia Street | $175,838 | 263,682.00 | -$87,844.00 |
| 843 | Pine Tree Lane | $287,154 | 248,978.00 | $38,176.00 |
| **Total** |  | $462,992 | 512,660.00 | -$49,668.00 |

The budget allocation for the total of these two projects exceeds the budgeted estimate cost. It is clear from the poor tender submission rate that the impacts of economic stimulus measures are having an effect both in terms of cost and supplier choice. These procurement challenges will need to be monitored for further budget impacts as they may impact the City’s capacity to deliver this year’s capital works program.

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

Nil.

**Conclusion**

Pine Tree Lane and Lobelia Street have been identified for rehabilitation as part of the City annual capital works. West Coast Profilers have completed road rehabilitation and civil services for similar local governments.

West Coast Profilers will provide an as new road pavement, pathways, kerbing and driveway aprons. In order to continue to provide effective ongoing maintenance to preserve the safety and condition of road and associated infrastructure, it is recommended to award this RFT to West Coast Profilers**.**

## Consideration of Responsible Authority Report for Minor Amendments to Approved 10 Multiple Dwellings at 12 (Lot 372) Philip Road, Dalkeith

|  |  |
| --- | --- |
| **Council** | 28 September 2021 |
| **Applicant** | Stewart Urban Planning 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 and the proponents or their consultants. Whilst parties may be known to each other professionally, this relationship is consistent with the limitations placed on such relationships by the Codes of Conduct of the City and the Planning Institute of Australia*.* |
| **Director** | Tony Free – Director of Planning & Development |
| **Attachments** | 1. Responsible Authority Report and Attachments |

**1.0 Executive Summary**

The purpose of this report is for Council to consider a Joint Development Assessment Panel application at 12 Philip Road, Dalkeith. Council is requested to make its recommendation to the Metro Inner-North Joint Development Assessment Panel as the Responsible Authority. Council’s recommendation will be incorporated into the Responsible Authority Report (RAR) and lodged with the DAP Secretariat on 29 September 2021.

This application is for a proposed Form 2 Application (change to an existing approval) for minor changes to an approved four storey development comprising 10 Multiple dwellings. The most notable change is a 285mm increase to the height, with all other proposed changes not requiring planning approval.

**Recommendation to Council**

**Council:**

1. **adopts as the Responsible Authority the Officer Recommendation contained in the Responsible Authority Report for minor amendments to the approved development of 10 Multiple Dwellings at 12 Philip Road, Dalkeith; included at Attachment 1;**
2. **instructs the CEO to incorporate Council’s Responsible Authority recommendation into the Responsible Authority Report for the development of minor amendments to the approved development of 10 Multiple Dwellings at 12 Philip Road, Dalkeith; and**
3. **appoints Councillor (insert name) and Councillor (insert name) to coordinate Council’s submission and presentation to the Metro Inner-North JDAP for minor amendments to the approved development of 10 Multiple Dwellings at 12 Philip Road, Dalkeith.**

**2.0 Background**

History

An application for 10 Multiple Dwellings was previously considered at the Joint Development Assessment Panel (JDAP) meeting held on 1 April 2021. The JDAP resolved to approve the application, subject to conditions. A copy of the determination and approved plans is included as Attachment 3 to the RAR.

Site Description

The site is located within the street block bounded by Philip Road to the north, Adelma Road to the east, Waratah Avenue to the south and Alexander Road to the west (Attachment 1). An aerial and zoning map is provided in **Attachment 1** to the RAR.

The site is 1,136m2 in area and there is a slope in natural ground level of approximately 2.5m from the front boundary (north) to the rear boundary (south). The site is zoned R80 and has its street frontage to Philip Road. The land to the south is zoned R-AC3 and forms the Waratah Village precinct.

The southern lot boundary of the site abuts a 7.0m wide laneway managed by the City of Nedlands. The subject site has legal right of access over this laneway. However, this laneway is landlocked by private property on all sides and is not directly connected to the local road network.

Vehicle access from the rear laneway was not able to be achieved as no agreement between the site and 81 Waratah Avenue, Dalkeith (Waratah Village) was reached to allow vehicle access though to Waratah Village car park and exit/enter through Waratah Avenue.

**3.0 Application Details**

The development proposal, as applied via the Form 2 process includes minor alterations to an approved four storey Multiple dwelling development. Consideration of the development is limited to the changes proposed and not to the overall development.

The plans illustrate modifications have been made to the proposal. This can be summarised as follows:

* The total building height has increased by 285 millimetres;
* Minor amendments to ramp and car park gradients;
* Minor amendments to Level 3 apartments including stairwell dimensions, window to stairwell for Apartment 302, to northern elevation, window treatments, and internal modification to layout of store and laundry;
* Minor amendments to roof terrace including stairwell dimensions, glass balustrade instead of metal balustrade, and retractable shade sail to pergola structures instead of pergola structures; and
* Inclusion of vehicle and pedestrian doors to the rear laneway.

**4.0 Consultation**

Public Consultation

The application was advertised for a period of 28 days from 20 August 2021 until 17 September 2021. Due to the nature of the amendments, the following forms of notification were included:

* A total of 193 letters sent to all landowners and occupiers within a 200m radius of the site informing them of the application and inviting comments;
* An advertisement was published on the City’s website with all documents relevant to the application made available for viewing during the advertising period;
* A sign was erected on the subject lot advising of the amened application.

At the close of advertising a total of 4 submissions were received, all objecting to the proposal. A summary of the submissions is listed below:

|  |  |
| --- | --- |
| **Issue Raised** | **Officer’s comments** |
| Bulk, scale, plot ratio, overshadowing, car parking, increase in traffic | Subject amendment is for minor changes resulting in no impact to vehicle numbers and only minimal impact in bulk, scale and overshadowing - Refer to Planning Assessment below. |
| Oppose additional height | Height increase is minimal and supportable - Refer to Planning Assessment below. |
| Roller door to rear of car park as the site has no legal access through this private property | The site has legal access to the laneway to the rear. Though the laneway is currently landlocked, the intent of the roller door is to future-proof the building in the event that the laneway is connected to a gazetted road in the future. |

**5.0 Recommendation to JDAP**

That the Metro Inner-North Joint Development Assessment Panel resolves to:

1. **Accept** that the DAP Application reference DAP/20/01922 as detailed on the DAP Form 2 dated 5 July 2021 is appropriate for consideration in accordance with regulation 17 of the *Planning and Development (Development Assessment Panels) Regulations 2011*;
2. **Approve** DAP Application reference DAP/20/01922 and accompanying plans (Attachment 2) in accordance with Clause 68 of Schedule 2 (Deemed Provisions) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, and the provisions of Clause No.16 of the City of Nedlands Local Planning Scheme No. 3, for the proposed minor amendment to the approved residential development (10 multiple dwellings) at No.12 Philip Road, Nedlands

**Amended Conditions**

Nil.

**New Conditions**

Nil.

Council’s recommendation will be incorporated into the Responsible Authority Report (RAR) and lodged with the DAP Secretariat on 11 August 2021.

**6.0 Conclusion**

An application under r.17 of the *Development Assessment Panel Regulations 2011* is not an application for a review or reconsideration of the original decision. The assessment is based on the extent of the amendments sought. Although the City has previously recommended refusal on the original application for 10 Multiple Dwellings, it is Administration’s view that the proposed modifications sought are deemed minor in nature. They are considered to appropriately address the Element Objectives of the R-Codes, objectives of the ‘Residential’ zone and matters to be considered under clause 67 of the *Planning and Development (Local Planning Schemes) Regulations 2015*. Approval of the amendments is recommended.

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

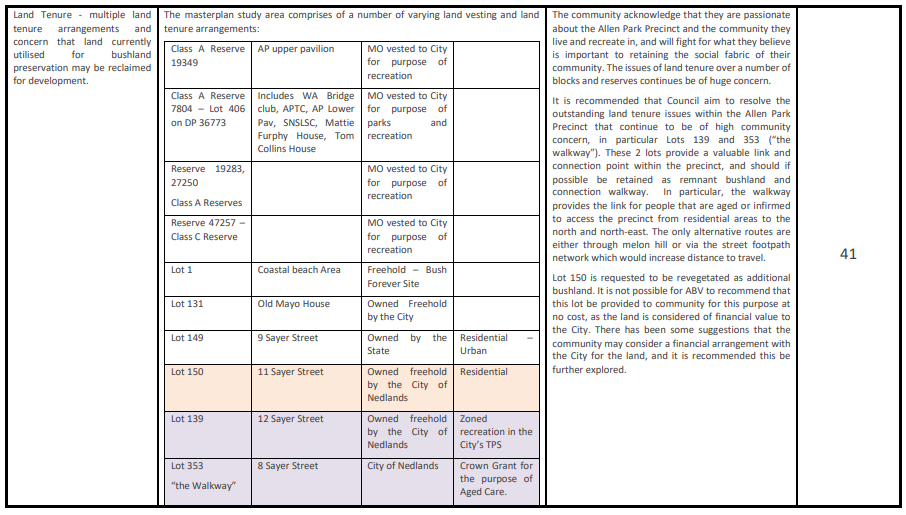
Disclaimer: Where administration has provided any assistance with the framing and/or wording of any motion/amendment to a Council Member who has advised their intention to move it, the assistance has been provided on an impartial basis. The principle and intention expressed in any motion/amendment is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

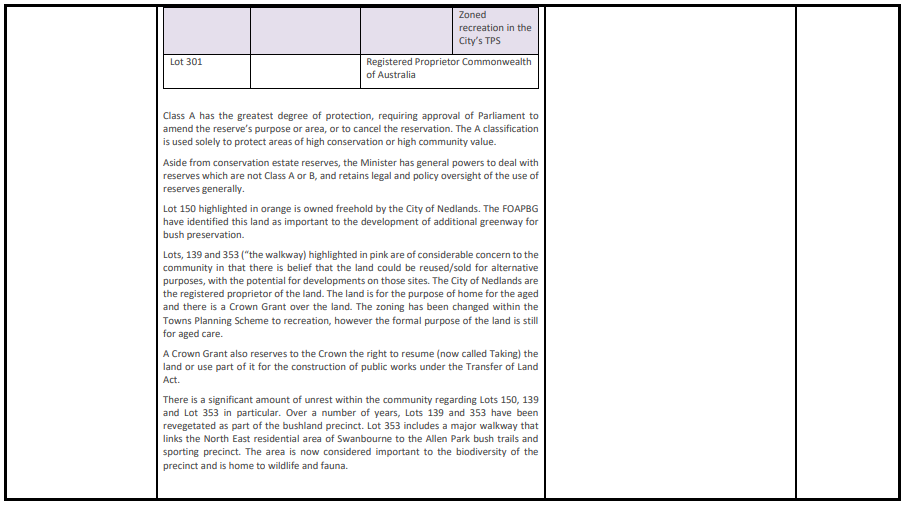
## Councillor Horley – Allen Park A Class Recreation Reserve

At the Council meeting on 24 August 2021 Councillor Horley gave notice of her intention to move the following at this meeting.

**That Council:**

1. **requests an update from the CEO with regard to the land tenure arrangements as suggested in the Allen Park Master Plan (extract below); and**





1. **if no progress has been made requests the CEO to formally commence discussions with the Department of Planning, Lands and Heritage to reclassify each of the below parcels of land as Class A Reserve. (image depicting where these parcels are located below):**

* **Class C Reserve 47257**
* **Lot 1, DP24967 (the big triangle piece of land in Swanbourne)**
* **Lot 131, DP222332 (old Mayo House)**
* **Lot 149, DP222332 (9 Sayer Street)**
* **Lot 150, DP222332 (11 Sayer Street)**
* **Lot 139, DP222332 (12 Sayer Street)**
* **Lot 301, DP22248 (Owned by Commonwealth)**



Justification

The Allen Park Master Plan was endorsed in 2017 and noted various land tenure arrangements and the community concern that land currently utilised for bushland preservation may be reclaimed for development in the future. This notice of motion will ensure that the land identified within the Allen Park Master Plan as having environmental value will be protected as a Class A Reserve in the future.

Administration Response

Given the onerous process required to reclassify land as Class A, it would be prudent to investigate not only these parcels but all parcels of land under the City’s control within the general precinct. The City’s Administration can present a report to Council in November 2021 outlining each opportunity for Council’s consideration.

## Councillor Coghlan – Local Planning Policy – Primary Controls for Apartment Developments

At the Council meeting on 24 August 2021 Councillor Coghlan gave notice of her intention to move the following at this meeting.

**That Council approves to advertise the following Draft Local Planning Policy – Primary Controls for Apartment Developments for public comment.**

**LOCAL PLANNING POLICY – PRIMARY CONTROLS FOR APARTMENT DEVELOPMENTS**

**1.0 PURPOSE**

* 1. To provide guidance to the decision-maker when considering whether an apartment development on land coded R40 or above meets the Element Objectives of Part 2, inclusive of sections 2.1-2.7 of State Planning Policy 7.3 - Residential Design Codes Volume 2 - Apartments (R Codes Vol.2).
  2. To establish a clear position for residents, developers and decision-makers with respect to the application of R Codes Vol.2 Primary Controls in achieving the Element Objectives in the assessment of Apartments within the City of Nedlands.
  3. To confirm the City’s preference for apartment development to be consistent with the R Codes Vol.2 default development standards and values for the Primary Controls in the context of a performance-based State Planning Policy.
  4. **APPLICATION OF POLICY**
  5. This policy applies to all development which is subject to assessment in accordance with R Codes Vol.2.
  6. This Policy is to be read in conjunction with the City of Nedlands Local Planning Scheme No.3 (the Scheme). Where this Policy is inconsistent with the Scheme, the Scheme shall prevail, to the extent of the inconsistency.
  7. This policy defines the primary control values that apply unless augmented by a local planning instrument of the City of Nedlands.
  8. The City acknowledges that the R Codes Vol.2 is a performance-based State Planning Policy. Applications for Development Approval need to demonstrate that the design achieves the outcomes of each Element Objective. While addressing the Acceptable Outcomes is likely to achieve the Element 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 Element Objectives are achieved.
  9. This policy will apply unless augmented by another endorsed local planning instrument of the City of Nedlands, in which case to achieve the Element Objectives, proposals may require additional and/or alternative design solutions in response to site conditions, streetscape and design approach where specified in the local planning framework.

| Local Planning Policy

* 1. **OBJECTIVES**
  2. To ensure that the built form outcomes of new development do not result in an unreasonable adverse impact on the amenity of adjoining neighbours and wider locality.
  3. To ensure that where possible, development ameliorates adverse amenity impacts such as visual bulk and scale, visual and acoustic privacy, odours, overshadowing, ventilation and loss of tree canopy.
  4. To promote good design in terms of future desired context and character.

| Local Planning Policy

* 1. **POLICY MEASURES**

**Primary Controls**

* 1. The default Primary Controls extracted from Part 2, of State Planning Policy 7.3 - Residential Design Codes Volume 2 - Apartments (R Codes Vol.2) are set out below.
  2. In regard to defining the context and character in Nedlands, in relation to the Element Objectives of the Primary Controls in sections 2.2 – 2.7 in Part 2 of R Codes Vol.2 (for the relevant R-code zoning), and whether these Element Objectives are achieved by an apartment development, the City of Nedlands provides the following policy advice. P

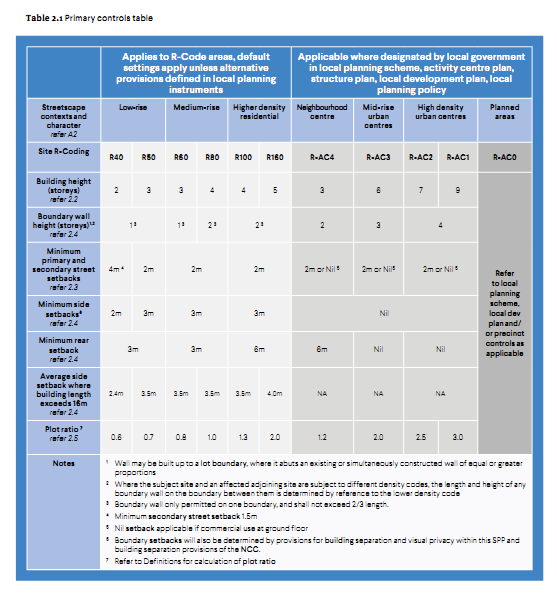
g Policy

* 1. In the absence of another endorsed local planning instrument, the City defers to the R-code zoning as designated by LPS3 and deems that to respond to the existing and desired future scale, height and character of Nedlands, and to therefore achieve the Primary Control Element Objectives as they are defined and apply in Nedlands under LPS3, a development must meet or subceed the default development standards and values provided in Tables 2.1, 2.2 and 2.7 of R Codes Vol.2 in regards to the Primary Control elements. Accordingly, the City deems that exceeding these standards and values is not in keeping with the existing and desired future scale, height and character of Nedlands as designated by the relevant LPS3 R-code zoning, and will therefore not achieve the Element Objectives for these critical design elements.

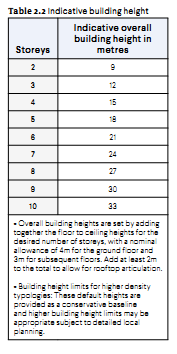
The relevant Element Objectives and development standards and values for each Primary Control are defined in SPP 7.3 Vol 2 Part 2 sections 2.2 – 2.7, and that document should be read in conjunction with the following clauses 4.4 to 4.9.

* 1. Building height (Refer to section 2.2 and Tables 2.1 and 2.2)

In particular Clause O2.2.1 – The height of development responds to the desired future scale and character of the street and local area *(as defined in Clause 4.3 above)*, including existing buildings that are unlikely to change.



*Source: State Planning Policy SPP 7.3 R Codes Volume 2 (WAPC)*



*Source: State Planning Policy SPP 7.3 R Codes Volume 2 (WAPC)*

* 1. Street setbacks (Refer to section 2.3)

In particular Clause O2.3.1 – The setback of the development from the street reinforces and/or complements the existing or proposed landscape character of the street *(as defined in Clause 4.3 above)*.

* 1. Side and rear setbacks (Refer to section 2.4)

In particular Clause O2.4.2 – Building boundary setbacks are consistent with the existing streetscape pattern or the desired streetscape pattern *(as defined in Clause 4.3 above)*.

* 1. Plot ratio (Refer to section 2.5)

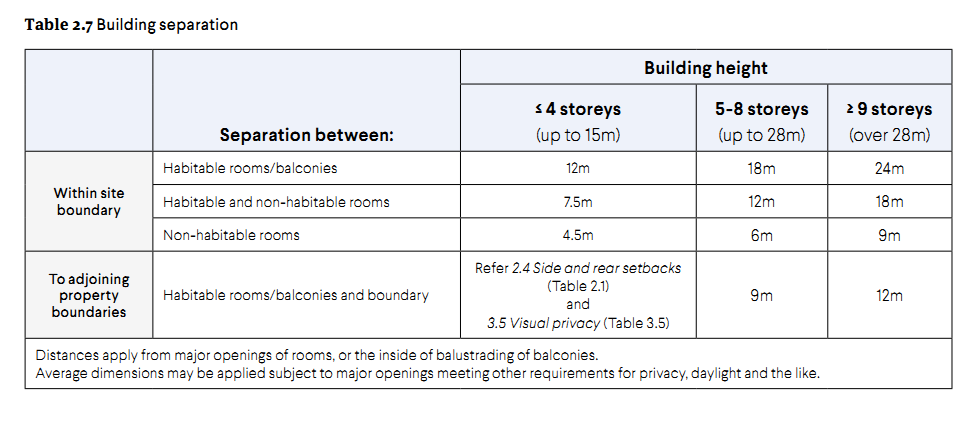
In particular Clause O2.5.1 – The overall bulk and scale of development is appropriate for the existing or planned character of the area *(as defined in Clause 4.3 above)*.

* 1. Building depth (Refer to section 2.6)

In particular Clause O2.6.1 – Building depth supports apartment layouts that optimize daylight and solar access and natural ventilation *(as defined in Clause 4.3 above)*.

* 1. Building separation (Refer to section 2.7 and Table 2.7)

In particular Clause O2.7.1 – New development supports the desired future streetscape character with spaces between buildings *(as defined in Clause 4.3 above)*.



*Source: State Planning Policy SPP 7.3 R Codes Volume 2 (WAPC)*

* 1. SPP 7.3 Vol 2, Part 2 section 2.8 refers to development incentives for community benefit, which are not Primary Controls and are not dealt with under this LPP. Development incentives are entirely discretionary, and will only be considered where the City of Nedlands has developed a specific local planning policy for a location or area, with the aim to achieve an identified community benefit that may otherwise not be made available. If implemented, these area specific local planning policies can provide a framework to guide assessment of community value, and whether the development entitlement is commensurate with any specific and tangible benefit to the Nedlands community in terms of new streets/laneways, through-site access, open space, public amenity, culture or recreational facilities, which can be transparently achieved and measured. There should not be the expectation that incentives are a ‘default’ development standard, nor a reward merely for good design.
  2. **RELATED LEGISLATION**
  3. This policy has been prepared in accordance with Schedule 2 Part 2 Clause 4 of the Planning and Development (Local Planning Schemes) Regulations 2015.
  4. This policy should be read in conjunction with the following additional planning instruments and its requirements apply unless specifically stipulated elsewhere in any of the below:
* Planning and Development Act 2005
* Planning and Development (Local Planning Schemes) Regulations 2015
* Local Planning Scheme No. 3
* State Planning Policy 7.0 Design Review
* State Planning Policy 7.2 Precinct Design
* State Planning Policy 7.3 - Residential Design Codes - Volume 2 - Apartments

**6.0 DEFINITIONS**

6.1 For this policy, the following definitions apply:

| Local Planning Policy

|  |  |
| --- | --- |
| **Definition** | **Meaning** |
| **Community Benefit** | A development that has value has components which provide benefit to the community in a way that is clear and meaningful. A benefit to the community should contribute and improve upon the local context and amenity. |
| **Context and Character** | As defined in Clause 2.1.1 of R Codes Vol.2.  Context is defined by the broader environment within which the development occurs with a focus on transport, land uses, economic activity, local services, and open spaces as well as demographic and socio-economic factors.  Character is an important aspect of local identity created through the combined effect of:  o The height, scale, setback, style, and conditions of buildings.  o Land uses and street-based activity  o The physical form of the street including widths and function, verges, and footpaths  o Landscaping of the public and private realm. |
| **Desired Future Character** | Cues can be taken from the context and character of surrounding areas to determine a street grid and hierarchy of lot sizes, building typologies and building envelopes, as designated by the R-code zoning, that together will create the desired suburban or urban character. |

|g Policy

6.2 A word or expression that is not defined in the Policy has the same meaning as it has in the Residential Design Codes.

Justification

The purpose of this policy is to establish a clear position for residents, applicants and decision-makers with respect to the application of R Codes Vol.2 Primary Controls in achieving the Element Objectives in the assessment of Apartments within the City of Nedlands.

This policy applies to all development which is subject to assessment in accordance with R Codes Vol.2. and is to be read in conjunction with the City of Nedlands Local Planning Scheme No.3. This policy will apply unless augmented by another local planning instrument of the City of Nedlands.

The objective is ensure that the built form outcomes of new development do not result in an unreasonable adverse impact on the amenity of adjoining neighbours and the wider locality, and to promote good design in terms of existing and future desired context and character.

Policy

In the absence of another endorsed local planning instrument, the City defers to the R-code zoning as designated by LPS3 and deems that to respond to the existing and desired future scale, height and character of Nedlands, and to therefore achieve the Primary Control Element Objectives as they are defined and apply in Nedlands under LPS3, a development must meet or subceed the default development standards and values provided in Tables 2.1, 2.2 and 2.7 of R Codes Vol.2 in regards to the Primary Control elements. Accordingly, the City deems that exceeding these standards and values is not in keeping with the existing and desired future scale, height and character of Nedlands as designated by the relevant LPS3 R-code zoning and will therefore not achieve the Element Objectives for these critical design elements.

Administration Comment

The wording of the proposed policy in the draft Notice of Motion 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 policy as proposed is headed in this direction.

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.

It is recommended that the policy not be adopted. It is recommended that Council continue to support the precinct work which is currently underway and will be presented to Council over the course of 2022.

## Councillor Smyth – Lot 500 Montgomery Drive Mt Claremont – Care and Protection of remnant bushland (Reserve R43379)

At the Council meeting on 24 August 2021 Councillor Smyth gave notice of her intention to move the following at this meeting.

**Council:**

1. **requests the CEO to provide a report on the land swap between Western Power and the City, including but not limited to;**

* **Lot configuration, abuttals to adjoining properties and access points;**
* **Anticipated land-use and potential for development; and**
* **Viability as contiguous bushland reserve.**

1. **instructs the CEO to;**
2. **ensure that the newly configured Reserve R43379 with its encumbered remnant bushland flora and fauna are protected during the development and construction on adjoining lots;**
3. **instructs the CEO to negotiate with the Town of Cambridge on the feasibility of a shared bush-care management plan at the interface of Mt Claremont Reserve and Banksia Farm Reserve R45409; and**
4. **prepare a cost projection for any remedial work and impact on Budget in out years.**

Justification

1. To inform and update Council of the strategy and dealings concerning the land subject to a recent land swap and rationalisation with Western power.
2. Western Power subsequently sold the northern portion to a developer; while the southern portion adjoining the Mt Claremont Community Centre and Haldane House has returned to the City of Nedlands as a Reserve for purposes that have not been determined.
3. Protect land and vegetation during construction on Lot 100 immediately to the north.
4. Manage connection with adjoining bush land administered by the Town of Cambridge.
5. Facilitates forward planning and future budget allocations.

This land has remnant bushland including banksias that are at risk, particularly in the event of nearby construction. This land reserve is adjacent to the Mt Claremont Community Centre and as we have seen in the construction adjacent to Dalkeith Hall, building sites have little regard for their neighbours. We should not have to carry the cost of natural asset degradation and remediation.

Administration Comment

The land swap relating to Lot 500 Montgomery Drive, Mt Claremont, between Western Power and the City of Nedlands was completed with no variances to what has already been endorsed by Council in July 2019 (PD23.19). Lots 500 and 501 are now both part of Class C Reserve 43379 which is vested to the City for the purpose of ‘Public Recreation’

Reserve 43379 (Lot 500) is only 830sqm in area, thus from a natural areas perspective the perimeter circumference relative to the total area, will make the maintenance of the site not cost efficient and is unlikely to be recommended by Administration. Its management as a park which preserves the trees on the site is possible.

The interface with Reserve 45409 located within the Town of Cambridge is separated from Reserve 43379 by Lot 6987 which is owned by the City of Nedlands (Mt Claremont Playgroup /Community Centre) . This lack of an  interface combined with the size of Reserve 43379 (Lot 500) makes the joint management of the sites problematic. With regard to Reserve 45409, this land is actually vested to the Botanic Gardens and Parks Authority for ‘Parks’ purposes.

The long term use of Reserve 43379 (Lot 500) should include consideration of the community uses on the balance of Reserve 43379 and on Lot 6987, which could occur with the retention of the vegetation currently on the site.

Lot 100 is currently subject to a Development Application process. During the construction process, as a condition of the approval, Reserve 43379 will be able to be protected and will not be permitted to be used as part of the construction process, without Council’s consent.

It is recommended that the Council resolve the following:

A workshop of Councillors on the future use of Reserve 43379 (Lot 500)  be held, including considerations of the protection of the vegetation currently on the site and the associated cost implications.

## Councillor Mangano – Repair of damaged footpaths on Waratah Avenue

On 30 August Councillor Mangano gave notice of his intention to move the following at this meeting.

**That Council instructs the CEO to rectify recent and long-standing footpath damage on Waratah Ave, both in the shopping centre precinct and westwards to Victoria Avenue.**

Justification

1. Builders, in particular Niche Living, have damaged the footpath to such an extent that it presents a safety issue, particularly to elderly residents.
2. Subsidence where poor reinstatement work has been done.
3. Trip hazards where pits are above the level of the footpath, or pits are damaged.

The City has an obligation and duty of care to provide safe footpaths where footpaths exist.

Administration Comment

In response to the Notice of Motion for the footpath issues along Waratah Ave, Administration confirms the following:

* The City will be engaging contractors to undertake repairs from operational budgets to the broken pram ramp and adjacent panel, on the corner of Alexander Rd and School Rd.
* The works within the shopping precinct form part of this years Capital Works Program.  These works are currently in the planning phase and are scheduled to be delivered this financial year.  These works will be coordinated with the construction of 95A Waratah Ave in order to minimise the impacts to local residents and the overall quality of the road project.  As this project is partially grant funded, the Administration will be striving to ensure that the works are completed this financial year.
* Administration has prepared a cost estimate for the area along Waratah Ave (towards Victoria av) of $65,000 (excluding oncosts).  This work is not budgeted as part of the 21/22 Capital Works Program.  It is important to note that the Administration is about to commence the development of Asset Management Plans for all of the City’s Asset classes.  As part of this work the condition data for all Asset Classes will be reviewed, and a prioritised 10 year CWP will be developed.  It is recommended that no Capital Project be committed to by Council until these works are complete and adopted by Council.
* Any other areas that are inspected and determined to present an immediate safety concern by the Administration will be repaired as necessary within the existing maintenance budget.

## Councillor Mangano – Dalkeith Hall Carpark Clean Up

On 30 August 2021 Councillor Mangano gave notice of his intention to move the following at this meeting.

**That Council instruct the CEO:**

* 1. **to arrange the removal of the temporary fence erected by Pyramid from the Dalkeith Hall car park and to erect it on its own property, and the carpark is cleaned, including all soak wells and drains; and**
  2. **erect signage to deter use of the car park by Pyramid or its contractors.**

Justification

1. The car park is mess and leaves a poor impression to ratepayers of the City’s maintenance of its assets.
2. The temporary fence obstructs parking bays, and potentially could fall on parked cars.
3. The builders and their contractors are using the carpark without permission.

Administration Comment

The carpark at the Nedlands Community Care site (Carpark) is a public place under the care, control and management of the City. The temporary fencing placed within the Carpark by Pyramid Constructions (WA) Pty Ltd (Builder) is serving to prevent the public entering unsafe ground conditions in the Carpark and onto the adjoining worksite at 95A Waratah Avenue, Dalkeith (Worksite).

The building works at the Worksite include excavations up to the boundary of the Carpark and within the Carpark itself. The site conditions are such that there is no prospect of relocating the fence back onto the building site without compromising public safety. In the event Council resolved to proceed to have the fence removed from its current location, the City would have a duty of care to erect a temporary fence in the same location at its own cost in order to discharge its duty of care to the public using the Carpark.

The City is currently working with the Builder to facilitate remediation of the damage to the Carpark resulting from building activities associated with the Worksite. It is expected that remediation of the Carpark will be completed shortly, and all materials and equipment stored on the Carpark will be removed. This work was expected to be completed during the week beginning 13 September, although there has been a delay for reasons currently unknown to the City.  The Carpark repair will allow the temporary fencing to be removed, the Carpark to be further tidied, and for unimpeded use to be reinstated.

The City will then arrange inspection of all drainage infrastructure to ascertain if any remedial actions are required.

The City also notes that there are numerous activities that have been undertaken by the Builder that the City has been investigating with the intent to enforce future compliance through various options where relevant. Additionally, the City is currently investigating the installation of new signage to discourage construction vehicles from accessing the Carpark, and the installation of a surveillance camera to monitor for any unauthorised access to the Carpark.

Adoption of this Notice of Motion is not recommended as if approved, the City will be required to install new fencing at its cost.

## Councillor Mangano – Cancellation of Use of Verge Permit – 102 Adelma Road

At the Council meeting on 6 August 2021 Councillor Mangano gave notice of his intention to move the following at this meeting.

**That Council resolves that the permit to use the verge at 102 Adelma Road Dalkeith be cancelled.**

Justification

* Not leaving 1m clear for pedestrians
* No use of any traffic or pedestrian management at any time
* Damage to the city’s road surface
* Disregard for safety of the road users by blocking road without traffic management when pumping concrete
* Disregard for pedestrians generally

Administration Comment

The development approved at No 102 Adelma Road consists of three town houses on three separate lots, being two storey in height, with undercroft car parking. The developments are set back three metres from the street and are all being constructed as one. The undercroft car parking and site coverage has made construction of the dwellings without the use of the verge, all but impossible.

The permission to use the nature strip (verge) is granted under the Local Government (Uniform Local Provisions) Regulations 1996.

The permission to use the verge was first granted on 25 January 2021. For a two week period from late May to early June City officers and the builder were in communication in relation to sand and a concrete mixer being located on the verge, resulting the builder relocating the concrete mixer and tidying up the site. From this point onwards officers were closely monitoring the site and were in regular communication with the builder.

On 9 August 2021, City officers meet with the builder and a new site manager, when a commitment was made to:

* erect a new fence along the length of the verge,
* construct a drain to limit sand running off the site,
* install gates in the fence to allow supplies to be placed behind the fence when delivered.

A new nature strip (verge) permit was granted on 11 August. With the new verge permit and the new site manager, the site has been managed to the satisfaction of City officers.

The City’s approach to managing construction sites is to communicate directly with the builder / site supervisor to explain our concerns and to seek compliance via co-operation. If this fails then infringements are used.

Moving to cancel a verge permit may result in the City having to defend its decision in the State Administrative Tribunal. In that defence, consideration will be given to how reasonable was the City’s action in cancelling the permit. In this case, the question of why infringements weren’t imposed prior to the cancelling of the verge permit is likely to be raised.

Addressing the points raised in the notice of motion directly, the following responses are provided;

1. Not leaving 1m clear for pedestrians

Each time this issue has been raised with the builder, they have addressed the matter. Since the erection of the new fence in mid-August, this has not been an issue. That notwithstanding future breaches are likely to result in an infringement being issued. The issuing of infringements prior to cancellation is considered to be the most appropriate course of action.

1. No use of any traffic or pedestrian management at any time

There is a footpath on the western side of Adelma Road. Thus pedestrian movements north-south along Adelma Road have not been unreasonably restricted by the verge permit.

1. Damage to the City’s road surface

Separate to the verge permit, a bond is held by the City which covers potential damage to the City’s assets, which will be inspected after construction is completed, with the bond being used if appropriate. The existing kerb was removed on the basis of it being a trip hazard. This approach is supported by officers.

1. Disregard for safety of the road users by blocking road without traffic management when pumping concrete

A traffic management plan has recently been submitted to the City. Any breaches of the traffic management plan will result in officers issuing an infringement.

1. Disregard for pedestrians generally.

There is no footpath along this verge and as such no dedicated pedestrian access on this side of the road. The one metre separation from the kerb line, to the fence location allows pedestrians to access the street parking directly in front of the site.

The cancellation of the verge permit at this stage is not supported. The management of the site has significantly improved since mid-August. The issuing of infringements should occur prior to any cancellation of the permit.

# Council Members notices of motion given at the meeting for consideration at the following ordinary meeting on 23 November 2021

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

Notices of motion for consideration at the Council Meeting to be held on 23 November 2021 to be tabled at this point in accordance with Clause 3.9(2) of Council’s Local Law Relating to Standing Orders.

# Urgent Business Approved By the Presiding Member or By Decision

Any urgent business to be considered at this point.

# Confidential Items

Any confidential items to be considered at this point.

# Declaration of Closure

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