



City of Nedlands

Urgent Agenda Item

Council Committee Meeting

12 February 2013

Dear Council member

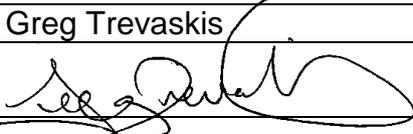
The following item has been accepted as Urgent Business by the Presiding Member.

Greg Trevaskis
Chief Executive Officer
7 February 2013

9. Urgent Business Approved By the Presiding Member or By Decision

9.1 Town Planning Scheme Amendments

Committee	12 February 2013
Council	26 February 2013

Applicant	City of Nedlands
Owner	City of Nedlands
Officer	Peter Mickleson – Director Planning & Development
Director	Peter Mickleson – Director Planning & Development
CEO	Greg Trevaskis
CEO Signature	
File ref.	
Previous Item No's	
Disclosure of Interest	No officer involved in the preparation of this report had any interest which required it to be declared in accordance with the provisions of the <i>Local Government Act (1995)</i> .

Purpose

For Council to confirm the changes to Town Planning Scheme No 2 to be initiated through an “omnibus” amendment.

Recommendation to Council

- 1. Council resolves to initiate an “omnibus” amendment to Town Planning Scheme No. 2 generally in accordance with Attachment 1.**
- 2. A draft of the scheme amendment, suitable for public advertising, is to be presented to Council for approval.**

Strategic Plan

- KFA 3: Built Environment
- 3.3 Promote urban design that creates attractive and liveable neighbourhoods.
 - 3.8 Facilitate appropriate development of existing residential housing to complement the surrounding residential amenity.
- KFA 5: Governance
- 5.1 Manage the City’s resources in a sustainable and responsible manner.

Background

Council resolved on 23 October 2012 to initiate an “omnibus” amendment to Town Planning Scheme 2 as follows:

1. Revision of Schedule V – Special Use Zone – Hollywood Master Plan;
2. Revision of Amendment No. 192 – Dalkeith Special Control Area Provisions;
3. Revision of clause 5.3 - Residential Planning Codes;
4. Revision of clause 5.4 – Standards for Development in other than Residential Zones;
5. Additional clause to Part V – General Provisions – introducing a requirement for public art with other than single residential development;
6. Revision of clause 6.1 – Planning Approval – specifying where planning approval is not required;
7. Modification of table 1 – use class table; and
8. Other miscellaneous minor revisions.

Elected members also indicated that amendments to the Town Planning Scheme No.2 should be progressed as a priority in order to achieve the Councils planning objectives.

Some of the changes are relatively simple while others are more complex. With all scheme amendments there is a level of risk.

A number of these amendments will improve the “usability” of the scheme in terms of removing uncertainty for applicants and the wider community and reducing costs in terms of unnecessary development applications.

Proposal Detail

The following areas for changes have been identified:

- Hollywood Aged Care Master Plan
- Change the wording in Schedule V of TPS2 to allow that any updated Master Plan provided for this site has the same status in the scheme as the previous one that it supersedes.
- Dalkeith Special Control Area Provisions

- Amendment to the scheme to correct conflicting provisions regarding the discretion available to allow variations to the setbacks.
- Contributions to Public Art
- Levy a development contribution (1% of development cost) that applies to non-single residential development for the provision of public art.
- Revisions to clauses 5.3, 5.4 and 6.1 including:
 - General amendments to protect the spacious and treed character of the City by reducing discretion to vary rules that would compromise this character. For example a minimum of three (3) parking spaces (covered) be provided for any residential redevelopment involving traditional sized lots (800 m² and above). All other residential units should provide at least two (2) parking spaces.
- Development not requiring planning approval
- Specify the circumstances and type of development that does not require planning approval.
- Modify the Use Class Table
- Modifications mainly to the Development Zone aimed at the land uses surrounding the wastewater treatment plant in relation to the effects from odour.
- Miscellaneous Minor Revisions
- Minor revisions not covered by clauses 5.3, 5.4 or 6.1.

Consultation

Required by legislation:	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Required by City of Nedlands policy:	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>

Legislation

Planning and Development Act 2005

Budget/financial Implications

Budget:

Within current approved budget: Yes No
Requires further budget consideration: Yes No

Financial

A number of Planning and Development projects are funded in the current financial year. Responses to advertising of the “omnibus” scheme amendment will determine what additional resources may be needed.

Risk Management

Progressing a number of scheme changes in an omnibus amendment carries with it the risk that more controversial aspects of the proposal would hold up simpler matters.

An additional risk also exists in relation to TPS3 which is with the WAPC awaiting approval to advertise. This is that the WAPC may not entertain substantive amendments such as an omnibus amendment given the stage that development of TPS3 has reached.

Discussion

Some of the proposed changes have been work shopped and discussed with Councillors. Attachment 1 sets out the proposed amendments in detail along with limited commentary from Administration.

Once agreement has been reached on the proposed changes the scheme amendment can be progressed to the next stage which is the preparation of a document suitable for public advertising.

Conclusion

A number of amendments to the current town planning scheme have been suggested in order to improve its clarity and therefore achieve better planning outcomes on the ground. Such changes can also reduce costs for applicants and Council. There are process risks associated with the proposed changes which will be further quantified as they arise.

Attachment

1. Draft amendments to Town Planning Scheme 2.

Attachment 1

Draft Amendments to Town Planning Scheme 2

Council resolved on 23 October 2012 to initiate an “omnibus” amendment to Town Planning Scheme No. 2 covering the following matters:

1. Revision of Schedule V – Special Use Zone – Hollywood Master Plan;
2. Revision of Amendment No. 192 – Dalkeith Special Control Area Provisions;
3. Revision of clause 5.3 - Residential Planning Codes;
4. Revision of clause 5.4 – Standards for Development in other than Residential Zones;
5. Additional clause to Part V – General Provisions – introducing a requirement for public art with other than single residential development;
6. Revision of clause 6.1 – Planning Approval – specifying where planning approval is not required;
7. Modification of table 1 – use class table; and
8. Other miscellaneous minor revisions.

1. Revision of Schedule V – Special Use Zone – Hollywood Master Plan

Proposal – add the following clause:

“the development of the site shall be in accordance with the approved Master Plan applicable to this Special Use Zone as approved by Council from time to time, following the procedure as set out in clause 8.3 of the Scheme”

2. Revision of Amendment No. 192 – Dalkeith Special Control Area Provisions

Administration Proposal

Universal Access – require the universal access dwellings to be designed to Aus Standards in regard to lifts, ramps, door and corridor widths and toilets.

Amend “D” and “S” symbols to align with TPS2.

Precinct Plans – minor tidy of page numbers and reference to “draft”.

Clause 1.5 – Amend as follows:

Council may vary clauses in these guidelines, but limited to car-parking, setbacks, land-use and side (north/south) laneways. Discretion is not available to any other clauses unless stated elsewhere.

Clause 2.5 – amend as follows:

- (a) Setbacks shall be in accordance with the provisions of the relevant Precinct Plans.
- (b) Setbacks defined under the Residential Design Codes of WA are not applicable.
- (c) All setbacks are minimums unless stipulated elsewhere on a Precinct Plans.
- (d) Balconies shall not extend into an existing or proposed road reserve or laneway area.
- (e) All reference to setbacks under specific Precinct Plans are measured from the new proposed boundary after any required Laneway areas have been ceded.’

Alternate proposal - delete the existing clause 1.5 and insert a new clause as follows:

“Council may vary clauses in these guidelines, with the exception of building height, setbacks, landscaping, rear laneway requirements and public access gained from rear laneways, but limited to car parking, land uses and side (north/south) laneways.”

3. Revision of clause 5.3 - Residential Planning Codes

Proposal – to make the following general changes (words abbreviated)

For lots less than 800m²

- (a) Street setbacks for all development, including outbuildings, garages, carports and pergolas (attached or detached) shall be in accordance with Schedule VI;
- (b) Landscaping for all development, shall be provided with a minimum of 20 per cent of the site area;
- (c) Carparking spaces shall be provided at the rate of a minimum of 2 per dwelling unit;
- (d) Building height shall be a maximum of 8.5m

For large lots

- (e) Lots with a minimum area of 800 square metres and a minimum frontage of 15m, requirements shall be:
 - (i) Street Setbacks
Ground floor – 9.0m minimum
Upper floors – 12.0m minimum
 - (ii) Secondary Street Setbacks
Ground floor – 4.5m minimum
Upper floors – 6.0m minimum
 - (iii) Side Setbacks
Minimum of 1.5m per storey, with a minimum of 2.5m on one side,
 - (iv) Rear Setbacks
Minimum of 6.0m, provided that a single storey garage or carport may be constructed with a minimum 1.5m setback from a public right-of-way for no more than half the width of the rear boundary;
Where the lot adjoins the Swan River (actual or reserve) a setback of 10 metres is required;
 - (v) Landscaping
Minimum of 30 per cent of the site area;
 - (vi) Carparking, notwithstanding the carparking specified in (c) above
Minimum of 3 covered parking spaces for the storage of wheeled vehicles, boats and other goods, provided that one space may be behind another;

- (vii) Building height, - Maximum of 10m
- (f) For development completed before 2013 the following may be constructed within the 9.0m street setback area:
 - 1) A carport:
 - a) not be greater in area than 36 square metres;
 - b) a minimum primary street setback of 3.5 metres and side setback of 1.0 metres; and
 - c) the carport shall be open all sides
 - 2) Other minor Structures subject to the following conditions:
 - a) gate houses, lichgates, porticos or similar structures not exceeding 4 square metres in area, provided that no structure shall exceed 3.5m in height;
 - b) any structure shall not detract from the visual amenity of the streetscape; and
 - c) the structure compliments the residence on the same lot and uses similar materials and construction methods;”

4. Revision of clause 5.4 – Standards for Development in other than Residential Zones

Proposal – “A minimum of 20 per cent of each lot shall be landscaped”.
(Industrial and commercial zones)

For discussion - to remove the current discretion to vary front setbacks and make the provisions in Table 2 mandatory in order to encourage more “greenery” in the front setback.

Controlled Development Area

Comment – Administration believe the Controlled Development Area rules (5.10 and related procedure clauses), where the intent is to consider the visual effect of the development from the Swan River, can be deleted from the Scheme. A new rule requiring a setback of 10 metres where the lot adjoins the Swan river reserve would be introduced instead.

There is also a requirement for a 7.5 metre setback for lots on the escarpment above the river. The intent is to preserve views for the property behind. Administration believes this rule could also be deleted because it does not achieve the intent of preserving views from the river or preserving the amenity of the area. However an alternative proposal is set out below.

Alternate Proposal

“The Council may approve a lesser rear setback than the 7.5m provided another setback is increased by an equivalent area.”

Other revisions/additions

Clarify the height controls especially the “centroid” issue that is causing problems and resulting in very high buildings adjacent to the river. No change to maximum height limits.

Administration propose an amendment to clause 5.11 as follows:

5.11 Building Height

- (a) Unless provided elsewhere in the Scheme, no site shall be developed or building constructed:
 - (i) with a height of any part of an exterior wall greater than 8.5m from the average natural ground level;
 - (ii) to exceed 8.5m in wall height facing the primary street frontage, measured from the average natural ground level of the lot boundary at the primary street frontage;
 - (iii) so that any point of the building exceeds a height of 10m measured from the average natural ground level.

- (b) The following provisions apply to the calculation of building height:
 - (i) in relation to clause 5.11(a)(i) the average natural ground level is the average of the two outermost points of the elevation, measured from the natural ground levels at the base of the wall for each point (refer to Diagram 1);
 - (ii) in relation to clause 5.11(a)(ii) the average natural ground level is the average of the natural ground levels at the two outermost points of the lot boundary parallel to the primary street (refer to Diagram 2);
 - (iii) in relation to clause 5.11(a)(iii) the average natural ground level is the average of the outermost points of the building footprint, measured from the natural ground levels at the base of the wall for each point (refer to Diagram 3);

- (iv) notwithstanding clause 5.11(b)(i)-(iii) the height of a wall is measured in accordance with the definition of 'height, wall' in the Residential Design Codes of Western Australia.
- (v) there is no restriction on the number of storeys which may be developed, providing that the building height complies with clause 5.11(a); and
- (vi) dormer windows are exempt from clause 5.11(a)(i) & (ii). A dormer window is an opening framed into a pitched roof to provide natural lighting to a roof space which may comprise of its own pitched roof and side walls.

Alternative proposal to clarify clause 5.11 is to delete an existing sub clause and replace with:

“to contain more than two storeys directly above each other in the case of residential use, three storeys in the case of other uses or a number of storeys at the discretion of the Council in accordance with this scheme in the case of mixed use excluding areas of plant and equipment, storage, toilets and the parking of wheeled vehicles.”

Comment – where possible “stories” should be specified as height in metres.

Table II Commercial & Industrial Zones – Other Than Residential Zones

Mainly in relation to Stirling Highway but also affects all other commercial and industrial zones.

Administration preference is to amend the Stirling Highway design guides as a separate exercise to a scheme amendment.

However an alternate and possible interim proposal is to add the following:

- (a) “Maximum building height 3 storeys and 10m, subject to clause 5.11 of this scheme, provided that lots adjoining Stirling Highway may increase building height by one storey where four of the following are provided and by two storeys where all five are provided:
 1. Minimum lot area of 2,000 square metres;
 2. Vehicular entry and exit by other than Stirling Highway;
 3. Minimum one storey, or equivalent, of residential use;
 4. Land is freely ceded for the widening of Stirling Highway; and
 5. Land is freely ceded for the creation of a new laneway.”
- (b) increasing the front setback from “nil” to “9 metres”.

Amend Table III Land Permitted For Additional Uses by substituting in NOTE (2) “9m” for the word “nil”.

5. Additional clause to Part V – General Provisions – introducing a requirement for public art with other than single residential development

Proposal – that non residential development makes a contribution equal to 1% of the estimated cost of development for the provision of public art. This clause is currently in the draft Town Planning Scheme 3.

6. Revision of clause 6.1 – Planning Approval – specifying where planning approval is not required

Proposal – Planning approval is not required for the following:

- a) Internal building work and exterior work that does not change the appearance except where the building is on the Heritage List;
- b) The demolition of any building or structure except where the building or structure is included within the City’s Municipal Inventory;
- c) a home occupation;
- d) any works which are temporary and in existence for less than 48 hours or such longer time as the Council agrees;
- e) any building or other works undertaken by the Council or a public authority in connection with the maintenance or improvement of a public street or for any public utility;
- f) any of the exempted classes of advertisements listed except in respect of a place included in the Heritage List or in a Heritage Area;
- g) the carrying out of works urgently necessary in the interest of public safety or for the safety or security of plant or equipment;
- h) the erection of fences not exceeding 1.8m in height, other than fencing in the street setback area;
- i) structures incidental to residential development including:
 - i. a cubby house with a finished floor level not exceeding 500mm above the average natural ground level;
 - ii. a domestic animal/ bird enclosure not exceeding 4 m² in area;

- iii. a shed with a maximum floor area of 9 m², located less than 500mm above natural ground level, with a maximum wall height of 2.4m and a maximum ridge height of 3m;
- iv. a pergola outside the street setback area;
- v. a swimming pool where:
 - a. no part of the swimming pool is more than 500mm above the surrounding ground level; or
 - b. no part of the area surrounding the swimming pool is raised more than 450mm above natural ground level.
- vi. a flag pole which does not exceed 6.0 metres in height above natural ground level;
- vii. a satellite dish, located on a lot used solely for residential purposes which:
 - a. does not exceed 0.9 metres in diameter;
 - b. is not located in the street setback area;
 - c. is not visible from a public street; and
 - d. if located on a roof, is of similar colour to the roof and is the sole satellite dish on the site.
- viii. Television aerial or radio antenna which does not exceed 3.0 metres in height and which is contained within the maximum building height applicable to the site, or, if located on the ground, is not more than 6.0 metres in height from natural ground level, outside the street setback area and setback a minimum of 3 metres from any property boundary;
- ix. air conditioner units mounted alongside a wall other than a wall facing a street and which are not visible from a public street;
- x. solar panels;
- xi. a water tank which does not exceed 3.0 metres in height above natural ground level and is not located in the street setback area;
- xii. plumbing vents and pipes;
- xiii. an external hot water service mounted alongside a wall;
- xiv. one letter box per lot;

- xv. clothes lines not visible from a street;
- j) screening for visual privacy or shade, provided the proposed screening or shade;
 - i. is not a fence;
 - ii. does not exceed a height of 3.0 metres above natural ground level; and
 - iii. retaining walls with a maximum height of 300mm calculated from natural ground level.

7. Modification of table 1 – use class table

Administration Proposal - the use class table should remain unaltered in relation to the definition of “Institutional” and the uses permitted under development zone. If the desire is to restrict land uses on the land within the wastewater treatment plant odour buffer zone then the Local Planning Policy should be progressed (was presented to Council in late 2012 but “referred back to Administration – then work shopped with no clear direction given to staff – currently not being progressed).

Alternative proposal - to change the use class table is set out below. Administration agree with the changes not highlighted

ZONES	1 OFFICE 2 RESIDENTIAL 3 RETAIL SHOPPING 4 OFFICE/SHOWROOM	5 LIGHT INDUSTRIAL 6 HOTEL 7 SERVICE STATION 8 DEVELOPMENT 9 SPECIAL PURPOSE – SITE 1 10 SPECIAL USE
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Use Classes

	1	2	3	4	5	6	7	8
2. Auction Mart	X	X	X	X	AA	X	X	X
3. Betting Shop	AA	X	AA	X	X	AA	X	X
4. Boarding House	X	X	X	X	X	X	X	X
13. Car Wash Station	X	X	X	X	AA	X	P	X
14. Child Day Care Centre	AA	X	AA	AA	X	X	X	X
15. Cinema/Theatre	X	X	AA	AA	X	X	X	X
17. Club Premises	AA	X	AA	AA	X	AA	X	X
24. Dwelling House – Multiple	AA	X	AA	AA	X	X	X	X
26. Fast Food Outlet	X	X	X	X	X	X	X	X
28. Funeral Parlour	AA	X	AA	AA	AA	X	X	X
29. Health Studio	AA	X	AA	AA	X	IP	X	X
30. Hire Service	X	X	AA	X	AA	X	X	X
37. Industrial – extractive/noxious	X	X	X	X	X	X	X	X

41. Industrial – service	X	X	X	X	AA	X	X	X
42. Public Purpose	X	X	X	X	X	X	X	AA
43. Kennels	X	X	X	X	X	X	X	AA
44. Lunch Bar	AA	X	P	AA	AA	X	X	X
45. Market	X	X	P	X	X	X	X	X
47. Milk Depot	X	X	X	X	P	X	X	X
48. Motel	X	X	X	X	X	AA	X	X
51. Night Club	X	X	X	X	X	IP	X	X
53. Office – general	P	X	IP	P	AA	IP	IP	X
54. Office – professional	P	X	P	P	AA	X	X	X
55. Office – service	P	X	P	P	X	X	X	X
58. Public Assembly	X	X	X	X	X	X	X	X
60. Public Worship	X	X	AA	AA	X	X	X	X
61. Reception Lodge	X	X	AA	X	X	IP	X	X
65. Residential Building	AA	AA	AA	AA	X	X	X	X
66. Restaurant	AA	X	AA	AA	X	IP	X	X
68. Service Station	X	X	X	X	X	X	P	X
69. Shop	X	X	P	IP	AA	IP	IP	X
70. Shopping Centre	X	X	P	X	X	X	X	X
71. Showroom	X	X	AA	P	IP	X	X	X
73. Tavern	X	X	X	X	X	AA	X	X
74. Trade Display	X	X	X	X	AA	X	X	X

P – a use that is permitted under this scheme.

AA – a use that is not permitted unless approval is granted by Council.

IP - a use that is not permitted unless such use is incidental to the predominant use as decided and approved by Council.

X – a use that is not permitted.

Note: 42. Public Purpose would require a new definition to be added.

Public Purpose – means any use of land or a building owned or controlled by the government or other public agency.

8. Other miscellaneous minor revisions.

Proposals:

On-Site Power Generation

Each dwelling shall be provided with on-site power generation with a minimum capacity of 1.5 kW;

Power generation may be solar, wind or other means approved by the Council.

Minimum Floor Levels

The minimum reduced level (RL) for any habitable room within the district shall be 3.0m Australian Height Datum (AHD) or in accordance with the State Strategy as amended from time to time, to allow for rising sea levels.”

Rental Of Car Bays On Private Property

Add to the definition of “Home Business”:

“Use of land for the rental of car bays on private property is development under this Scheme and requires planning approval of Council.”

This will require a Development Approval if a property owner wants to rent their car bays.

Conservation And Preservation Of Places Of Natural Beauty And Historic Buildings And Objects Of Historic Or Scientific Interest

Amend Appendix 11 by deleting the places listed and inserting the words:

“Those places listed as category A and B on the City of Nedlands Municipal Inventory, as amended, prepared in accordance with the Heritage of Western Australia Act, 1990, as amended.”

Comment: this will elevate all category B buildings to the same level of management as those in category A. In practical terms this means more properties will have more restrictions on their ability to be demolished.

Part II – Reserved Land

Add a new subclause which states:

“The following development standards shall apply on land reserved under this Scheme, unless otherwise determined by the Council:

- i. Street setbacks – 20m minimum; e.g Sand Volley building would need to be set back 20 m
- ii. Other boundary setbacks – 5.0m minimum;

- iii. Landscaping – in accordance with clause 5.4.2, provided that a minimum 50 per cent of the site area shall be landscaped;
- iv. Carparking – sufficient for each person employed on-site, plus visitors”.

Definitions

Insert the following new definition:

Landscaping – means unroofed area comprising planted vegetation, including trees, shrubs and grass and may at the discretion of the Council include rockeries, paved pedestrian areas, water features and swimming pools;

Planning Approval Procedures

Add a new clause 6.1.3 which will facilitate the posting of planning application plans on the Council web-site.

In addition to the plans ordinarily required to accompany an application for planning approval, an applicant is to lodge with the Council a plan suitable for and intended to be published on the City’s website including at least the following information:

- i. A plan of the site;
- ii. The footprint of any building or structure proposed to be erected or placed on the site;
- iii. Dimensions of any proposed building or structure including the height;
- iv. Elevations explaining the appearance of any proposed building or structure from each street frontage and each boundary; and
- v. Such other information as the local government reasonably requires.