



City of Nedlands

# ***Agenda***

## ***Special Council Meeting***

***13 December 2016***

Dear Council member

A Special Meeting of the City of Nedlands is to be held on Tuesday 13 December 2016 in the Council chambers at 71 Stirling Highway Nedlands commencing at 7 pm to consider the adoption of the Draft Local Planning Scheme No. 3 (Draft LPS 3).

Greg Trevaskis  
Chief Executive Officer  
6 December 2016

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## City of Nedlands

**Notice of a Special Meeting of Council to be held in the Council Chambers, Nedlands on Tuesday 13 December 2016 at 7 pm to consider the adoption of the Draft Local Planning Scheme No. 3 (Draft LPS 3).**

### Special Council Agenda

#### Declaration of Opening

The Presiding Member will declare the meeting open at 7 pm and will draw 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)

**Leave of Absence**                      None.  
**(Previously Approved)**

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

#### Disclaimer

Members of the public who attend Council meetings should not act immediately on anything they hear at the meetings, without first seeking clarification of Council's position. For example by reference to the confirmed Minutes of 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

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

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

**2. Addresses by Members of the Public**

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

**3. Disclosures of Financial Interest**

The Presiding Member to remind 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.

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

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

**4. Disclosures of Interests Affecting Impartiality**

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

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

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

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

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

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

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

## 6. Closure of Meeting to the Public

In accordance with Standing Orders and for the convenience of the public, the Presiding Member is to notify the members of the public that the meeting will be closed for item 7 – Draft Local Planning Scheme No. 3 in accordance with Section 5.23(2)(e) of the *Local Government Act* to allow discussion on the following item.

## 7. Draft Local Planning Scheme No. 3

<b>Council</b>	13 December 2016
<b>Applicant</b>	City of Nedlands
<b>Director</b>	Peter Mickleson – Planning & Development
<b>Director Signature</b>	
<b>File Reference</b>	PLAN-TPS3-00004 : PLAN-030470
<b>Previous Item</b>	Item PD29.15 – 26 May 2015
<b>Attachments</b>	1. Confidential Draft Local Planning Scheme No. 3

### 1.0 Executive Summary

The purpose of this report is for Council to consider adopting draft Local Planning Scheme No. 3 (draft LPS 3).

In accordance with regulation 21 (1) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, Council 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.

It is recommended that Council adopts draft LPS 3 and proceeds to advertise without modification.

Draft LPS 3 will then be forwarded to the Western Australian Planning Commission (WAPC) for examination. The WAPC will advise the City if any modifications are required before draft LPS 3 is advertised.

### 2.0 Recommendation to Council

**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 without modification.**

### 3.0 Strategic Community Plan

KFA: Natural and Built Environment

KFA: Community Development

KFA: Governance and Leadership

This item is a key strategic land use and planning document that will shape the physical development of the community for a number of years into the future.

### 4.0 Budget / Financial Implications

Within current approved budget: Yes  No

Requires further budget consideration: Yes  No

### 5.0 Risk management

There is a risk that the WAPC will require further information or modifications prior to adopting draft LPS 3 for the purpose of being advertised. However, the City is confident that draft LPS 3 has been prepared in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015* and the WAPC's Local Planning Manual and therefore should not require any major changes.

### 6.0 Background

The need to produce a Local Planning Scheme was the result of a review of Town Planning Scheme No. 2 in 1995. Numerous attempts at producing a Local Planning Scheme have since been made, each failing to complete the full approval process for various reasons.

In May 2015, Council resolved the following:

1. *“Seek an extension of the 42 day timeframe for making changes to Town Planning Scheme No.3 in order for Administration to complete the Local Planning Strategy;*
2. *Proceeds with the immediate and urgent completion of the Local Planning Strategy for submission to the Western Australian Planning Commission;*
3. *Upon completion of the Local Planning Strategy and approval for advertising, proceeds with immediate and urgent completion of Town Planning Scheme No.3 for submission to the Western Australian Planning Commission;*
4. *Does not initiate further amendments to Town Planning Scheme No. 2; and*

5. *To the extent that it is practicable, any existing amendments to Town Planning Scheme No. 2 that are afoot be incorporated into this process rather than pursued in isolation.”*

The development of draft LPS 3 commenced in November 2015 and was preceded with the preparation of a Local Planning Strategy.

Council adopted the Local Planning Strategy in August 2016 which has paved the way for draft LPS 3, which will implement the intentions set out in the Local Planning Strategy.

Draft LPS 3 has been prepared in accordance with the current Model Scheme Text as gazetted in the *Planning and Development (Local Planning Schemes) Regulations 2015*.

## **7.0 Legislation / Policy**

The *Planning and Development (Local Planning Schemes) Regulations 2015* sets out the elements and contents of local planning schemes. It requires Schedule 1 (model provisions) to be the basis of the local planning scheme text and Schedule 2 (deemed provisions) to be applicable to all local planning schemes.

In this case, draft Local Planning Scheme No. 3 as presented to Council for adoption accords with the relevant legislation.

## **8.0 Consultation Process**

Prior to any consultation taking place, the City must submit draft LPS 3 to the WAPC.

The WAPC will examine draft LPS 3 and advise the City if any modification(s) is required before draft LPS 3 is advertised.

Once the WAPC is satisfied with Draft LPS 3 the City must advertise it for a period of no less than 90 days.

The City will embark upon a comprehensive engagement program to ensure that the community is well informed and given ample opportunity to comment on draft LPS 3.

Following consultation, the City must review draft LPS 3 having regard to any submissions made and may modify the Scheme to address any issues raised.

## 9.0 The Preparation of Draft Local Planning Scheme No. 3

The procedure dictating the steps to be completed in adopting a Local Planning Scheme is set out under the *Planning and Development (Local Planning Schemes) Regulations 2015*. A summary of the procedure follows:

1. Local Government to resolve to draft a new local planning scheme
2. Local Government to resolve to proceed to advertise the drafted local planning scheme
3. WAPC examines draft local planning scheme
4. WAPC advises local government if any modifications to the scheme are required prior to advertising
5. Modifications made to the satisfaction of the WAPC. Consent to advertise granted
6. Advertising commences (Community Consultation)
7. Council resolves to:
  - a) support the draft scheme without modification;
  - b) support the draft scheme with proposed modifications to address issues raised in the submissions; or
  - c) not support the draft scheme
8. WAPC considers and makes recommendation to the Minister
9. Minister makes decision
10. Publish approved Local Planning Scheme in the Government Gazette

In considering draft Local Planning Scheme No. 3 as part of this report, Council is at step 2.

Draft LPS 3 has been prepared using the Model Scheme Text set out under the *Planning and Development (Local Planning Schemes) Regulations 2015*. This Model Scheme Text is significantly different to the previous version contained in the old regulations and two different versions of it have been adopted since the gazettal of Town Planning Scheme No. 2. Therefore, in comparison to Town Planning Scheme No. 2, draft LPS 3 will look and function quite differently.

The Scheme format has changed, there are for Nedlands wholly new provisions introduced, and there are changes to the way some mechanisms operate.

The City is also in the processing of reviewing its planning policies and development plans in order to ensure the City's entire planning system will function with this new framework and that Councils development requirements are upheld by all decision making bodies.

It is proposed that while draft LPS 3 is being examined by the WAPC, the City would continue work on any Local Planning Policies or Local Development Plans that are required to support the operation of draft LPS 3.

Then when consultation of draft LPS 3 begins, all documentation relating to development within the City will be available to the community.

The City and Council will then have the opportunity to hear the Community's feedback and respond with modifications to draft LPS 3 appropriately.

## 10.0 The Contents of Draft Local Planning Scheme No. 3

Draft LPS 3 includes the Scheme text (including the deemed provisions) and the Scheme Map.

The purpose of draft LPS 3 is to:

- a) set out the City's planning aims and intentions for the Scheme area;
- b) set aside land as local reserves for public purposes;
- c) zone land within the Scheme area for the purposes defined in this Scheme;
- d) control and guide development including processes for the preparation of structure plans, activity centre plans and local development plans;
- e) set out procedures for the assessment and determination of development applications;
- f) set out procedures for contributions to be made for the costs of providing infrastructure in connection with development through development contribution plans;
- g) make provision for the administration and enforcement of this Scheme; and
- h) address other matters referred to in Schedule 7 of the Act.

The principles that draft LPS 3 seeks to deliver are consistent with the City's Local Planning Strategy which has been through a rigorous community consultation process and has since been adopted by Council.

Draft LPS 3 aims to:

- a) Protect and enhance local character;
- b) Respect the community vision for the development of the district;
- c) Achieve quality residential built form outcomes for the growing population;
- d) To develop and support a hierarchy of activity centres;
- e) To integrate land use and transport systems;
- f) Facilitate improved multi-modal access into and around the district;
- g) Maintain and enhance the network of open space;
- h) Facilitate good public health outcomes;
- i) Facilitate a high quality provision of community services and facilities;
- j) Encourage local economic development and employment opportunities;
- k) To maintain and enhance natural resources;
- l) Respond to the physical and climatic conditions; and
- m) Facilitate efficient supply and use of essential infrastructure.

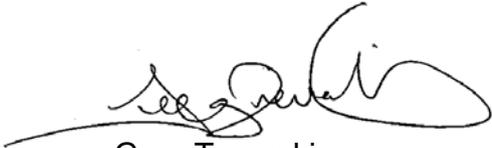
## 11.0 Conclusion

Draft LPS 3 is consistent with *Planning and Development (Local Planning Schemes) Regulations 2015*, and will implement the intentions set out in the adopted Local Planning Strategy.

According it is recommended that Council adopts draft LPS 3 and proceeds to advertising without modification.

**Declaration of Closure**

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

A handwritten signature in black ink, appearing to read 'Greg Trevaskis', with a long horizontal flourish extending to the left.

Greg Trevaskis  
Chief Executive Officer