



City of Nedlands

Minutes

Special Council Meeting

12 March 2019

Attention

These Minutes are subject to confirmation.

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

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City of Nedlands

Minutes of a special meeting of Council held in the Council chambers, Nedlands on Tuesday 12 March 2019 at 5.30 pm for the purpose of discussing the process for signing Local Planning Scheme No. 3 and approving the LPS3 communications plan.

Declaration of Opening

The Presiding Member declared the meeting open at 5.30 pm and drew attention to the disclaimer below.

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

Present and Apologies and Leave Of Absence (Previously Approved)

Councillors	His Worship the Mayor, R M C Hipkins (Presiding Member)	
	Councillor I S Argyle	Dalkeith Ward
	Councillor W R B Hassell	Dalkeith Ward
	Councillor A W Mangano	Dalkeith Ward
	Councillor B G Hodsdon	Hollywood Ward
	Councillor J D Wetherall	Hollywood Ward
	Councillor G A R Hay	Melvista Ward
	Councillor T P James	Melvista Ward
	Councillor N W Shaw	Melvista Ward
	Councillor L J McManus	Coastal Districts Ward
	Councillor K A Smyth	Coastal Districts Ward

Staff	Mr M A Goodlet	Chief Executive Officer
	Mr P L Mickleson	Director Planning & Development
	Mr M A Glover	Director Technical Services
	Mrs N M Ceric	Executive Assistant to CEO & Mayor

Public There were 20 members of the public present.

Press The Western Suburbs Weekly representative.

Leave of Absence (Previously Approved)	Councillor C M de Lacy	Hollywood Ward
	Councillor N B J Horley	Coastal Districts Ward

Apologies Mrs L M Driscoll Director Corporate & Strategy

Disclaimer

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

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1. Public Question Time

1.1 Mr Steven Curtis, 18 Archdeacon Street, Nedlands – Local Planning Scheme 3

Question 1

On what basis does the Council believe that the Local Planning Strategy reflects the communities' vision for Nedlands? How many Nedlands residents supported the Local Planning Strategy?

Question 2

The advertising material which was issued to support the community consultation for the Local Planning Strategy depicted the Council's vision for the transition zones. This is very different from what is currently proposed for transition zones as part of LPS3. Who is accountable for the consequences of potentially misleading residents?

Question 3

There are significant misalignments between The Minister's version of LPS3 and the Local Planning Strategy. How can the Council approve the Minister's version of LPS3 while these two documents remain misaligned?

Question 4

What number (and %) of responses to LPS3 from Q1 2018 consultation were not supportive of the scheme as advertised (i.e. did not support the scheme as advertised without amendment); What proportion of the concerns raised by residents does the Minister's version of LPS3 address?

Question 5

Is the Council's Council Strategic Planning Team supportive of the Minister's version of LPS3? If so, they are in conflict with the view of the large proportion of Nedlands ratepayers and the elected members that represent them. Why should ratepayers continue to fund the City's planners working on LPS3 when they appear to be acting against the interest of ratepayers and elected members?

Question 6

Does the Council consider the failure to inform individual residents directly affected of the full implications of the zoning changes (from a low-density residential area to a target area for medium/high density redevelopment) to be a material breach of the consultation requirements?

Question 7

Do the Councillors have a free choice in tonight's vote? Has robust legal advice been provided to the Councillors on the consequences of directing the Mayor and CEO not to execute the modified Local Planning Scheme document?

Question 8

Should the Council direct the Mayor and CEO to execute the Local Planning Scheme under protest how will this be recorded? Will the Councillors still be held to account for the consequences to the community of having directed the Mayor and CEO to execute LPS3?

Question 9

How does the council intend to avoid the inevitable conflict of size, scale and front set-backs within the Transition Zones should the Council recommend to execute the Minister's LPS3 this evening?

Answers 1-9

These questions have been ruled out of order as the only item of business on the agenda is the Minister's directive in relation to LPS3 and the Community Engagement Plan.

2. Addresses by Members of the Public

Ms Sonya Derry, 38 Napier Street, Nedlands Item 6
(spoke in relation to LPS3)

Mr Peter Plaisted, 22 Vincent Street, Nedlands Item 6
(spoke in support of the recommendation)

Mr Guy Churchill, 67 Hardy Road, Nedlands Item 6
(spoke in opposition to the recommendation)

3. Disclosures of Financial Interest

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

There were no disclosures of financial interest.

4. Disclosures of Interests Affecting Impartiality

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

There were no disclosures affecting impartiality.

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

Nil.

6. Local Planning Scheme 3 – Process for approval

Council	12 March 2019
Applicant	City of Nedlands
Officer	Aron Holbrook – Coordinator Strategic Planning
Director	Peter Mickleson – Director Planning and Development Services
Attachments	<ol style="list-style-type: none"> 1. Simplified flow-chart for the preparation of a new local planning scheme 2. Detailed flow-chart for the preparation of a new local planning scheme 3. Extract from <i>Planning and Development Act 2005 & Planning and Development (Local Planning Schemes) Regulation 2015</i> 4. DPLH advice 5. Email, Memo & Legal Advice (CONFIDENTIAL)

Regulation 11(da) – Council determined that the resolution was sufficient to comply with the order from the Minister.

Moved – Mayor Hipkins

Seconded – Councillor Hassell

Council Resolution

Council directs the Chief Executive Officer to forward two copies of the modified scheme documents, as required by the Minister, as specified by the Western Australian Planning Commission in its communication to the City dated 1 February 2019, in accordance with section 87 of the *Planning and Development Act 2005*.

CARRIED 6/5
(Against: Crs. Argyle Mangano Hodsdon McManus & Smyth)

Recommendation to Council

Council directs the Mayor and Chief Executive Officer to execute the modified local planning scheme documents and apply the City seal, as required by regulation 31(2)(b) of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

1. Executive Summary

This report discusses the process for the approval of a local planning scheme and outlines the steps to be taken by a local government in that process.

The report explains the City's current position in making modifications to the scheme as directed by the Minister and the purpose behind executing (signing and sealing) the modified scheme.

Advice from the Department of Planning, Lands & Heritage and legal advice is being obtained and its implications also discussed.

The conclusion is that the City is required to consent to the modifications and modify the scheme as directed, execute the modified documents to confirm the modifications have been carried out and return those executed documents to the Minister.

Failure to do so is a breach of the *Planning and Development Act 2005 & Planning and Development (Local Planning Schemes) Regulations 2015*.

The Minister has the power to order the City or to take the necessary actions to cause the Scheme to be modified and approved, published in the *Gazette* and to therefore come into force and effect under the *Planning and Development Act 2005* should the local government fail to perform its functions.

2. Discussion/Overview

1. Key Relevant Previous Council Decisions

Item 7 – Draft Local Planning Scheme No. 3 - Special Council Minutes 13 December 2016

'Council adopts draft Local Planning Scheme No. 3 in accordance with r. 21(1) of the *Planning and Development (Local Planning Schemes) Regulations 2015* and proceeds to advertise with modifications.'

Item 5 – Draft Local Planning Scheme No. 3 - Special Council Minutes 31 July 2018

'Council resolves to not support draft Local Planning Scheme 3.'

2. Regulatory process

The process for the preparation, advertising, modification and approval of a local planning scheme is set out in the *Planning and Development Act 2005* and *Planning and Development (Local Planning Schemes) Regulations 2015*.

See Attachment 1 for a simplified flowchart for the preparation of a new local planning scheme and Attachment 2 for a detailed flow-chart for the preparation of a new local planning scheme (both flow-charts are produced by the Department of Planning, Lands & Heritage).

Attachment 3 is an extract from the *Planning and Development Act 2005* and *Planning and Development (Local Planning Schemes) Regulations 2015*.

Applicable clauses have been listed and the actions specific to the development of Local Planning Scheme 3 provided, along with the date these actions were undertaken.

Process	Legislative Clause	Date Occurred
Draft Local Planning Scheme 3 adopted by Council (to proceed to advertise) with modifications.	r.21 (1)(b)	13 December 2016
WAPC advises that the Scheme has been considered and requires modifications prior to advertising.	r.21 (4)	October 2017
Advertising commences on draft Local Planning Scheme 3	s.84 & r.22	November 2017
Advertising closes on draft Local Planning Scheme 3	s.84 & r.22	April 2018
Consideration of submissions and resolution not to support the draft scheme.	r.25 (3)	31 July 2018
Provide Commission the advertised Scheme along with submissions, Councils response to submissions and resolution under r.25 (3).	r.28	July 2018
Commission to make recommendation to the Minister on the draft Scheme.	s.87(1) & r.29	11 December 2018
Minister may require the local government to modify the Scheme in such manner as the Minister specifies before the Scheme is resubmitted for the Ministers approval.	s.87 (2)	1 February 2019

We are currently here: The Local Government must: (a) modify the draft scheme as required (b) execute the modified local planning scheme documents; and (c) submit to the Minister a copy of the executed documents	r.31(2)	March 2019
Next Steps Minister may approve, require modifications or refuse to approve the local planning scheme.	s.87 (2)	March 2019
If Scheme approved, the local government must provide to the Commission 2 copies of the local Planning Scheme documents that have been executed by the local government.	r.31(3)	April 2019
Commission to endorse copies of Scheme.	r.32(1)	April / May 2019
Minister must endorse with the Ministers approval and return it to the Commission.	r.32(2)	April / May 2019
The Commission is to cause the scheme to be published in the <i>Gazette</i> .	s87(3)	April / May 2019
A local planning scheme or amendment to a local planning scheme, when approved by the Minister and published in the <i>Gazette</i> , has full force and effect as if it were enacted by this Act.	s.87(4)	April / May 2019

3. Our current position

The Minister has acted under s.87(2)(b) of the Act to require the local government to modify the local planning scheme in such manner as the Minister specifies. The local government is to make the modification and resubmit the scheme to the Minister.

The regulations provide further instruction under r. 31(2) that within 42 days of being notified under section s.87(2)(b) the local government must:

- (a) modify the draft scheme as required;
- (b) execute the modified local planning scheme documents; and

- (c) submit to the Minister a copy of the executed documents.

Administration have carried out the modifications as required under part (a).

The Mayor & CEO are to carry out part (b) by executing the modified documents.

Following which, Administration will submit the documents to the Minister as per part (c).

Executing Documents

The key operative term in this process is that the local government must 'execute' the modified local planning scheme documents.

To execute a document is to apply the City's seal in the presence of the Mayor and CEO, and, both must sign that they attest that the seal was applied.

This is set out in the Local Government Act which states:

9.49A. Execution of documents

- (1) A document is duly executed by a local government if —
- (a) the common seal of the local government is affixed to it in accordance with subsections (2) and (3); or
 - (b) it is signed on behalf of the local government by a person or persons authorised under subsection (4) to do so.
- (2) The common seal of a local government is not to be affixed to any document except as authorised by the local government.
- (3) The common seal of the local government is to be affixed to a document in the presence of —
- (a) the mayor or president; and
 - (b) the chief executive officer or a senior employee authorised by the chief executive officer, each of whom is to sign the document to attest that the common seal was so affixed.

Purpose to executing the documents

Advice received from the Department of Planning, Lands and Heritage states that the requirement to execute the documents in regulation 31(2)(b) of the P&D Regs is an administrative action only, whereby the local government executes the modified Local Planning Scheme documents as confirmation that the documents have been modified as directed. See Attachment 4.

Further, DPLH advise that if modifications are not undertaken as directed the *Planning and Development Act 2005* provides for the Minister to take action to have the Local Planning Scheme published in the *Gazette* and become operational.

4. Should Council resolve not to execute the documents

In the instance that Council resolves not to execute the documents, legal advice (obtained verbally, written advice to follow prior to meeting) advises that this would be interpreted as the local government refusing to consent to any modifications imposed by the Minister under section 76(1)(c).

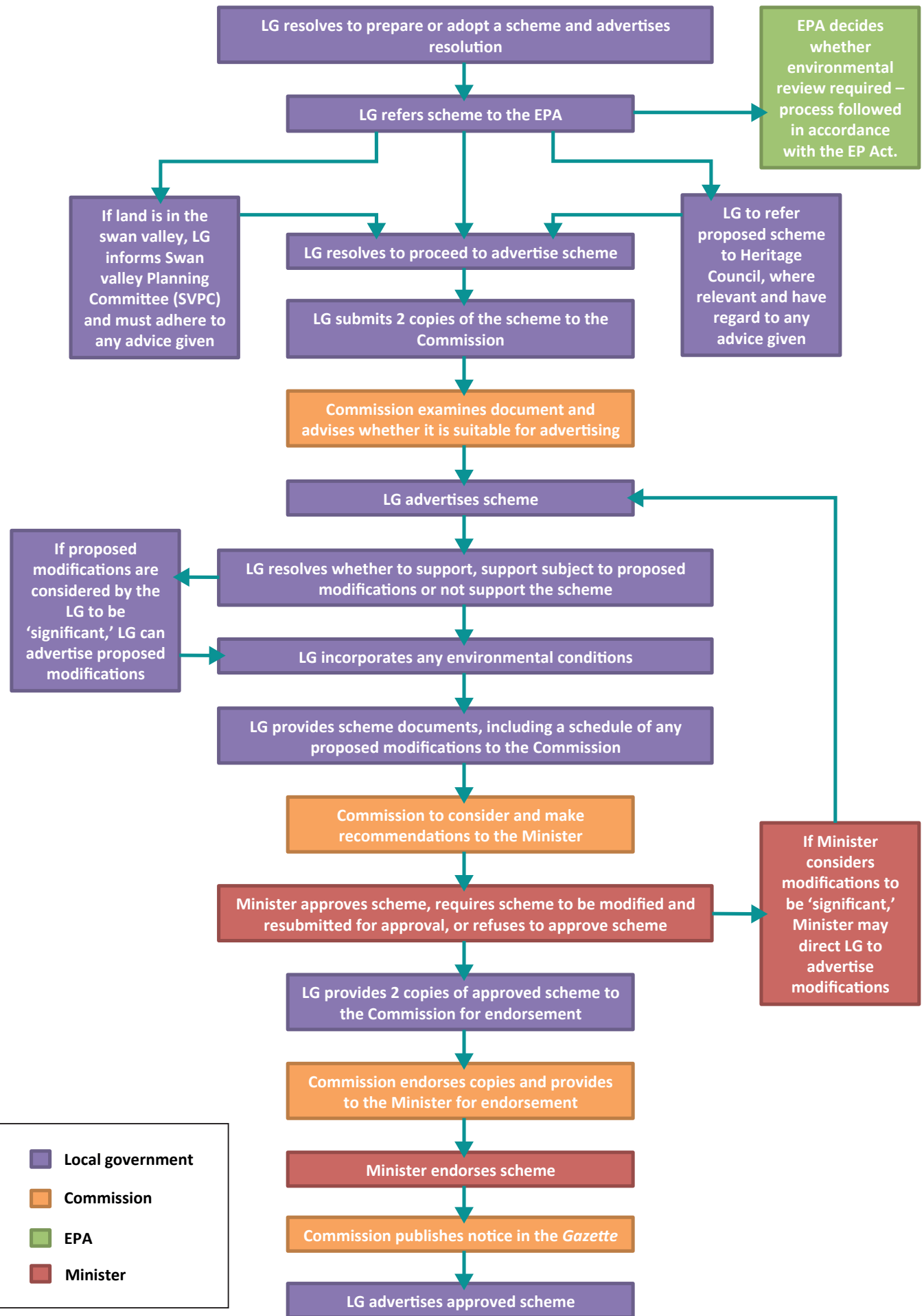
The legal advice suggests the following steps under the *Planning and Development Act 2005* would be applicable:

Process	Legislative Clause
The Minister may require the local government to modify the local planning scheme in such manner as the Minister specifies, before the local planning scheme is resubmitted for the Minister's approval.	s.87(2)(b)
If the Minister is satisfied that a local government has refused to consent to any modifications imposed by the Minister, the Minister may order the local government to consent to the modifications.	s.76(1)(c)
If the local government fails to comply with the order, the Minister may serve written notice on the local government.	s.212(1)(a) & s.212(2)
If the local government does not comply with the written notice, the Minister may take all such steps as are necessary for compliance with the requirement as if the Minister were the local government.	s.212(3)
The Minister may order the local government to provide reports or other information as is necessary.	s.212(4)
All costs, charges and expenses incurred by the Minister in the exercise of any powers conferred by subsection (3) may be recovered from the local government	s.212(7)

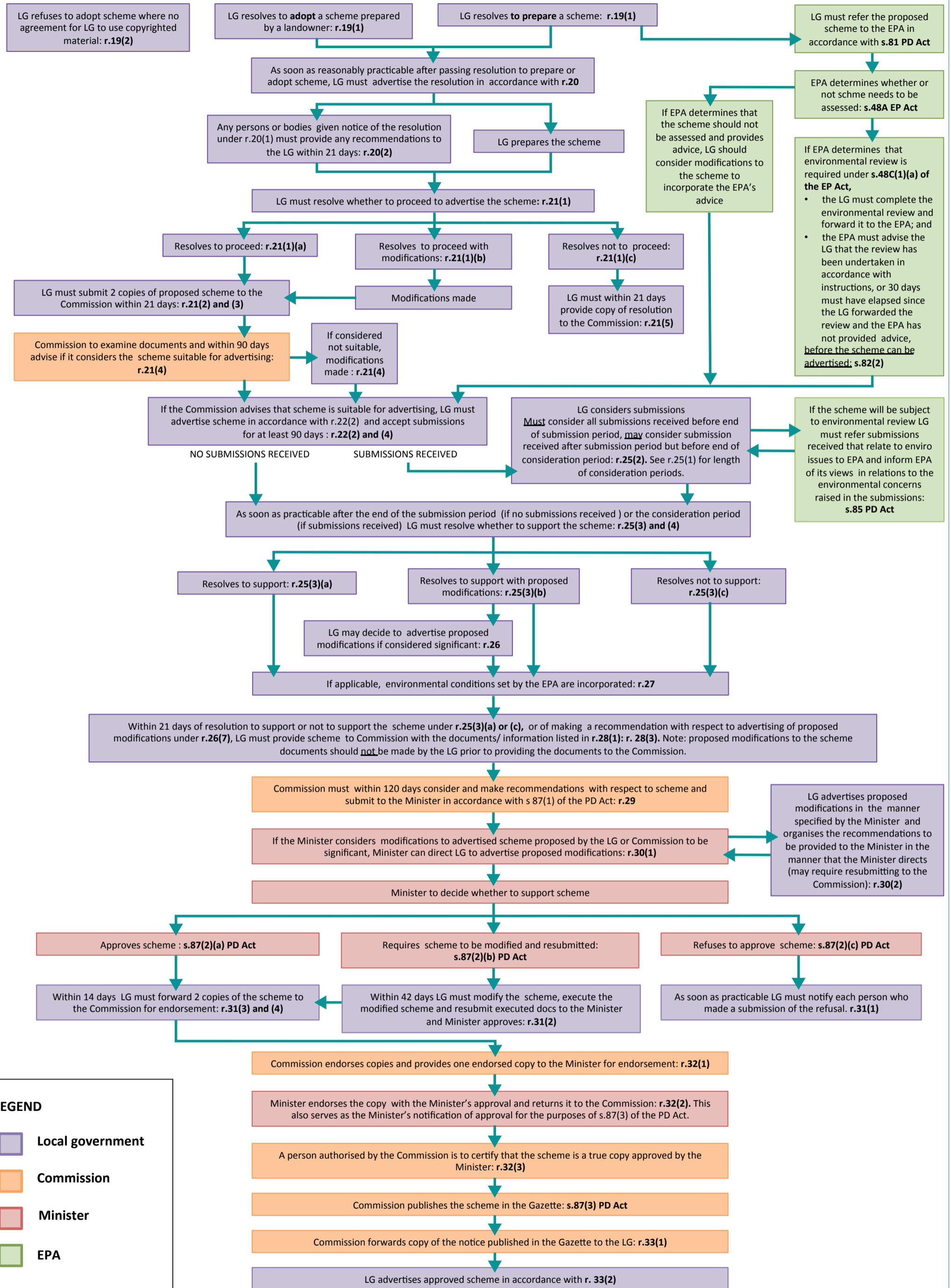
5. Breach of Act and failure to govern

Further to the above, the legal advice also advises Council that should it fail to perform its regulatory functions as set out in the *Planning and Development Act* and *Planning and Development (Local Planning Schemes) Regulations 2015* it could be taken that the Minister perceives the Council as not being fit to govern. In this circumstance the Planning Minister may seek intervention by the Local Government Minister to remove a Council that is not capable of fulfilling its regulatory functions.

Simplified preparation or adoption of a new local planning scheme flowchart



Process for preparation or adoption of new local planning schemes flowchart



LEGEND

- Local government
- Commission
- Minister
- EPA

Part 5 — Local planning schemes

Division 1 — Continuation and formulation of local planning schemes

68. Town planning schemes under repealed Act, effect of

- (1) Any town planning scheme in force under the *Town Planning and Development Act 1928* on the day on which this section comes into operation —
 - (a) continues in force as a local planning scheme under this Act; and
 - (b) has effect as if it were enacted by this Act.
- (2) Except as provided in section 257B(3), nothing in this Act affects the validity of a town planning scheme continued under subsection (1).

[Section 68 amended: No. 28 of 2010 s. 53.]

69. General objects of schemes

- (1) A local planning scheme may be made under this Act with respect to any land —
 - (a) with the general objects of making suitable provision for the improvement, development and use of land in the local planning scheme area; and
 - (b) making provision for all or any of the purposes, provisions, powers or works referred to in Schedule 7.
- (2) With those objects a local planning scheme may provide for planning, replanning, or reconstructing, the whole or any part of the local planning scheme area.
- (3) This section applies subject to section 256 and the regulations made under it and sections 257A and 257B.

[Section 69 amended: No. 28 of 2010 s. 54.]

70. Scheme may be made for land outside scheme or be concurrent with another scheme

- (1) Nothing in this Act prevents —
 - (a) a local planning scheme from being made with respect to land comprised in another local planning scheme; or
 - (b) subject to subsection (2), 2 or more local planning schemes from having force and effect concurrently with respect to any land.
- (2) The zoning of land in an area to which a local planning scheme applies is not to be provided for in more than one local planning scheme applicable to that area.

71. Scheme not to apply to redevelopment area

A local planning scheme must not be made or amended under this Act —

- (a) except as provided in the *Metropolitan Redevelopment Authority Act 2011* sections 57 and 58 and without limiting section 51 of that Act, to make any provision in respect of any land to which an approved redevelopment scheme that is in operation under that Act applies; or
- (b) without limiting the *Hope Valley-Wattleup Redevelopment Act 2000* section 23, to make any provision in respect of land in the redevelopment area as defined in that Act.

[Section 71 inserted: No. 45 of 2011 s. 141(5).]

72. Local government may prepare or adopt scheme

- (1) Subject to section 71, a local government may —
 - (a) prepare a local planning scheme with reference to any land within its district, or with reference to land within its district and other land within any adjacent district; or
 - (b) adopt, with or without modifications, a local planning scheme proposed by all or any of the owners of any land

with respect to which the local government might itself have prepared a scheme.

- (2) A local government and another local government may —
- (a) jointly prepare a local planning scheme with respect to land that is partly in the district of the first-mentioned local government and partly in the district of the other local government; or
 - (b) jointly adopt, with or without modifications, a local planning scheme proposed by all or any of the owners of any land with respect to which the local governments might themselves have prepared a scheme.
- (3) Where a local planning scheme is prepared or adopted under subsection (2) a reference in this Act to the local government or responsible authority that is preparing or has prepared the scheme is to be read as a reference to the local governments that join in the preparation or adoption of the scheme.

73. Contents of scheme

- (1) A local planning scheme is to —
- (a) define in such manner as may be prescribed by the regulations the area to which the scheme is to apply;
 - (b) specify the local government to be responsible for enforcing the observance of the scheme, and for the execution of any works which, under the scheme or this Act, are to be executed by a local government.
- (2A) A local planning scheme may —
- (a) supplement provisions prescribed under section 256; and
 - (b) deal with any special circumstances or contingencies for which adequate provisions are not prescribed under section 256.
- (2) Where land included in a local planning scheme is in the districts of more than one local government, or is in the district of a local government by which the scheme was not prepared,

the responsible authority in relation to the local planning scheme may be one of those local governments, or for certain purposes of the scheme one local government, and for other purposes of the scheme another local government.

[Section 73 amended: No. 28 of 2010 s. 55.]

74. Repealing scheme

A local planning scheme may be repealed by —

- (a) a subsequent local planning scheme; or
- (b) an instrument of repeal prepared by the local government, approved by the Minister and published in the *Gazette*.

75. Amending scheme

A local government may amend a local planning scheme with reference to any land within its district, or with reference to land within its district and other land within any adjacent district, by an amendment —

- (a) prepared by the local government, approved by the Minister and published in the *Gazette*; or
- (b) proposed by all or any of the owners of any land in the scheme area, adopted, with or without modifications, by the local government, approved by the Minister and published in the *Gazette*.

Division 2 — Minister's powers in relation to local planning schemes

76. Minister may order local government to prepare or adopt scheme or amendment

- (1) If the Minister is satisfied on any representation that a local government —
 - (a) has failed to take the requisite steps for having a satisfactory local planning scheme or an amendment to a local planning scheme prepared and approved in a case

where a local planning scheme or an amendment to a local planning scheme ought to be made; or

- (b) has failed to adopt a local planning scheme or an amendment to a local planning scheme proposed by owners of any land, in a case where a local planning scheme or an amendment to a local planning scheme ought to be adopted; or
- (c) has refused to consent to any modifications or conditions imposed by the Minister,

the Minister may order the local government, within such time as is specified in the order, to prepare and submit for the approval of the Minister a local planning scheme, or an amendment to a local planning scheme or to adopt a local planning scheme, or an amendment to a local planning scheme or to consent to the modifications or conditions imposed.

- (2) If the representation under subsection (1) is that a local government has failed to adopt a local planning scheme or an amendment to a local planning scheme, the Minister, in lieu of making an order to adopt the scheme or amendment, may approve of the proposed scheme or amendment subject to such modifications and conditions, if any, as the Minister thinks fit.
- (3) A local planning scheme or an amendment approved under subsection (2) has effect as if it had been adopted by the local government and approved by the Minister under this Part.
- (4) The Minister must ensure that written reasons for making an order under subsection (1) are provided with the order.
- (5) The Minister must, as soon as is practicable after an order is given to the local government under subsection (1), cause to be laid before each House of Parliament or dealt with under section 268A —
 - (a) a copy of the order; and
 - (b) a copy of the reasons for making the order.

[Section 76 amended: No. 28 of 2010 s. 56(1)-(3); No. 45 of 2011 s. 141(6).]

77A. Minister may order local government to amend scheme to be consistent with State planning policy

- (1) The Minister may, on the recommendation of the Commission, order a local government to prepare and submit for the approval of the Minister an amendment to a local planning scheme for the purpose of rendering the local planning scheme consistent with a specified State planning policy.
- (2) The order must specify the following —
 - (a) the relevant State planning policy;
 - (b) the amendments that are to be made to the local planning scheme;
 - (c) the time (being sufficient time to allow the local government to comply with its obligations under Divisions 3 and 4) by which the local government must comply with the order.
- (3) The Minister must, as soon as is practicable after the order is given to the local government, cause a copy of the order to be laid before each House of Parliament or dealt with under section 268A.
- (4) If —
 - (a) the Commission makes a recommendation for the purposes of subsection (1); and
 - (b) the Minister decides not to make an order pursuant to the recommendation,

the Minister must, as soon as is practicable —

- (c) give the Commission written reasons for the Minister's decision; and
- (d) cause a copy of the reasons to be laid before each House of Parliament or dealt with under section 268A.

[Section 77A inserted: No. 28 of 2010 s. 46.]

Division 3 — Relevant considerations in preparation or amendment of local planning scheme

77. State planning policies, effect of on scheme

- (1) Every local government in preparing or amending a local planning scheme —
 - (a) is to have due regard to any State planning policy which affects its district; and
 - (b) may include in the scheme a provision that a specified State planning policy, with such modifications as may be set out in the scheme, is to be read as part of the scheme, or a provision however expressed to the same effect.
- (2) Where a scheme includes a provision referred to in subsection (1)(b) —
 - (a) the scheme is to have effect as if the State planning policy, as from time to time amended, or any subsequent policy by which it is repealed under this Act, were set out in full in the scheme; and
 - (b) the State planning policy is to have effect as part of the scheme subject to any modifications set out in the scheme.
- (3) Modifications referred to in subsection (2)(b) prevail over any later amendment of the State planning policy, or subsequent policy referred to in subsection (2)(a), which is inconsistent with the modifications.

78. Proposed scheme for Swan Valley, consultation requirements for

- (1) If the City of Swan resolves to prepare or adopt a local planning scheme, or an amendment to a local planning scheme, that would apply to land in the Swan Valley, that City, before the scheme or the amendment is advertised for public inspection under the regulations, is to refer the proposed scheme or amendment to the Swan Valley Planning Committee.

- (2) The Swan Valley Planning Committee, within 42 days after the day on which it receives the referral, or within such longer period as the City of Swan allows, is to give to the City its written advice on the proposed scheme or amendment, including any modifications it thinks should be made.
- (3) If the Swan Valley Planning Committee fails to give its advice within the time allowed under subsection (2), it is to be taken to have no advice to give on the proposed scheme or amendment.
- (4) The Commission may, at the request of the City of Swan, approve of the City disregarding the Committee's advice in whole or in part in preparing the scheme or amendment.
- (5) Subject to any approval under subsection (4), the City of Swan is to prepare the local planning scheme or the amendment in accordance with any advice given by the Swan Valley Planning Committee under this section.

79. Heritage Council's advice to be sought in some cases

If an entry in the Register or on any inventory maintained under section 45 or 46 of the *Heritage of Western Australia Act 1990* relates to land or waters that are within or abut a local government district, the local government in preparing or amending a local planning scheme —

- (a) is to refer the proposed scheme or amendment to the Heritage Council for advice in so far as any proposal under that scheme or amendment affects or may affect any such land or waters; and
- (b) is to have regard to any advice given; and
- (c) is not to proceed, without the consent of the Minister, with the proposal unless or until that advice has been received.

80. Swan and Canning Rivers management programme, effect of

If a strategic document in force under the *Swan and Canning Rivers Management Act 2006* Part 4 relates to land or waters

that are within or abut the district of a local government referred to in Schedule 7 of that Act, the local government in preparing or amending a local planning scheme is to have due regard to that management programme.

[Section 80 amended: No. 52 of 2006 s. 6.]

81. Proposed scheme or amendment to be referred to EPA

When a local government resolves to prepare or adopt a local planning scheme, or an amendment to a local planning scheme, the local government is to forthwith refer the proposed local planning scheme or amendment to the EPA by giving to the EPA —

- (a) written notice of that resolution; and
- (b) such written information about the local planning scheme or amendment as is sufficient to enable the EPA to comply with section 48A of the EP Act in relation to the local planning scheme or amendment.

82. Environmental review, when required etc.

- (1) When the EPA has acted under section 48C(1)(a) of the EP Act in relation to a proposed local planning scheme or a proposed amendment to a local planning scheme, the local government concerned, if it wishes to proceed with that local planning scheme or amendment, is to undertake, or cause under subsection (5) to be undertaken, an environmental review of that local planning scheme or amendment in accordance with the relevant instructions issued under that section.
- (2) The local government is not to advertise that local planning scheme or amendment under section 84 until —
 - (a) the local government has forwarded the environmental review to the EPA; and
 - (b) the EPA has advised that that review has been undertaken in accordance with those instructions, or 30 days have elapsed since that forwarding without the EPA having advised whether or not that review has been

undertaken in accordance with those instructions, whichever first occurs.

- (3) If the EPA has advised that the review has not been undertaken in accordance with the relevant instructions issued under section 48C(1)(a) of the EP Act, the local government may —
- (a) comply with subsection (1) in respect of the local planning scheme or amendment concerned; or
 - (b) request the Minister to consult the Minister for the Environment and, if possible, agree with that Minister on whether or not the review has been undertaken in accordance with those instructions.
- (4) If the Minister, having complied with a request made under subsection (3), and the Minister for the Environment —
- (a) agree on whether or not the review has been undertaken in accordance with the relevant instructions, their decision is final and without appeal or review; or
 - (b) cannot so agree, section 48J of the EP Act applies.
- (5) If —
- (a) the resolution to prepare or adopt a local planning scheme, or an amendment to a local planning scheme, referred to in subsection (1) was passed at the request of the owner of land to which that local planning scheme or amendment relates; and
 - (b) the local government referred to in that subsection by written notice served on that owner requests the owner to undertake an environmental review of that local planning scheme or amendment in accordance with the relevant instructions issued under section 48C(1)(a) of the EP Act; and
 - (c) that owner wishes that local planning scheme or amendment to proceed,

the owner is to undertake the environmental review and forward that review to that local government.

- (6) The local government may, in accordance with regulations made under section 259, recover the expenses incurred by the local government in undertaking an environmental review in accordance with instructions issued under section 48C(1)(a) of the EP Act.

83. Consultation requirements

A local government, before submitting a local planning scheme or amendment to the Minister under section 87, is to make reasonable endeavours to consult in respect of the local planning scheme or amendment such public authorities and persons as appear to the local government to be likely to be affected by the local planning scheme or amendment.

Division 4 — Advertisement and approval

84. Advertising proposed scheme or amendment

After compliance with sections 81 and 82, a local planning scheme prepared or adopted, or an amendment to a local planning scheme prepared or adopted, by a local government, is to be advertised for public inspection in accordance with the regulations.

85. Local government's duties if proposed scheme or amendment to be assessed under EP Act

- (1) When a local government has been informed under section 48A(1)(b)(i) of the EP Act that a proposed local planning scheme or amendment should be assessed by the EPA under Part IV Division 3 of the EP Act, the local government is to —
- (a) as soon as practicable, but in any event within 7 days after the expiry of the period during which that local planning scheme or amendment is advertised under section 84, transmit to the EPA a copy of each submission —
 - (i) made during that period; and

- (ii) relating wholly or in part to environmental issues raised by that local planning scheme or amendment;

and

- (b) within 42 days, or such longer period as the Minister allows, after the expiry of the period referred to in paragraph (a) inform the EPA of its views on and response to the environmental issues referred to in paragraph (a) and received within that period.

86. Minister not to approve proposed scheme or amendment in some cases

The Minister is not to approve under section 87(2) of a proposed local planning scheme or amendment referred to the EPA under section 81 if the Minister has reached agreement with the Minister for the Environment under section 48A(2)(b) of the EP Act, or until —

- (a) the Minister is informed under section 48A(1)(a) of the EP Act that the EPA considers that that local planning scheme or amendment should not be assessed by the EPA under Part IV Division 3 of the EP Act; or
- (b) the Minister has received a statement under section 48F(2), or a decision has been made under section 48J, of the EP Act in respect of the conditions, if any, to which that local planning scheme or amendment is subject; or
- (c) the period of 28 days referred to in section 48A(1)(b)(i) of the EP Act has expired without the EPA having informed the local government under that section,

whichever first occurs, and the Minister is satisfied that the conditions, if any, to which that amendment is subject have been incorporated into that local planning scheme or amendment.

87. Approving and publicising scheme or amendment

- (1) Subject to section 83, after advertisement under section 84 and compliance with sections 85 and 86, a local planning scheme

prepared or adopted, or an amendment to a local planning scheme prepared or adopted, by a local government is to be submitted to the Minister for the approval of the Minister.

- (2) The Minister may, in relation to a local planning scheme or amendment submitted to the Minister under subsection (1) —
 - (a) approve of that local planning scheme or amendment; or
 - (b) require the local government concerned to modify that local planning scheme or amendment in such manner as the Minister specifies before the local planning scheme or amendment is resubmitted for the Minister's approval under this subsection; or
 - (c) refuse to approve of that local planning scheme or amendment.
- (3) When the Minister notifies the Commission that the Minister has approved a local planning scheme or an amendment to a local planning scheme, the Commission is to cause the scheme or amendment to be published in the *Gazette*.
- (4A) Any costs incurred by the Commission in publishing a scheme or amendment under subsection (3) may be recovered by the Commission from the local government which prepared or adopted the scheme or amendment as a debt due to the Crown.
- (4B) When the Minister has approved a local planning scheme or an amendment to a local planning scheme, the local government which prepared or adopted the scheme or amendment is to —
 - (a) advertise the scheme or amendment in accordance with the regulations; and
 - (b) ensure that copies of the scheme or amendment are available to the public.
- (4) A local planning scheme or amendment to a local planning scheme, when approved by the Minister and published in the *Gazette*, has full force and effect as if it were enacted by this Act.

- (5) It is sufficient compliance with subsection (3) if a local planning scheme or amendment to a local planning scheme is published in the *Gazette* without any maps, plans or diagrams which form part of the local planning scheme or amendment.

[Section 87 amended: No. 28 of 2010 s. 57.]

Division 5 — Review of local planning schemes

88. Consolidated scheme, when to be prepared

- (1) For the purposes of section 90, a local government by which a local planning scheme was prepared is to prepare a consolidation of the scheme incorporating all the amendments that have been made to the scheme and are of effect on the day on which the resolution to prepare the consolidation is made.
- (2) The consolidation is to be prepared —
- (a) in the fifth year after approval was given to the scheme by the Minister under section 87; and
 - (b) in the case of a scheme in respect of which a consolidation has been published in the *Gazette* under this Part, in the fifth year after the consolidation of the scheme was last so published; and
 - (c) in the case of a scheme in respect of which an exemption is granted under subsection (4)(b) or section 91(3), in the fifth year after the notice of exemption was published in the *Gazette*.
- (3) Despite subsections (1) and (2), a local government is not required to prepare a consolidation of the scheme if the local government resolves instead to prepare a new scheme in substitution for that scheme.
- (4) Despite subsections (1) and (2), the Minister may at any time, by notice in the *Gazette* —
- (a) direct the local government by which a local planning scheme was prepared to prepare, within the period specified in the notice, a consolidation of the scheme; or

Part 4 — Preparation or adoption of local planning scheme

Division 1 — Proposal to prepare or adopt local planning scheme

19. Resolution to prepare or adopt scheme

- (1) A resolution of a local government to prepare or adopt a local planning scheme must be in a form approved by the Commission.

Note for this subregulation:

Section 72(1) of the Act provides for a local government to prepare a local planning scheme or to adopt a local planning scheme proposed by the owners of land in respect of which the local government might have prepared a scheme.

- (2) The local government may resolve not to adopt a local planning scheme proposed by a landowner if the local government is not satisfied that there is in place an agreement for the local government to use any copyrighted material provided in support of the proposed scheme —
- (a) for the purpose of preparing and implementing the scheme; and
 - (b) for zero remuneration.

20. Notification of resolution

- (1) A local government must, as soon as is reasonably practicable after passing a resolution to prepare or adopt a local planning scheme, advertise the resolution as follows —
- (a) publish a notice in a form approved by the Commission in a newspaper circulating in the district of the local government;
 - (b) provide a copy of the published notice to the following persons or bodies for recommendations —

- (i) the local government of each district that adjoins the local government district;
- (ii) each licensee under the *Water Services Act 2012* likely to be affected by the scheme;
- (iii) the chief executive officer of the department of the Public Service principally assisting in the administration of the *Conservation and Land Management Act 1984*;
- (iv) each other public authority likely to be affected by the scheme.

Note for this subregulation:

Under section 81 of the Act written notice of the resolution and written information about the local planning scheme must be given to the EPA.

- (2) A local government must, on the provision of the published notice to a person or body referred to in subregulation (1)(b), request the person or body to provide to the local government within 21 days or such longer period as the local government allows, a memorandum in writing setting out any recommendations in respect of the resolution.
- (3) If a person or body does not provide a memorandum within the time allowed under subregulation (2), the local government may determine that the person or body is to be taken to have no recommendations to make in respect of the resolution.

Division 2 — Advertising local planning scheme

21. Resolution to proceed to advertise draft local planning scheme

- (1) On completion of the preparation of local planning scheme documents or the consideration of local planning scheme documents proposed by an owner of land in the scheme area, a local government must resolve —
 - (a) to proceed to advertise the draft local planning scheme without modification; or

- (b) to proceed to advertise the draft local planning scheme with modifications; or
 - (c) not to proceed to advertise the draft local planning scheme.
- (2) If the local government resolves to proceed to advertise a draft local planning scheme the local government must, before advertising the scheme, submit 2 copies of the draft local planning scheme documents to the Commission.
- (3) The documents referred to in subregulation (2) must be submitted within 21 days of the local government resolution or such longer period as the Commission allows.
- (4) The Commission must, within 90 days or such longer period as the Minister or an authorised person allows, of receiving the documents submitted under subregulation (2), examine the documents and advise the local government if the Commission considers that any modification to the documents is required before the draft local planning scheme is advertised.
- (5) If the local government resolves not to proceed to advertise a draft local planning scheme the local government must, within 21 days or such longer period as the Commission allows, provide a copy of the resolution to the Commission.

22. Advertisement of local planning scheme

- (1) Subject to sections 81 and 82 of the Act, if the Commission advises a local government that it is satisfied that a draft local planning scheme submitted by the local government is suitable to be advertised, the local government must, as soon as is reasonably practicable, prepare a notice in a form approved by the Commission giving details of —
 - (a) the purpose of the draft scheme; and
 - (b) where the draft scheme may be inspected; and
 - (c) to whom and during what period submissions in respect of the draft scheme may be made.

- (2) On completion of the preparation of the notice, the local government must advertise the draft local planning scheme for public inspection as follows —
- (a) publish the notice in a newspaper circulating in the scheme area;
 - (b) display a copy of the notice in the offices of the local government for the period for making submissions set out in the notice;
 - (c) give a copy of the notice to each public authority that the local government considers is likely to be affected by the scheme;
 - (d) publish a copy of the notice and the draft scheme on the website of the local government;
 - (e) advertise the draft scheme as directed by the Commission and in any other way the local government considers appropriate.
- (3) The local government must ensure that arrangements are in place for the local planning scheme documents to be made available for inspection by the public during office hours —
- (a) at the office of the local government; and
 - (b) at the office of the Commission.
- (4) The period for making submissions set out in the notice referred to in subregulation (1) must be not less than —
- (a) a period of 90 days commencing on the day on which the notice is published under subregulation (2)(a); or
 - (b) if the draft local planning scheme does not involve the zoning or classification of land — a shorter period approved by the Commission.

23. Land owner may be required to pay costs of publication

The local government may require a person to pay the cost of the publication of a notice under regulation 22(2) if —

- (a) the notice relates to a draft local planning scheme in respect of land owned by the person; and
- (b) the person proposed the draft scheme.

24. Submissions on local planning scheme

- (1) A submission on a draft local planning scheme must —
 - (a) be made to the local government in a form approved by the Commission; and
 - (b) state the name and address of the person making the submission; and
 - (c) include a statement about the capacity in which the person makes the submission.
- (2) A local government must acknowledge in writing the receipt of each submission received by it.

25. Consideration of submissions

- (1) In this regulation —

consideration period, in relation to a draft local planning scheme, means the period ending on the latest of the following days —

 - (a) the day that is 120 days after the end of the submission period for the draft scheme;
 - (b) the day that is 21 days after the receipt of a statement in respect of the draft scheme delivered under section 48F(2)(a) of the EP Act;

- (c) the day that is 21 days after the receipt of a statement in respect of the draft scheme delivered under section 48G(3) of the EP Act if that statement is in response to a request by the local government made under section 48G(1) of the EP Act before the later of the days set out in paragraphs (a) and (b);
- (d) a day approved by the Commission;

submission period, in relation to a draft local planning scheme, means the period for making submissions specified in the notice in respect of the draft scheme referred to in regulation 22(1).

- (2) The local government —
 - (a) must consider all submissions on a draft local planning scheme lodged with the local government within the submission period; and
 - (b) may, at the discretion of the local government, consider submissions on a draft scheme lodged after the end of the submission period but before the end of the consideration period.
- (3) Before the end of the consideration period for a draft local planning scheme, or a later date approved by the Commission, the local government must pass a resolution —
 - (a) to support the draft scheme without modification; or
 - (b) to support the draft scheme with proposed modifications to address issues raised in the submissions; or
 - (c) not to support the draft scheme.
- (4) If no submissions have been received within the submission period, the resolution referred to in subregulation (3) must be passed as soon as is reasonably practicable after the end of the submission period.

26. Local government may advertise proposed modifications to draft local planning scheme

- (1) The local government may decide to advertise a proposed modification to the draft local planning scheme if —
 - (a) the local government proposes the modification to address issues raised in submissions made on the draft scheme; and
 - (b) the local government is of the opinion that the proposed modifications are significant.
- (2) If a local government makes a decision under subregulation (1) the local government must take any steps the local government considers appropriate to advertise the proposed modification to the draft local planning scheme.
- (3) A proposed modification to a draft local planning scheme may not be advertised on more than one occasion without the approval of the Commission.
- (4) Any advertisement of a proposed modification to the draft local planning scheme must include a notice specifying —
 - (a) the proposed modifications to be made to the advertised local planning scheme; and
 - (b) where the advertised scheme and the proposed modifications may be inspected; and
 - (c) to whom and during what period submissions may be made; and
 - (d) the manner and form in which submissions may be made.
- (5) The period for making submissions specified in the notice referred to in subregulation (4) must be a period of not less than 60 days commencing on the day on which the notice is first given or a longer period approved by the Commission.

- (6) A person may make a submission on a proposed modification to a draft local planning scheme that has been advertised in accordance with subregulation (2) —
- (a) in the manner and form specified in the notice; and
 - (b) within the period specified in the notice.
- (7) If a proposed modification to a draft local planning scheme is advertised in accordance with this regulation, a local government —
- (a) must consider all submissions on the proposed modification made to the local government within the period specified in the notice; and
 - (b) may, at the discretion of the local government, consider submissions on the proposed modification made to the local government after the end of the period specified in the notice; and
 - (c) must make a recommendation in respect of each submission considered.

27. Incorporation of environmental conditions

If a local government receives a statement in respect of a draft local planning scheme delivered under section 48F(2) of the EP Act after passing a resolution to support the draft scheme but before complying with regulation 28, the local government must amend the local planning scheme documents —

- (a) to incorporate the conditions set out in the statement; or
- (b) if as the result of a request by the local government under section 48G(1) of the EP Act a statement is delivered to the local government under section 48G(3) of the EP Act, to incorporate the conditions set out in that later statement.

28. Information on draft local planning scheme to be provided to the Commission

- (1) After passing a resolution under regulation 25(3) the local government must provide the advertised local planning scheme documents to the Commission together with the following —
- (a) a schedule of submissions made on the draft scheme;
 - (b) the response of the local government to each submission;
 - (c) particulars of each modification to the draft scheme proposed by the local government in response to the submissions;
 - (d) if any proposed modification to the scheme was advertised —
 - (i) an explanation of the reasons for advertising the modification; and
 - (ii) particulars of how the modification was advertised; and
 - (iii) a schedule of submissions made on the proposed modifications; and
 - (iv) the recommendation of the local government in accordance with regulation 26(7)(c) in respect of each submission;
 - (e) a copy of the resolution passed under regulation 25(3);
 - (f) if that resolution was a resolution under regulation 25(3)(c) — a summary of the reasons why the local government does not support the draft scheme;
 - (g) details of any provision in the draft scheme that varies or excludes a provision set out in Schedule 1;
 - (h) details of any provision in the draft scheme that supplements a provision set out in Schedule 2;
 - (i) any relevant maps, plans, specifications and particulars required by the Commission.

- (2) A schedule of submissions referred to in subregulation (1)(a) and (d)(iii) must include —
- (a) the name and address of the person making the submission; and
 - (b) where it is relevant, a description of the property that is the subject of the submission; and
 - (c) the submission or a summary of the submission.
- (3) The documents referred to in subregulation (1) must be provided to the Commission —
- (a) in the case of a resolution to support a draft local planning scheme without modification or not to support a draft local planning scheme — within 21 days of passing the resolution; or
 - (b) in the case of a resolution to support a draft local planning scheme with proposed modifications —
 - (i) if the local government decides not to advertise the proposed modification — within 21 days of passing the resolution; or
 - (ii) otherwise — within 21 days of complying with regulation 26(7);
- or
- (c) if the Commission in any case approves a longer period — within that longer period.

29. Commission to submit draft local planning scheme and recommendations to Minister

The Commission must, within 120 days of receiving the documents provided to it under regulation 28(1), or within such longer period as the Minister or an authorised person allows —

- (a) consider the documents; and
- (b) make any recommendations to the Minister in respect of the draft local planning scheme that the Commission considers appropriate; and

- (c) submit the documents and the recommendations to the Minister in accordance with section 87(1) of the Act.

30. Minister or authorised person may direct modifications to draft local planning scheme be advertised

- (1) Before a decision is made under section 87 of the Act, the Minister or an authorised person may direct the local government to advertise modifications to a draft local planning scheme if —
 - (a) the local government proposes, or the Commission recommends, that the scheme that was advertised under regulation 22 be modified; and
 - (b) the Minister or authorised person is of the opinion that the modification is significant.
- (2) The direction must include details of the process to be followed in respect of the advertisement including timeframes for —
 - (a) the making and consideration of submissions on the modifications; and
 - (b) providing recommendations to the Minister or authorised person following the advertisement.
- (3) If a local government is given a direction under subregulation (1), the local government must advertise the modification to a local planning scheme as directed by the Minister or authorised person.

Division 3 — Giving effect to decision on local planning scheme

31. Giving effect to Minister’s decision

- (1) If a local government is notified that the Minister has, under section 87(2)(c) of the Act, refused to approve a local planning scheme, the local government must, as soon as is reasonably practicable, notify each person who made a submission in relation to the local planning scheme of that refusal.

- (2) Within 42 days of being notified that, under section 87(2)(b) of the Act, the Minister requires the local government to modify the draft local planning scheme, or a longer period approved by the Minister or authorised person, the local government must —
 - (a) modify the draft scheme as required; and
 - (b) execute the modified local planning scheme documents; and
 - (c) submit to the Minister a copy of the executed documents.
- (3) If the local government is notified that the Minister has, under section 87(2)(a) of the Act, approved the local planning scheme, the local government must provide to the Commission for endorsement such copies of the local planning scheme as the Commission requires, including not less than 2 copies of the local planning scheme documents that have been executed by the local government.
- (4) The documents referred to in subregulation (3) must be provided within 14 days of the local government being notified of the Minister's approval, or a longer period approved by the Commission.

32. Endorsement of local planning scheme

- (1) The Commission must endorse each of the copies of the local planning scheme that has been executed by the local government and submit one of those copies to the Minister.
- (2) The Minister must endorse the copy of the local planning scheme with the Minister's approval and return it to the Commission.
- (3) A person authorised in writing by the Commission may certify that a copy of a local planning scheme is a true copy of a local planning scheme as approved by the Minister.

33. Advertisement of approved local planning scheme

- (1) The Commission must provide to the relevant local government a copy of the notice of a local planning scheme published in the *Gazette* under section 87(3) of the Act.
- (2) The local government must —
 - (a) publish a copy of the notice in a newspaper circulating in the scheme area; and
 - (b) notify each person who made a submission in relation to the local planning scheme —
 - (i) that the local planning scheme has been approved; and
 - (ii) where a copy of the approved local planning scheme can be obtained.

Division 3 — Documents

9.49A. Execution of documents

- (1) A document is duly executed by a local government if —
 - (a) the common seal of the local government is affixed to it in accordance with subsections (2) and (3); or
 - (b) it is signed on behalf of the local government by a person or persons authorised under subsection (4) to do so.
- (2) The common seal of a local government is not to be affixed to any document except as authorised by the local government.
- (3) The common seal of the local government is to be affixed to a document in the presence of —
 - (a) the mayor or president; and
 - (b) the chief executive officer or a senior employee authorised by the chief executive officer,each of whom is to sign the document to attest that the common seal was so affixed.
- (4) A local government may, by resolution, authorise the chief executive officer, another employee or an agent of the local government to sign documents on behalf of the local government, either generally or subject to conditions or restrictions specified in the authorisation.
- (5) A document executed by a person under an authority under subsection (4) is not to be regarded as a deed unless the person executes it as a deed and is permitted to do so by the authorisation.
- (6) A document purporting to be executed in accordance with this section is to be presumed to be duly executed unless the contrary is shown.
- (7) When a document is produced bearing a seal purporting to be the common seal of the local government, it is to be presumed

that the seal is the common seal of the local government unless the contrary is shown.

[Section 9.49A inserted: No. 17 of 2009 s. 43.]

9.49B. Contract formalities

- (1) Insofar as the formalities of making, varying or discharging a contract are concerned, a person acting under the authority of a local government may make, vary or discharge a contract in the name of or on behalf of the local government in the same manner as if that contract was made, varied or discharged by a natural person.
- (2) The making, variation or discharge of a contract in accordance with subsection (1) is effectual in law and binds the local government concerned and other parties to the contract.
- (3) Subsection (1) does not prevent a local government from making, varying or discharging a contract under its common seal.

[Section 9.49B inserted: No. 17 of 2009 s. 43.]

9.49. Documents, how authenticated

A document, is, unless this Act requires otherwise, sufficiently authenticated by a local government without its common seal if signed by the CEO or an employee of the local government who purports to be authorised by the CEO to so sign.

9.50. Giving documents to persons, generally

Unless otherwise stated in this Act, a document may be given to a person in any of the ways provided for by sections 75 and 76 of the *Interpretation Act 1984*.

9.51. Giving documents to local government

Unless otherwise stated in this Act, a document may be given to a local government by —

- (a) giving it personally to an employee of the local government at its office; or

Item 6 - Attachment 4



Department of **Planning,
Lands and Heritage**

Your ref: N/A
Our ref: TPS/0062
Enquiries: Rohan Miller 6551 9732

Ross Jutras-Minett
Manager Planning
City of Nedlands
PO Box 9
Nedlands WA 6909

Dear Mr Jutras-Minett

CITY OF NEDLANDS LOCAL PLANNING SCHEME NO. 3 – EXECUTION OF DOCUMENTS

I refer to your email of 6 March 2019 requesting advice in relation to the execution of the City of Nedlands Local Planning Scheme No. 3 documents, modified in accordance with the decision of the Minister for Planning (the Minister) on 29 January 2019.

The requirement in regulation 31(2)(b) of the *Planning and Development Local Planning Schemes Regulations 2015* is an administrative action only, whereby the local government executes the modified Local Planning Scheme documents as confirmation that the documents have been modified as directed.

In the event that modifications to a Local Planning Scheme are not undertaken as directed by the Minister the *Planning and Development Act 2005* provides for the Minister to take action to have a Local Planning Scheme gazetted and become operational.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Rohan Miller', with a long horizontal stroke extending to the right.

Rohan Miller
Planning Director

7 March 2019

Moved – Councillor Hassell
Seconded – Councillor James

That the meeting be adjourned until after the Council Committee Meeting this evening.

CARRIED UNANIMOUSLY 11/-

The meeting adjourned at 6.28 pm and reconvened at 9.23 pm with the following people in attendance:

Councillors	His Worship the Mayor, R M C Hipkins (Presiding Member)	
	Councillor I S Argyle	Dalkeith Ward
	Councillor W R B Hassell	Dalkeith Ward
	Councillor A W Mangano	Dalkeith Ward
	Councillor B G Hodsdon	Hollywood Ward
	Councillor J D Wetherall	Hollywood Ward
	Councillor G A R Hay	Melvista Ward
	Councillor T P James	Melvista Ward
	Councillor N W Shaw	Melvista Ward
	Councillor L J McManus	Coastal Districts Ward
	Councillor K A Smyth	Coastal Districts Ward
Staff	Mr M A Goodlet	Chief Executive Officer
	Mr P L Mickleson	Director Planning & Development
	Mr M A Glover	Director Technical Services
	Mrs N M Ceric	Executive Assistant to CEO & Mayor
Public	There were 2 members of the public present.	
Press	The Post Newspaper & Western Suburbs Weekly representative.	
Leave of Absence (Previously Approved)	Councillor C M de Lacy	Hollywood Ward
	Councillor N B J Horley	Coastal Districts Ward
Apologies	Mrs L M Driscoll	Director Corporate & Strategy

7. Local Planning Scheme 3 – Community Engagement Plan

Council	12 March 2019
Applicant	City of Nedlands
Officer	Aron Holbrook
Director	Peter Mickleson – Director Planning and Development Services
Attachments	1. Community Engagement Plan

Councillor McManus left the room at 9.23 pm.

Regulation 11(da) – The Council determined that the additional clause was needed in order to provide timely information to the public.

Moved – Councillor Hassell
Seconded – Councillor Hay

That the Recommendation to Council be adopted.
(Printed below for ease of reference)

Councillor McManus returned to the room at 9.24 pm.

Amendment

Moved - Councillor James
Seconded – Mayor Hipkins

Agrees that a letter from the Mayor in collaboration with the CEO regarding the current process and next stages for LPS3 be sent out as soon as possible.

Councillor Hodsdon left the room at 9.28 pm and returned at 9.30 pm.

Councillor Hay left the room at 9.32 pm and returned at 9.35 pm.

Councillor Hassell left the room at 10.05 pm.

The AMENDMENT was PUT and was

**CARRIED 9/1
(Against: Cr. Wetherall)**

Councillor Hassell returned the room at 10.09 pm.

The Substantive Motion was PUT and was

**CARRIED 10/1
(Against: Cr. Wetherall)**

Council Resolution

Council:

- 1. endorses the Engagement Plan as presented in Attachment 1 to be implemented upon the gazettal of Local Planning Scheme No. 3; and**
- 2. agrees that a letter from the Mayor in collaboration with the CEO regarding the current process and next stages for LPS3 be sent out as soon as possible.**

Recommendation to Council

Council endorses the Engagement Plan as presented in Attachment 1 to be implemented upon the gazettal of Local Planning Scheme No. 3.

Executive Summary

Administration has prepared a Community Engagement Plan for the final implementation of Local Planning Scheme 3 (LPS3).

The purpose of the community engagement is to inform the community about the changes introduced with Local Planning Scheme 3 and to provide an opportunity for the community to find out more information about the new scheme and how it may impact on them, their property and community.

Discussion/Overview

Key Relevant Previous Council Decisions:

Item 7 – Draft Local Planning Scheme No. 3 - Special Council Minutes 13 December 2016

‘Council adopts draft Local Planning Scheme No. 3 in accordance with r. 21(1) of the Planning and Development (Local Planning Schemes) Regulations 2015 and proceeds to advertise with modifications.’

Item 5 – Draft Local Planning Scheme No. 3 - Special Council Minutes 31 July 2018

‘Council resolves to not support draft Local Planning Scheme 3.’

6. Engagement Plan

Administration has prepared a Community Engagement Plan for the final implementation of Local Planning Scheme 3 (LPS3). The Engagement Plan is an internal document used to set out the purpose of an engagement activity and then organise all the relevant communications, materials, messages, timing and actions required to engaged successfully with the community. See Attachment 1.

7. About the engagement

The purpose of the engagement is to inform the community about the changes that are introduced with Local Planning Scheme 3 and to provide an opportunity for the community to find out more about the new scheme, answer their questions and address their concerns.

The goal is that residents and property owners will be informed on the new scheme requirements in relation to their individual properties and their local community as well as outline the next projects that are linked with the Scheme including the Public Open Space (POS) Strategy and local planning policies.

8. Timing

All engagement activities have been booked to begin on 29 April 2019 until 31 May 2019, however, this is subject to change given that the final gazettal of the scheme has no fixed date and is dependent on the Minister for Planning as well as the timing of the government gazette.

Engagement activities cannot begin earlier as the gazettal of the scheme (LPS3) is unlikely to have occurred and its final form will not be known and is subject to change until that date.

Further to this, Open Day venues are unavailable, and the Public Open Space Strategy engagement activities will still be underway.

9. Stakeholders

Internal stakeholders are identified as Councillors, Planning Services staff, Planning and Development Divisional staff, Customer Services and all associated business units. These stakeholders will be informed through briefings, CEO weekly updates, emails and discussion.

External stakeholders include residents and property owners, LPS3 submitters and businesses and organisations with an interest in LPS3. These stakeholders will be informed through:

- Flyer
- Letter
- Website (Nedlands & YourVoice)
- E-newsletter
- Newspaper adverts
- Posters
- Information sheets
- Media release
- Updates on Social Media (Facebook, Twitter, Instagram)
- Information Open Days

10. Project Description

The Project Description forms the basis of the message to be communicated across all methods of communication.

'The City's Local Planning Scheme No.3 (which replaces Town Planning Scheme No. 2) has now been published in the Government Gazette and has full force and effect.

Local Planning Scheme No.3 has changed the zones, land use permissibility, density codes and development standards within the City of Nedlands. The full approved copy of the Scheme text and maps are available for public viewing on the engagement page and through intramaps on the City's website.

The Community are invited to attend three open days scheduled throughout May to talk to a City Planner who can assist with understanding the Scheme and any impacts on residents.'



COMMUNITY ENGAGEMENT PLAN IMPLEMENTATION OF LPS3 – WHAT IT MEANS TO THE COMMUNITY

The Community Engagement Policy identifies inform and consultation as follows:

	ENGAGEMENT GOAL	PROMISE TO THE PUBLIC	THIS MEANS	EXAMPLES
INFORM	To provide the public with balanced and objective information to assist them in understanding the problem, alternatives, opportunities and/or solutions.	We will keep you informed	We will give you balanced and objective information of a decision already been made by Council.	Road, parks, reserves, gardens, council facility, scheduled works
CONSULT	To obtain public feedback on analysis, alternatives and/or decisions.	We will keep you informed, listen to and acknowledge concerns and aspirations, and provide feedback on how public input influenced the decision.	We will seek an opinion from you, ask advice, or turn to you for information when making decisions.	Parking and parking restrictions, minor road works, greenway projects, library events, local laws, customer satisfaction surveys

1. The Project

ABOUT THE PROJECT	
Project Name:	LPS3 – What it means for the City of Nedlands residents.
Project Area:	City of Nedlands council area
Purpose of Engagement:	The purpose of the engagement is to provide the community with an opportunity to find out more about the new scheme, answer their questions and address their concerns.
Engagement Goals:	Residents and property owners to be informed on the new scheme requirements in relation to their individual properties and their local community/town centre.
Project Officer:	Aron Holbrook, Coordinator Strategic Planning
Project Manager:	Ross Jutras-Minett, Manager Planning
Contact Person:	Aron Holbrook
Request Date:	21 February 2019



ABOUT THE PROJECT

Sharepoint Project Name and Reference Link:	Community Engagement – Planning - Local Planning Scheme
Proposed Engagement Period:	From 29 April to 31 May 2019
Budget allocation:	Planning budget

2. Stakeholders

Internal Stakeholders	How will they be informed?	What are we asking from them?	How will feedback be sought?
Customer Services and Divisional staff	Emails, discussion	<ul style="list-style-type: none"> Information provision Promote the community open days. Provide assistance with the provision of the Information Sheets and where to find out more information – Your Voice Nedlands. Enter enquiries in the Contact Management System. 	<ul style="list-style-type: none"> No feedback required – for information only. Feedback to the Project Team on the range of enquiries being received to enable the production of additional information/FAQs.
Councillors	Ongoing updates in the CEO Weekly Update.	Information provision on the proposed roll-out of the LPS information to the community.	Formal feedback is not required – for information only.

External Stakeholders	How will they be informed?	What are we asking from them?	How will feedback be sought?
Residents and property owners	Communications: <ul style="list-style-type: none"> Flyer E-newsletter Information sheets on key sections of the Scheme (mostly density changes) Media release 	<ul style="list-style-type: none"> Attend an information session to find out more. Talk to a Planner at the Session on the impacts/potential impacts on their property. 	<ul style="list-style-type: none"> Feedback is not required. For information only. If feedback provided will be acknowledged and provided as an input into the



External Stakeholders	How will they be informed?	What are we asking from them?	How will feedback be sought?
LPS3 submitters to the draft plan	<ul style="list-style-type: none"> Letter If submitters are City of Nedlands residents/property owners, they will also receive the communications as listed above 	<ul style="list-style-type: none"> If unable to attend a session – call a Planning Officer to discuss. 	next projects (policies and amendments).
Businesses and organisations with an interest in LPS3.	<ul style="list-style-type: none"> Invitation to meet or provide presentations from the business community and industry stakeholders (e.g. REIWA, HIA, UDIA, WSBA, builders, UWA, Hospitals, DA applicants City of Nedlands Sundowner, Wednesday, 8 May at the Allen Park Pavilion 	<ul style="list-style-type: none"> Information provision to assist with understanding the requirements/impacts of LPS3. An overview of the impacts of LPS3 and challenges going forward for the City and the business community. An overview of what the City's plans going forward and how the business community can be engaged in this process. 	<ul style="list-style-type: none"> Discussion. Feedback is not required as it is for information only. If feedback is provided it will be acknowledged and provided as an input into the next planning projects (policies and amendments).

3. Methods Used

Method	Responsibility	Publish Dates/Comments
Letters to residents, property owners	Strategic Planning Coordinator	Only to Submitters to the draft LPS3 engagement
Letters to stakeholders (business community etc.)	Strategic Planning Coordinator	Letters to advise of LPS3 and offer provide a presentation or discuss the impacts/potential impacts with individuals.
Flyers to residents and property owners Flyer to be similar to the Safe Active Streets Program: <ul style="list-style-type: none"> Text 1 to 2 paragraphs Graphic: what happens next Information on the Open Days How to find out more at yourvoice.nedlands.wa.gov.au 	Strategic Planning Coordinator Communications	<ul style="list-style-type: none"> Flyer to all residents/property owners Include the flyer in all City bulk mail-outs.



Method	Responsibility	Publish Dates/Comments
Information on front page of the City's website – News and Upcoming Events	Communications	Publish on 30 April
Updates on Social Media (Facebook, Twitter)	Communications	Publish on 30 April
Information in Nedlands News (Post Newspaper)	Communications	List of Community Open Days. To be with Communications by 18 April.
Advertising in The Post and the Western Suburbs weekly	Communications	Advertise each Open Day (Dalkeith, Mt Claremont, Administration Centre) as they fall due. Consider inclusion in the Tresillian quarterly course guide and other City newsletters.
Information in CEO update to Councillors	CEO EA	Each week as the project progresses from Friday 3 May
Media Release	Strategic Planning Coordinator	Text to Communications by 18 April for publishing the week beginning 29 April.
Posters: For each of the City's Community Centres and Noticeboards	Project Manager	Poster at each of the Centres noticeboards (Dalkeith Hall, NCC, Mt Claremont Library, Mt Claremont Community Centre, Nedlands Library, Administration, PRCC, Tresillian Arts Centre)
<p>Community Open Days to:</p> <ul style="list-style-type: none"> • Inform of the outcomes of LPS3 and the impacts to the City. • Inform residents to understand the scheme impacts on their properties • Acknowledge any feedback and use it as an input into the next projects • Explain the next steps/projects: <ul style="list-style-type: none"> - Local Development Plans - Public Open Space Strategy - Growth Strategy for Stirling Highway - Development of policies - Development of guidelines to help people 	Project Team	<p>Open Days for:</p> <ul style="list-style-type: none"> - Dalkeith Hall: Saturday, 25 May, 2.30pm-4.30pm. - Mt Claremont Community Centre (Hakea Room): Wednesday, 15 May, 4pm-6pm. - Administration (Board Room): Wednesday, 22 May, 5pm-7pm <p>Prepare:</p> <ul style="list-style-type: none"> - Plans and maps of the key parts of the scheme - Running sheets for topics to be covered and major issues - Feedback sheet and attendance record. - Brochures from DesignWA and any other material to assist residents.
Information Sheets on key sections of the scheme (mostly to explain the density changes)	Strategic Planning Team	To be ready by 29 April. <ul style="list-style-type: none"> - Electronic copies on the engagement page.

Method	Responsibility	Publish Dates/Comments
		- Hardcopies available for Customer Services and for the Community Open Days.

4. Supporting information required for Your Voice Nedlands

Information Requirements	Comments
2 or 3 photos/images (JPG)	Using existing engagement page
Site plans and maps (PDF)	Maps and plans relevant to the new scheme
Logos of any project partners (PDF)	N/A
Frequently Asked Questions (FAQ) (attach)	Need to review and update
Reference documents	New scheme Information Sheets
Advertisements, particularly those with statutory requirements (e.g. road closures)	Open Days Schedule
Images of similar projects to illustrate what the completed project would look like	N/A
Timeframe	Stage 1: Community engagement period: 29 April to 31 May
	Stage 2: Open Days period: 13-31 May
	Stage 3: Briefing to Council on the outcomes: June 2019

Online Engagement Tools	Comments
Feedback (standard)	Yes – informing project only, taking feedback as an input into the next projects.
Ask us a question (standard)	Yes
Newsfeeds (standard)	Yes
Survey	No – informing project only.

5. Project Description

The City's Local Planning Scheme No.3 (which replaces Town Planning Scheme No. 2) has now been published in the Government Gazette and has full force and effect.

Local Planning Scheme No.3 has changed the zones, land use permissibility, density codes and development standards within the City of Nedlands.

The full approved copy of the Scheme text and maps are available for public viewing on the engagement page and through intramaps on the City's website.

The Community are invited to attend three open days scheduled throughout May to talk to a City Planner who can assist with understanding the Scheme and any impacts on residents.



6. Decision-Making Process

Outcomes to Council

Councillor briefing – 5 March – proposal for engagement – completed

Attachment to Report – 12 March Special Council Meeting

Councillor briefing – 4 June – outcomes from the engagement activities

7. Approval of the Community Engagement Plan

Approvals

Manager

Dated: _____

Community Engagement Coordinator

Dated: _____

Declaration of Closure

There being no further business, the Presiding Member declared the meeting closed at 10.10 pm.