



City of Nedlands

Minutes

Special Council Meeting

30 January 2020

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 to be held in the Council chambers, Nedlands on Thursday 30 January 2020 at 6.30 pm for the purpose of considering a draft Broadway Interim Built Form Local Planning Policy, Draft Design Review Panel Local Planning Policy with Terms of Reference, Draft Doonan Road Laneway Local Planning Policy and any Responsible Authority Reports to meet statutory timelines and Joint Development Assessment Panel meeting dates.

Declaration of Opening

The Presiding Member declared the meeting open at 6.32 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	Her Worship the Mayor, C M de Lacy	(Presiding Member)
	Councillor F J O Bennett	Dalkeith Ward
	Councillor W R B Hassell	Dalkeith Ward
	Councillor A W Mangano	Dalkeith Ward
	Councillor J D Wetherall	Hollywood Ward
	Councillor R A Coghlan	Melvista Ward
	Councillor G A R Hay	Melvista Ward
	Councillor R Senathirajah	Melvista Ward
	Councillor N B J Horley	Coastal Districts Ward
	Councillor L J McManus	Coastal Districts Ward
	Councillor K A Smyth	Coastal Districts Ward

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

Public There were 50 members of the public present.

Press The Post Newspaper representative.

Leave of Absence (Previously Approved)	Councillor W R B Hassell	Dalkeith Ward
	Councillor B G Hodsdon	Hollywood Ward

Apologies Nil.

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 Mrs Bronwyn Stuckey, 26 Kingsway, Nedlands

Question

How many development applications for Broadway has the City now received since the gazettal of Local Planning Scheme 3?

Answer

One.

2. Addresses by Members of the Public

Mr Ian Love, 70 Kingsway, Nedlands Item 6
(spoke in opposition to the recommendation)

Mr Nick Palmer, 69 Kingsway, Nedlands Item 6
(spoke in opposition to the recommendation)

Mrs Jenny Edis, 72 Kingsway, Nedlands Item 6
(spoke in support of the recommendation)

Mr Simon Edis, 72 Kingsway, Nedlands Item 6
(spoke in support of the recommendation)

Mr Jim Hancock, 66 Kingsway, Nedlands Item 7
(spoke in support of the recommendation)

Moved – Councillor Mangano
Seconded – Councillor Bennett

That the 15-minute time restriction for public address session be extended to allow the additional addresses by members of the public.

CARRIED UNANIMOUSLY 10/-

Mrs Robyn Hancock, 66 Kingsway, Nedlands
(spoke in support of the recommendation) Item 7

Mr Jarrod Ross, Associate at Taylor Barnett,
Level 7, 160 St Georges Terrace Perth
(spoke in opposition to the recommendation) Item 8

Mr George Hajigabriel, Lot 68 (No.21) Vincent Street, Nedlands
(spoke in opposition to the recommendation) Item 8

Moved – Councillor Coghlan
Seconded – Councillor Bennett

That Council allow the following public addresses.

CARRIED UNANIMOUSLY 10/-

Mr Nigel Shaw, 20 Edward Street, Nedlands
(spoke in support of the recommendation) Item 6

Mrs Bronwyn Stuckey, 26 Kingsway, Nedlands
(spoke in support of the recommendation) Item 6

Mr Liam Bartlett, 24 Vincent Street, Nedlands
(spoke in support of the recommendation) Item 6

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.

3.1 Councillor Bennett – Item 6 - Local Planning Policy – Interim Built Form Design Guidelines – Broadway Mixed Use Zone

Councillor Bennett disclosed a financial interest in Item 6 – Local Planning Policy – Interim Built Form Design Guidelines – Broadway Mixed Use Zone, his interest being that he is an owner occupier at 133 Broadway, and the property falls within the area of properties directly impacted by the Broadway interim Local Planning Policy. Councillor Bennett declared that he has obtained approval from the Minister for Local Government, allowing him to remain in the room, participate in the debate and vote subject to the following conditions:

1. The approval is only valid for the 30 January 2020 Ordinary Council Meeting when agenda item 6 is considered;
2. The abovementioned Councillor must declare the nature and extent of their interests at the abovementioned meeting when the matter is considered, together with the approval provided;
3. The CEO is to provide a copy of the Department's letter of approval to the abovementioned Councillor;
4. The CEO is to ensure that the declarations, including the approval given and any conditions imposed, are recorded in the minutes of the abovementioned meeting, when the item is considered;
5. The CEO is to provide a copy of the confirmed minutes of the abovementioned meeting to the Department, to allow the Department to verify compliance with the conditions of this approval; and
6. The approval granted is based solely on the interests disclosed by the abovementioned Councillor, made in accordance with the application. Should other interests be identified, these will not be included in this approval and the financial interest provisions of the Act will apply.

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 Policy – Interim Built Form Design Guidelines – Broadway Mixed Use Zone

Council	30 January 2020
Applicant	City of Nedlands
Landowner	N/A
Director	Peter Mickleson – Director Planning & Development
Employee Disclosure under section 5.70 Local Government Act 1995	Nil
Attachments	<ol style="list-style-type: none"> 1. Draft Local Planning Policy – Broadway Precinct 2. Map of Broadway Mixed Use Zone 3. Summary of Local Planning Policy provided by community member with Administration response

Mrs L Driscoll, Director Corporate & Strategy & Mr J Duff, Director Technical Services retired from the meeting at 7.25 pm.

Councillor Bennett – Financial Interest

Councillor Bennett disclosed a financial interest, his interest being that he is an owner occupier at 133 Broadway, and the property falls within the area of properties directly impacted by the Broadway interim Local Planning Policy. Councillor Bennett declared that he has obtained approval from the Minister for Local Government, allowing him to remain in the room, participate in the debate and vote subject to the following conditions:

1. The approval is only valid for the 30 January 2020 Ordinary Council Meeting when agenda item 6 is considered;
2. The abovementioned Councillor must declare the nature and extent of their interests at the abovementioned meeting when the matter is considered, together with the approval provided;
3. The CEO is to provide a copy of the Department’s letter of approval to the abovementioned Councillor;
4. The CEO is to ensure that the declarations, including the approval given and any conditions imposed, are recorded in the minutes of the abovementioned meeting, when the item is considered;

5. The CEO is to provide a copy of the confirmed minutes of the abovementioned meeting to the Department, to allow the Department to verify compliance with the conditions of this approval; and
6. The approval granted is based solely on the interests disclosed by the abovementioned Councillor, made in accordance with the application. Should other interests be identified, these will not be included in this approval and the financial interest provisions of the Act will apply.

Moved – Councillor Mangano

Seconded – Councillor Coghlan

Council Resolution

Regulation 11(da) – Council determined that the amendments to the draft policy better reflected the views of the community.

Council prepares, and advertises for a period of 21 days, in accordance with the Planning and Development (Local Planning Scheme) Regulations 2015 Schedule 2, Part 2, Clause 4, the Local Planning Policy – Interim Built Form Design Guidelines - Broadway Mixed Use Zone with the following changes:

1. **The maximum height in the LPP shall be 12.5m above road level (to Clause 4.2 Table 2 and modify Figure 1 = 4 storeys);**
2. **There shall be side setbacks of 2m (north side) for all levels and 4.5m (south side) for all levels, 2m front setback, 6m rear setback (Figure 2);**
3. **Parking is to be provided compliant to City of Nedlands Parking Policy (to Clause 4.6);**
4. **Include Objective 3.5 ‘Reduce visual privacy impacts of new development on neighbouring properties through effective separation and orientation of buildings; and**
5. **Include objective - To provide a significant residential component in accordance with the objective of the Mixed-Use zone as set out in Part 3, Clause 16 of the Scheme, where a significant residential component means that a minimum of 70% of the total floor space of all uses within any new development is for residential dwellings.**

Amendment

Moved – Mayor de Lacy

Seconded - Councillor Wetherall

That the following change be added as point 5:

5. Revise 4.1(b) to 'Development complies with the maximum building height limit of 4 storeys. Only in exceptional circumstances (as outlined in cl. 6.1 of this policy) with any increase to this maximum building height be allowed.

And the following instruction be added:

Council instructs the CEO to engage with the Department of Planning, Lands & Heritage to agree on a process (structure plan or a local development plan) to refine building heights and develop site-specific building envelopes for the Broadway Mixed Use Zone and report back to Council in March 2020 with a way forward.

The AMENDMENT was PUT and was

Lost 4/6

(Against: Crs. Horley Smyth Bennett Mangano Coghlan & Hay)

The Substantive motion was PUT and was

CARRIED UNANIMOUSLY 10/-

Recommendation to Council

Council prepares, and advertises for a period of 21 days, in accordance with the Planning and Development (Local Planning Scheme) Regulations 2015 Schedule 2, Part 2, Clause 4, the Local Planning Policy – Interim Built Form Design Guidelines - Broadway Mixed Use Zone.

1.0 Executive Summary

This report is presented to Council so that it can prepare the Interim Built Form Design Guidelines – Broadway Mixed Use Zone Local Planning Policy (Attachment 1) and proceed to advertising.

2.0 Background

The City's Local Planning Scheme No. 3 (LPS 3) was gazetted in April 2019 and as a result, properties along Broadway have been rezoned as Mixed Use, with an R-AC3 density code (see Attachment 2). Whilst the Residential Design Codes Volume 2 (R-Codes Volume 2) apply and provide some guidance for development assessment, there is limited localised planning guidance for this area.

Considering this absence of localised planning guidance for the Broadway Mixed Use zone, Administration is preparing to develop a precinct local planning policy following the process set out in Draft State Planning Policy 7.2 – Precinct Design (draft SPP 7.2). The process to prepare and adopt this precinct local planning policy is envisioned to be extensive, and involve built form and traffic modelling, as well as pre-engagement with the affected local community. This process is anticipated to take 6–12 months to complete, from inception to submission with the Western Australian Planning Commission (WAPC) for final adoption where required.

The City is receiving a number of development applications for the redevelopment of properties within the Broadway Mixed Use zone. Noting the timeframes anticipated for developing a local planning policy informed by built form and traffic modelling, and pre-engagement with the community, the need has been identified for an interim planning instrument to be developed which sets out basic built form controls for the area beyond what is required from the R-Codes Volume 2. Administration have therefore prepared the Interim Built Form Design Guidelines – Broadway Mixed Use Zone Local Planning Policy (Interim Draft Policy; Attachment 1), which is being presented to Council to prepare and advertise in accordance with the Planning and Development (Local Planning Scheme) Regulations 2015.

While pre-engagement with the community has not yet been undertaken for the Broadway Mixed Use zone, the Interim Draft Policy has been informed by the issues which have arisen out of a development application for a mixed use development on Broadway, as well as by a community-developed local planning policy (discussed more in the Consultation section below). These issues can be summarised as follows:

- Managing the interface with the adjoining Residential zone through building height and setback controls;
- Provision of natural light, ventilation and privacy for new and existing developments;
- Provision of sufficient landscaping and deep soil areas within new developments; and
- Creating an attractive interface to Broadway.

These issues, and how they have been addressed in the Interim Draft Policy are discussed further in the Discussion section below.

If Council resolves to prepare and advertise the Interim Draft Policy, it will be progressed well in advance of built form and traffic modelling, and pre-engagement with the affected local community. Administration's intent is to revise the Interim Draft Policy as required, following these further actions being completed and further evaluated.

3.0 Discussion

Based on the issues raised through the assessment and advertising of a mixed-use development proposal on Broadway, as well as a community-developed local planning policy, the Interim Draft Policy sets out the following objectives:

1. Reduce building bulk and visual and acoustic impacts of new development on the adjoining Residential zone.
2. Provide natural amenity and landscaping within new developments, including areas of deep soil planting that support healthy plant and tree growth.
3. Optimise comfort and energy efficiency of new dwellings through passive solar design.
4. Create a vibrant and activated public domain interface with Broadway and secondary streets, which provides comfort at a pedestrian scale.

Augmented and Replaced Acceptable Outcomes

In support of the above objectives, the Interim Draft Policy augments or replaces the Acceptable Outcomes of the following R-Code Volume 2 elements:

- Building height;
- Street setbacks;
- Side and rear setbacks;
- Tree canopy and deep soil areas;
- Communal open space;
- Visual privacy;
- Car and bicycle parking;
- Solar and daylight access;
- Façade design; and
- Mixed use.

These elements are discussed in further detail below. It is noted that the R-Codes Volume 2 is a performance-based policy. While addressing the Acceptable Outcomes (as proposed to be replaced and amended by the Interim Draft Policy) is likely to achieve the Objectives of the R-Codes Volume 2, they are not a deemed-to-comply pathway and a development proposal will be assessed in the context of the entire design solution to ensure that the Objectives are achieved.

Building Height

In accordance with the R-Codes Volume 2, six-storey buildings are an Acceptable Outcome for areas coded R-AC3. This is of a substantially larger scale than the existing streetscape along Broadway, which is typically comprised of one to two-storeys buildings. Larger-scale development along Broadway has the potential to impose building bulk and overshadowing impacts on adjoining properties and surrounding streets. New larger-scale developments should therefore be carefully designed to mitigate these impacts and provide an appropriate transition to lower-density areas.

In other local government areas, Design Review Panels (DRP) are used to provide independent, expert review of the design of larger-scale developments to ensure that they are appropriate for their settings and successfully negotiate between existing built form and the intended future character of the local area. At its 17 December 2019 meeting, Council resolved to establish a DRP, and Administration will undertake the work required to establish the DRP in early 2020. The DRP could then be used to review proposals for larger-scale development, including those within the Broadway Mixed Use zone.

To date, proposals for larger-scale developments have been referred to a City-engaged architect or urban designer for review on an application-by-application basis.

The Interim Draft Policy requires that where a development is seeking a maximum building height of more than four storeys, the proposal is to be reviewed by a DRP or a City-engaged architect/urban designer (until such time as a DRP is established), prior to the lodgement of a development application to ascertain 'Design Excellence'.

Appendix 2 provides a template for this review, which is based on the 10 design principles set out in State Planning Policy 7.0 Design of the Built Environment, and which would result in a design excellence review score in the form of a percentage. It is proposed that building heights of over four storeys will only be supported where a design excellence review score of 80% or more is achieved. Only those proposals which demonstrate excellent consideration of the 10 design principles, which includes built form and scale, as well as amenity for neighbours, will be able to exceed four storeys in height.

The Interim Draft Policy also requires that the portion of the building abutting Broadway is a minimum of two storeys in height. The intent of this provision is to achieve a consistent streetscape along Broadway, the scale of which reflects the Mixed-Use zoning of the precinct.

Street Setbacks

The Interim Draft Policy requires that the lower levels of buildings are setback between nil and 2m from the primary and secondary streets, with upper storeys being progressively stepped back from the street. The intent of these minimal street setback requirements at lower levels is to facilitate active, pedestrian-

scaled street frontages which encourage casual surveillance of and interaction with the public domain. Progressively increasing upper storey setbacks from the street will ensure that new developments do not impose excessive building bulk and overshadowing over the public domain.

Side and Rear Setbacks

For the third storey and above, the Interim Draft Policy requires greater setbacks to the northern side boundary than the southern side. The intent of this provision is to encourage major openings to habitable rooms (which require greater setbacks for visual privacy) being located on the northern side of dwellings, consistent with the principles of passive solar design. Dwellings which have a passive solar design are able to take advantage of the climate to maintain a comfortable internal temperature range, thereby reducing the dwelling's dependence on auxiliary heating and cooling.

Properties within the Broadway Mixed Use zone abut Residential R60 and R160 properties to the rear. The R-Codes Volume 2 allows for a nil setback to these properties as an Acceptable Outcome. It is noted that the Residential-zoned properties to the rear of the Broadway Mixed Use zone are typically single, detached dwellings with large setbacks, consistent with their previous R10 or R12.5 density coding under the City's Town Planning Scheme No. 2 (predecessor to LPS 3). It is therefore not considered appropriate for new developments within the Broadway Mixed Use zone to have a nil setback to the boundaries with these Residential properties. The Interim Draft Policy instead requires lower storeys of new developments to be setback a minimum of 4m from R160 properties and 6m from R60 properties. Upper storeys are required to be progressively stepped back from the rear boundary, to reduce the impact of building bulk on the Residential zone to the rear.

Tree Canopy and Deep Soil Areas

Deep soil areas (DSA) are areas of soft landscaping on a site which support medium to large canopy trees. The provision of DSAs within new developments makes significant contributions to the ecology, character and amenity of a neighbourhood. DSAs can also be very effective in providing a buffer between high intensity and low intensity developments, reducing the perceived building bulk of new developments.

The Interim Draft Policy sets out that 50% of the DSA required under the R-Codes Volume 2 is to be located adjoining the boundary with sites of a lower density code. It also requires that at least 80% of width of this boundary is provided as tree canopy. The intent of these requirements is to utilise DSAs and tree canopy as a visual buffer between new, larger-scale developments and the lower-density Residential zone to the rear.

The Interim Draft Policy also requires that DSAs are provided a maximum of 1m above the natural ground level of the development site. The intent of this requirement is to avoid medium to large trees being provided on-structure at upper storeys, where minimal soil depths restrict trees from growing to maturity.

Communal Open Space

For developments of more than 10 dwellings, the R-Codes Volume 2 requires dedicated areas of communal open space, which can be used for recreation by occupants of the dwellings. The Interim Draft Policy differentiates between 'active communal open space', which contain facilities likely to encourage residents to congregate and generate noise, such as BBQs, alfresco areas and swimming pools, and 'passive communal open space', which do not contain these facilities. The Interim Draft Policy requires that active communal open space is located adjacent to the street boundary, rather than adjacent to shared boundaries with Residential properties. This provision seeks to locate those communal spaces which are more likely to generate noise impacts away from Residential properties.

Visual Privacy

The visual privacy setbacks set out in the Acceptable Outcomes of the R-Codes Volume 2 are not considered to adequately contemplate the existing single, detached nature of dwellings within the Residential zone adjoining the Broadway Mixed Use Zone. The Interim Draft Policy therefore increases the required visual privacy setbacks for major openings and unenclosed private open space (balconies/terraces) from the adjoining R60 and R160 Residential properties. The Interim Draft Policy allows the more stringent setback of unenclosed private open spaces from R60 properties to be relaxed by 1m (from 8m to 7m) where a landscaping planter box is provided within the open space, on the side facing the R60 property. Planter boxes provided in this way would serve to restrict the occupant's downward field of vision, as they would be unable to stand at the edge of the open space.

Car and Bicycle Parking

The R-Codes Volume 2 specifies that car parking areas should not be visually prominent from the street. This Acceptable Outcome is ambiguous as to whether screened areas of car parking are considered 'visually prominent'. Even when they are provided with screening, parking areas present a blank, un-activated façade to the public domain. The Interim Draft Policy therefore requires that parking areas of more than two bays are to be integrated into the building façade through glazing and articulation of the built form.

Solar and Daylight Access

Appropriate shading of a dwelling's major openings and outdoor spaces can reduce internal summer temperatures, improve comfort and reduce energy consumption. This core component of passive solar design is incorporated into the Interim Draft Policy through requirements for shading devices for major openings and private open spaces.

Façade Design

Compared to the existing development within the Broadway Mixed Use Zone, larger-scale new developments are likely to be more prominent from surrounding properties and the public realm. It is therefore important that the façade design of new development is designed to enhance the visual interest and amenity of surrounding properties and the public realm. The Interim Draft Policy therefore requires that building facades at all levels are articulated and detailed wherever they are visible from these areas.

One of the objectives of the Interim Draft Policy is to create a vibrant and activated public domain interface with Broadway and secondary streets, which provides comfort at a pedestrian scale. To achieve this objective, the Interim Draft Policy establishes what elements should comprise an active frontage and sets out requirements for pedestrian awnings.

Mixed Use

Non-residential uses have the potential to negatively impact surrounding residential properties through noise and overlooking impacts. The Interim Draft Policy therefore requires that non-residential spaces in mixed use development are orientated towards the street, rather than towards residential properties.

One of the objectives of the Mixed-Use zone, as set out in LPS 3, is to “allow for the development of a mix of varied but compatible land uses”. In support of this objective, Clause 32.4 (3) of LPS 3 specifies that residential uses are not permitted on the ground floor facing primary or secondary streets, except where identified in a local planning policy. It is acknowledged, though, that solely residential development may be appropriate in some locations within the Mixed-Use zone. For example, where a subject site has its primary frontage to a street which is not Broadway, a solely residential development interface may be appropriate to provide a buffer to the adjacent or abutting Residential zone. Alternatively, the subject site may be located in an area which has low demand for commercial development, such as an area far removed from existing commercial areas.

The Interim Draft Policy therefore provides discretion to exempt developments from Clause 32.4 (3) of LPS 3, where the City considers that residential uses at the ground floor would provide a transition to the Residential zone or where there is a lack of proximity to existing commercial areas. The Interim Draft Policy will still require solely residential developments to provide an active frontage to the street, which can be adapted to non-residential land uses in the future, if and when there is a demand for such uses.

Review by State Design Review Panel

The Interim Draft Policy will be presented to the State Design Review Panel (SDRP) on 4 February 2020. The SDRP is a multi-disciplinary panel of highly experienced built environment professionals from industry and government that will be able to provide independent advice on the provisions proposed through the Interim Draft Policy. Any comments and recommendations which come out of this meeting will be considered and the incorporated into the final Interim Draft Policy which would be presented back to Council.

4.0 Consultation

Given the urgency of this Interim Draft Policy being prepared, the City has not undertaken pre-engagement with the community (which is not a statutory requirement). It is noted, though, that a local planning policy for Broadway (including the Broadway Mixed Use Zone) has been presented to the City by a member of the community. The submitter of this local planning policy has advised that it has gone through the following consultation process:

- Review of first draft by small group (18-20 people);
- Review of second draft by large group (180 people); and
- Review of fourth draft over three information sessions (two hours each), which were targeted to developers, business and community groups.

Administration was not involved in this process and did not attend any of the information sessions organised by the community member. As set out in the Planning and Development (Local Planning Scheme) Regulations 2015, only a local government may prepare a local planning policy. Administration have therefore not formally considered the community-submitted local planning policy and will not be presenting it to Council to prepare and advertise.

Notwithstanding the above, the content of the community-submitted local planning policy has been reviewed by Administration. Attachment 3 provides a summary of the proposed provisions in the community-submitted local planning policy, and Administration's response to these proposed provisions. As detailed in Attachment 3, the intent of most of the proposed provisions has been incorporated into the Interim Draft Policy prepared by the City.

If Council resolves to prepare the Interim Draft Policy, it will be advertised for 21 days in accordance with Schedule 2, Part 2, Division 2, Clause 4 of the Planning and Development (Local Planning Scheme) Regulations 2015. This will include a notice being published in the newspaper and details being included on the City's website and the Your Voice engagement portal. Following the advertising period, the Interim Draft Policy will be presented back to Council for it to consider any submissions received and to:

- a) Proceed with the policy without modifications;
- b) Process with the policy with modifications; or
- c) Not to proceed with the policy.

In addition to the formal advertising of the Interim Draft Policy, Administration will also undertake more extensive engagement with the community, similar to the engagement undertaken previously for the Nedlands Town Centre and Waratah Village precincts.

5.0 Budget/Financial Implications

At its 26 November 2019 meeting, Council approved the additional funding of \$110 000, in addition to its existing budget, for the purpose of engaging consultants to deliver a range of further work for the Broadway precinct, including built form modelling. It is noted that the Interim Draft Policy has been prepared internally by Administration, without the use of the allocated funding at this time.

Administration intends to engage consultants to undertake the further work for the Broadway precinct in early-mid 2020. The Interim Draft Policy will then be revised as required, following this further work being undertaken.

6.0 Statutory Provisions

Planning and Development (Local Planning Schemes) Regulations 2015

Under Schedule 2, Part 2, Clause 3(1) of the Planning and Development (Local Planning Scheme) Regulations 2015, the City may prepare a local planning policy in respect to any matter related to the planning and development of the Scheme area.

Once Council resolves to prepare a local planning policy it must publish a notice of the proposed policy in a newspaper circulating in the area for a period not less than 21 days.

Elements requiring WAPC approval

Clause 1.2.3 of the R-Codes Volume 2 sets out the elements for which the local government can augment or replace the Acceptable Outcomes, subject to WAPC approval. The Interim Draft Policy proposes to augment or replace Acceptable Outcomes for the following elements, which require WAPC approval in accordance with Clause 1.2.3 of the R-Codes Volume 2:

R-Code Volume 2 Element	Applicable Clause of Interim Draft Policy
3.3 - Tree canopy and deep soil areas	4.3
3.4 - Communal open space	4.4
3.5 - Visual privacy	4.5
3.9 - Car and bicycle parking	4.6
4.1 - Solar and daylight access	4.7
4.10 - Façade design	4.8
4.14 - Mixed Use	4.9

Accordingly, WAPC approval is required prior to these proposed clauses of the Interim Draft Policy replacing or augmenting the relevant Acceptable Outcomes of the R-Codes Volume 2. Notwithstanding the need for WAPC approval, if the Interim Draft Policy is adopted for advertising by Council, then it will become a Council adopted policy position and these clauses can be considered in the assessment of development applications. If Council resolves to approve the Interim Draft Policy following advertising, the policy will be forwarded to the WAPC for approval of these clauses. All other parts of the Interim Draft Policy will be operational upon Council approval.

7.0 Conclusion

In order to ensure that appropriate local planning controls are in place, Administration is recommending that Council prepares a local planning policy for the Broadway Mixed Use zone and grant consent to formally advertise this Interim Draft Policy to the wider community.

Administration is currently working to engage consultants to undertake further work for the Broadway precinct, including built form and traffic modelling, and pre-engagement with the community. The Interim Draft Policy will then be revised as required, following this further work being undertaken, before being presented back to Council for final approval.

The Mayor granted a recess for the purposes of a refreshment break and to allow members of the public to leave should they wish.

The meeting adjourned at 8.21 pm and reconvened at 8.28 pm with the following people in attendance:

Councillors	Her Worship the Mayor, C M de Lacy	(Presiding Member)
	Councillor F J O Bennett	Dalkeith Ward
	Councillor A W Mangano	Dalkeith Ward
	Councillor J D Wetherall	Hollywood Ward
	Councillor R A Coghlan	Melvista Ward
	Councillor G A R Hay	Melvista Ward
	Councillor R Senathirajah	Melvista Ward
	Councillor N B J Horley	Coastal Districts Ward
	Councillor L J McManus	Coastal Districts Ward
	Councillor K A Smyth	Coastal Districts Ward
Staff	Mr M A Goodlet	Chief Executive Officer
	Mrs L M Driscoll	Director Corporate & Strategy
	Mrs N M Ceric	Executive Assistant to CEO & Mayor

7. Establishment of a Design Review Panel

Council	30 January 2020
Director	Peter Mickleson – Director Planning & Development
Reference	Nil
Previous Item	PD14.19 at 23 April 2019 Ordinary Council Meeting
Attachment	<ol style="list-style-type: none"> 1. Draft Design Review Panel Local Planning Policy 2. Draft Design Review Panel Terms of Reference 3. Design Review Guide 4. Design Principles to be considered by the Design Review Panel

Moved – Councillor Smyth
 Seconded – Councillor Senathirajah

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

Amendment

Moved - Councillor McManus
 Seconded - Councillor Wetherall

That clause 4 be replaced with the following:

- 4. Instructs the Chief Executive Officer to:**
- a. refer the options for funding of a Design Review Panel to a Councillor Workshop to assess costs, benefits and risks, and report back to Council in March 2020 for a decision on funding; and
 - b. make arrangements for complex planning proposals to be considered by another Western Suburbs Design Review Panel at the proponent’s cost as an interim measure prior to the establishment of the City of Nedlands Design Review Panel.

The AMENDMENT was PUT and was **CARRIED UNANIMOUSLY 10/-**

The Substantive Motion was PUT and was **CARRIED 8/2**
(Against: Crs. Mangano & Hay)

Council Resolution

Regulation 11(da) - Council determined that the amendments better reflected the earlier intent.

That Council:

- 1. Adopts the City of Nedlands Design Review Panel Terms of Reference for the purposes of providing independent expert design review advice for complex planning proposals as per attachment 2;**
- 2. Prepares and advertises Design Review Panel Local Planning Policy for a period of 21 days, in accordance with the Planning and Development (Local Planning Schemes) Regulations 2015 Schedule 2, Part 2, Clause 4 as per attachment 1;**
- 3. Instructs the Chief Executive Officer to call for expressions of interest for six (6) members for the City of Nedlands Design Review Panel, with appointment to the Panel to be made by Council upon its adoption of the Design Review Panel Local Planning Policy;**
- 4. Instructs the Chief Executive Officer to:**
 - a. refer the options for funding of a Design Review Panel to a Councillor Workshop to assess costs, benefits and risks, and report back to Council in March 2020 for a decision on funding; and**
 - b. make arrangements for complex planning proposals to be considered by another Western Suburbs Design Review Panel at the proponent's cost as an interim measure prior to the establishment of the City of Nedlands Design Review Panel.**
- 5. Notes that a budget amount of \$30,000 is to be set aside in the Mid-Year Review to allow for the operation of the Design Review Panel from February – June inclusive; and**
- 6. Instructs the Chief Executive Officer to make arrangements for complex planning proposals to be considered by another Western Suburbs Design Review Panel at the proponent's cost as an interim measure prior to the establishment of the City of Nedlands Design Review Panel.**

Recommendation to Council

That Council:

1. Adopts the City of Nedlands Design Review Panel Terms of Reference for the purposes of providing independent expert design review advice for complex planning proposals as per attachment 2;
2. Prepares and advertises Design Review Panel Local Planning Policy for a period of 21 days, in accordance with the Planning and Development (Local Planning Schemes) Regulations 2015 Schedule 2, Part 2, Clause 4 as per attachment 1;
3. Instructs the Chief Executive Officer to call for expressions of interest for six (6) members for the City of Nedlands Design Review Panel, with appointment to the Panel to be made by Council upon its adoption of the Design Review Panel Local Planning Policy;
4. Adopts the Cost-sharing financial model of the City funding 100% of the pre-lodgement meeting and 50% of the post lodgement meeting;
5. Notes that a budget amount of \$30,000 is to be set aside in the Mid-Year Review to allow for the operation of the Design Review Panel from February – June inclusive; and
6. Instructs the Chief Executive Officer to make arrangements for complex planning proposals to be considered by another Western Suburbs Design Review Panel at the proponent's cost as an interim measure prior to the establishment of the City of Nedlands Design Review Panel.

1.0 Executive Summary

The purpose of this report is for Council to consider the Terms of Reference and a Local Planning Policy regarding the operation and function of a Design Review Panel (Panel) which would provide independent expert design review advice for complex planning proposals.

This matter was first considered at the Ordinary Meeting held on 23 April 2019, at which Council resolved not to establish a Design Review Panel. This matter was re-tabled for consideration at the City's December Ordinary Council meeting (Item 16.1) where the following was resolved:

That Council reconsider its decision PD14.19 dated 23 April 2019 "That Council does not establish a Design Review Panel" and resolves to:

1. Instructs the CEO to recommend to Council a Design Review Panel Terms of Reference for the purposes of providing independent expert design review advice for complex planning proposals;

2. Instructs the CEO to prepare a Local Planning Policy outlining the types of development, policies and projects that will be referred to the Panel, a set of Design Principles that the panel will use for a basis for review and relevant operations and procedures for the panel;
3. The cost of the Design Review Panel be borne by the applicants;
4. That the Design Review Panel be reviewed in 9 months from the date of establishment; and
5. That the CEO investigates opportunities for a cooperative arrangement with other Western Suburbs Councils to share the use of a Design Review Panel if established.

With the gazettal of Local Planning Scheme No. 3 (LPS 3) the City has experienced a higher level of growth in development occurring in the locality. Community expectations about the quality of built form outcomes have been increased as a result of recent applications. This community expectation has also increased with the adoption of *State Planning Policy 7.0 Design of the Built Environment*.

Larger-scale developments and projects with a strong design focus require additional expertise over and above assessment planning. A Panel can provide additional input in areas such as architecture, heritage, landscape design and sustainability. With a higher importance on ameliorating design impacts and mitigating any potential impact on established neighbourhoods, having a Design Review Panel will become an important part of the City's regulatory response.

Ensuring that the City has a consistent approach to built form design should be addressed and a Panel would be the preferred approach to achieve this. It is noted that the Development Assessment Panels (DAP's) have an expectation that applications before them would have undertaken a design review process prior to being presented for determination by the DAP.

A draft local planning policy (LPP) and draft Terms of Reference have been prepared for operational and procedural purposes to outline how the Panel members would be appointed and what type of development will be referred to the Panel. It is not proposed to form the Panel as a committee under the *Local Government Act 1995*. Rather, the Panel does not have a decision-making role and will be limited to providing advice to the City and proponents.

It is recommended that Council establishes a Panel, adopts the draft Terms of Reference and advertises the draft Design Review Panel Local Planning Policy.

2.0 Background

Previous planning reform by the WA Planning Commission (WAPC) identified the need for initiatives and actions for the improvement of design and development. This is now being delivered as *Design WA*. Stage 1 has been completed, which aims to deliver elements with a direct planning reform mandate, including:

- State Planning Policy 7.0 Design of the Built Environment (SPP 7.0)
- State Planning Policy 7.3 Residential Design Codes Volume 2 - Apartments
- Design Review Guide (the Guide). Refer to **Attachment 3**.

The Guide sets a best-practice model for the establishment of Panels offering practical advice on how to establish and operate a panel and to encourage consistency, as existing design review processes evolve. The Guide recommends Panels provide independent expert advice and informed assessment of proposals, guided by a performance-based set of design quality principles. It offers feedback and observations that will lead to the improvement of proposals but does not redesign them.

The majority of metropolitan local governments already have Panels established or are in the process of forming a Panel. The practice has been established for many years in neighbouring local governments. Therefore, its introduction in Nedlands is likely to be accepted by the development industry.

The option of accessing an existing Design Review Panel operating in another local government area has been investigated. Some local governments will entertain outside proposals being considered by their respective Panels. However, there appears to be limited capacity to manage the volume of proposals expected to be generated within Nedlands. Further, any sharing of outside Panels will be subject to all costs being borne by the City. These costs will be set by the providing local government with limited ability for the City to mitigate these if considered prudent.

The use of an outside Panel is considered appropriate as an interim measure only. In the medium-to-long term, it is likely that the City will have sufficient development volume to warrant its own Panel. This option gives Council full control over the costing and make-up of the Panel. It also ensures that the Panel is available when required to deal with the City's planning assessment obligations.

3.0 State Planning Policy 7.0 - Design of the Built Environment

SPP 7.0 addresses design quality and built form outcomes in Western Australia. It seeks to deliver the broad economic, environmental, social and cultural benefits that derive from good design outcomes and supports consistent and robust design review and assessment processes across the State.

An objective of SPP 7.0 is a coordinated strategy of design quality mechanisms to achieve design outcomes that meet government and community expectations, including, amongst others, design review (skilled evaluation expertise). SPP 7.0 stipulates that Planning authorities, including local governments, should establish or arrange access to design review processes

to review complex planning proposals, those proposals identified as benefitting from design review, or as set out in the *Planning and Development (Local Planning Schemes) Regulations 2015*.

Whilst it is an advisory process, it is expected that decision-makers give due regard to the advice and any recommendations provided by the Panel.

4.0 Design Review Guide

The Guide (**Attachment 3**) has been prepared to assist local governments in meeting the requirement for design review outlined in SPP 7.0.

The guide has been based on design review methodology developed by the UK Commission for Architecture and the Built Environment (CABE), which is widely considered to represent international best practice and is utilised in successful design review processes throughout Australia.

The Guide stipulates that once the decision is made to form a Panel, resources must be committed to make it happen. It is important to be clear how the panel is run, the processes by which design review is accessed and how the advice and recommendations are provided and used.

The Panel's role is to provide information and advice to decision makers, not to make a decision. For this reason, a Panel should not be a committee of Council under the *Local Government Act 1995* but should be established as an independent panel with separate membership and terms of reference. The Council should endorse the terms of reference for the panel and may endorse panel appointments.

The draft Local Planning Policy and draft Terms of Reference that have been tabled for Council consideration are based on the recommendations of the Guide.

6.0 Draft Design Review Panel Local Planning Policy

A draft local planning policy has been prepared for Council consideration and is included at **Attachment 1**. The purpose of the draft Policy is to outline the operation of the Panel. The draft Policy covers:

- The role and objective of the Panel, namely, to provide input on architectural and design aspects of a planning proposal. The Panel's role will also include improving the design quality and functionality of new development within the City and to provide expert advice to the City;
- The proposals that are to be referred to the Panel prior to lodgement of an application. This includes all multiple dwelling proposals, grouped dwelling proposals proposing ten or more units and developments of three or more storeys, excluding single houses. All mandatory JDAP applications would also be subject to review by the Panel prior to lodgement;

- The proposals that are to be referred to the Panel post-lodgement of an application. This includes applications that are in the opinion of the City of a complex or contentious nature or are likely to be of a significant interest to the community. The Panel will also be available to consider structure plans, precinct plans and local development plans if the City considers these would benefit from a referral;
- The process of dealing with a proposal referred to the Panel, either prior to lodgement or post-lodgement. This includes arrangements for information to be provided to Panel Members, minute-taking and funding. The proposed funding options are outlined in the Budget / Financial Implications section below.
- The matters to be considered by the Panel, including the ten design principles outlined in Schedule 1 of SPP7.0 and included at **Attachment 4**.

The Policy provides for most applications to be considered twice by the Panel. The first meeting will provide input to the proponent and the City into the preparation of the application before it is lodged. The second meeting will review the formal application and provide recommendations to the City's assessment staff.

It is recommended that Council advertises the draft Policy for a period of 21 days in accordance with clause 4 of the Deemed Provisions. Once advertising is complete, the draft Policy will be returned to Council for further consideration.

7.0 Draft Design Review Panel Terms of Reference

A draft Terms or Reference for the Panel is included at **Attachment 2**. The Terms of Reference will work in conjunction with the Local Planning Policy to govern the operation of the Panel.

The draft terms of reference covers:

- The statutory basis for the Panel, including its role (as outlined in the draft Local Planning Policy) and the limitation of Panel members on providing direct advice to an applicant or individual.
- The membership of the Panel, including:
 - The meetings being chaired by the City's Director Planning and Development in an ex officio capacity. This is intended to remove the burden of meeting administration from the expert members of the Panel.
 - A maximum of four members to sit at any one time, which can include the four ordinary members or two specialist members, depending on the nature of the proposal;
 - Panel members having qualifications and experience in one or more of the following areas:
 - Architecture
 - Landscape architecture

- Urban design
 - Heritage
 - Sustainability and environmental design
 - Services engineering
 - Accessibility
 - Transport planning
 - Planning
 - Public art
 - Civil and/or structural engineering
- A quorum of three for meetings;
 - Members are to be appointed by Council and have a three-year term, extendable by Council by up to twelve months; and
 - Members cannot be employed by or be an Elected Member of the City.
- The operation of the Panel meetings, which will be nominally held once per month with additional meetings called for urgent matters. Meetings will not be open to the public and all members will be subject to the City's Code of Conduct and declaration of interest requirements. The Terms of Reference will also outline the structure of the meeting and the format for providing advice to proponents and the City.
 - The format of the Panel recommendation, namely the Panel will provide advice to a proponent pre-lodgement to assist in preparing the formal application. Post lodgement, the Panel will provide recommendations to the City on which design elements are supported and which would benefit from further consideration.
 - The provision of advice outside of Panel meetings by a Panel Member where a full Panel meeting is not considered by the City as required. Provision has been made to allow for the Panel to provide advice to other local governments at the cost of the requesting local government.
 - The financial arrangements for the Panel include a member payment of \$205 per hour exclusive of GST, up to a maximum of three hours. This is based on surrounding local government rates. Funding of the Panel is discussed in the Budget / Financial Implications section of this report.

8.0 Budget / Financial Implications

The administration cost associated with the panel is likely broken up as follows:

1. Administration – to undertake minutes, attendance and the meeting and preparation of the agenda, (6 hours) at a cost of approximately \$216.00.
2. Director Planning and Development – to chair the meeting \$615.00
3. Technical officers in attendance x 3 = \$378.00

Total Administration Cost = \$1209.00

Panel Member Costs

This is based on four panel members being paid for three hours at \$205 per hour, excluding GST. The actual meeting cost may be lower if the meeting is shorter or less than four members participate.

Total Panel Member Costs = \$ 2460.00

The costs associated with operation of the Panel will be predominantly focussed on attendance fees.

Total Meeting Cost = \$3669.00 (Administration + Panel Costs)

Using a similar hourly rate as adopted by surrounding local governments, a total meeting cost of \$3669.00 excluding GST is expected.

There are three main funding models available to Council. These are City-funded, Proponent-funded and Cost-sharing.

City-funded

Most local governments surveyed use a nil-cost recovery model for the operation of their respective Panels. Each of these local governments set aside funds to allow for operation of their respective Panels.

The financial implication for the City in employing this model is estimated at \$45,000 excluding GST per annum. This is based on the above per-meeting rate and allowing for one two-hour meeting per month. Given the number of complex applications currently being lodged with the City, it is likely that additional meetings will be required. Therefore, it is recommended that at least a total of 24 meetings per year is allowed for. This would increase the budget required to \$90,000 excluding GST. It is argued that with additional income coming into the City through lodgement fees, the additional fees are likely to more than cover the cost of the Design Review Panel.

The advantages of this model include providing an incentive to proponents to use the service. There is an advantage to the City in that it can more readily oblige a proposal to be considered by the Panel as there is no cost to the proponent.

The disadvantages of this model include the cost to the City and there being less financial incentive for the proponent to pursue good design from the outset.

Proponent-funded

No local government surveyed uses a full cost-recovery model to fund its Panel, although one is looking at such a model. However, the option is available to require proponents cover the costs of each Panel meeting. It is noted that this model, has in the past, been Council's preferred option.

There would be no financial implication to the City in employing this model, with the exception of costs associated with administration and venue. However, these costs will be accommodated into the existing staff resourcing levels.

Likely costs to an applicant will vary on the length of time and number of Panel members. Based on a 1-hour meeting with an hour's preparation (2 hours total), the cost to the proponent would be \$1,640 excluding GST.

The advantages of this model include the lack of costs to the City. It also creates an incentive for proponents to appoint a skilled designer and pursue good quality design from the outset so that the number of design reviews (and associated costs) are minimised.

The disadvantages of this model include increasing the costs associated with having a development application considered when compared to surrounding local governments that do not charge for the service, or at the most charge a nominal fee. The implication of a significant fee may act as a disincentive to accessing the service, as well as make it more difficult for the City to oblige proposals to subject themselves to design review.

Cost-sharing

Sharing the costs between the City and the proponent is not in widespread use, although it is a viable option. There are many iterations of cost-sharing that can be employed. However, for the purposes of this report, a model has been recommended that has the City cover the costs for the pre-lodgement meeting, with the costs of the post-lodgement meeting being shared 50/50.

The financial implication for the City will be somewhat less than the City-funded model. However, the exact benefit of this model will depend on the number of proposals that are considered at a second, post-lodgement meeting. As the number of meetings will be unknown, it is recommended that a similar budget allocation is made to that recommended for the City-funded model (\$90,000).

The advantage of this model is that the proponent shares some of the costs of the design review. This promotes 'buy-in' to the process.

The disadvantages of this model include the administrative complexity involved with the potential for disputes with proponents over the share of costs, particularly where more than one proposal is considered at a meeting.

9.0 Interim arrangement

Given the large number of complex planning proposals currently being considered by the City, it is recommended that an interim solution be used as the new Panel is established.

Some local governments can accommodate proposals from outside of their Panel areas. This is done based on all costs associated with the meeting being borne by the requesting local government.

Until such time as the Panel is operational, it is recommended that the City utilise another Western Suburbs Design Review Panel as required. This will provide valuable design input into the assessment process of upcoming complex applications. All costs associated with the outside Panel meetings will be borne by the proponent.

10.0 Risk management

The risks associated with not having a Panel include the following:

- Complex applications will not be reviewed by a panel of built form design experts relating to new assessment criteria as prescribed by State Planning Policy 7.0;
- Applications before the JDAP may not be approved due to lack of Panel consideration, potentially causing delays for applicants and administration; and
- Alternative expert advice in the areas of architecture, sustainability / energy efficiency, landscape architecture and arborists amongst others will need to be engaged separately to adequately address the complex assessment items required to be vetted by the City as part of Design WA.

11.0 Conclusion

Development in the City is likely to no longer be dominated by single storey dwellings. Instead up-coded areas are likely to experience high levels of redevelopment as a result of LPS 3. This is already being experienced with a high level of applications lodged and a large 'pipeline' of proposals that are expected to be lodged in coming months.

Establishing a Panel to provide independent expert architectural and design advice on large-scale and complex development that can impact the community is seen as the next logical step for the City. As the City moves into an increasingly sophisticated planning assessment process including an increase in more intensive density and varied development typologies, the Panel becomes increasingly important. Therefore, it is imperative that the City and administration are adequately equipped with professional expertise.

It is recommended that:

1. Council pursue the establishment of a Panel through the advertising of the draft Design Review Panel Local Planning Policy and the adoption of the draft Terms of Reference for the Panel;
2. Funds be set aside to accommodate the Panel's operations for the remainder of the current Financial Year;
3. Expressions of interest for Panel membership be called in the short term, so that Council can consider appointments in the event the Local Planning Policy is adopted by Council after advertising; and
4. An interim arrangement be used at the proponent's cost, to access other Western Suburbs Design Review Panels whilst the Nedlands Panel is being established.

8. Local Planning Scheme 3 – Local Planning Policy, Doonan Road, Jenkins Avenue, Vincent Street, Laneway and Built Form Requirements

Council Date	30 January 2020
Director	Peter Mickleson – Director Planning & Development
Reference	Nil
Previous Item	Nil
Attachments	<ol style="list-style-type: none"> 1. Draft Doonan Road, Jenkins Avenue, Vincent Street Laneway and Built Form Requirements Local Planning Policy (LPP) 2. Confidential Attachment Applicant Proposed Subdivision

Councillor Mangano left the room at 9.28 pm.

Regulation 11(da) – Not Applicable – Recommendation Adopted

Moved – Councillor Hay
 Seconded – Mayor de Lacy

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

Councillor Mangano returned to the room at 9.30 pm.

CARRIED 8/2
(Against: Crs. Smyth & Wetherall)

Council Resolution / Recommendation to Council

Council prepares, and advertises for a period of 21 days, in accordance with the Planning and Development (Local Planning Schemes) Regulations 2015 Schedule 2, Part 2, Clause 4, the Doonan Road Laneway and Built Form Requirements Local Planning Policy.

Executive Summary

The purpose of this report is for Council to prepare (adopt for advertising) the Doonan Road, Jenkins Avenue, Vincent Street Laneway and Built Form Requirements, Local Planning Policy required under Local Planning Scheme 3 (LPS 3).

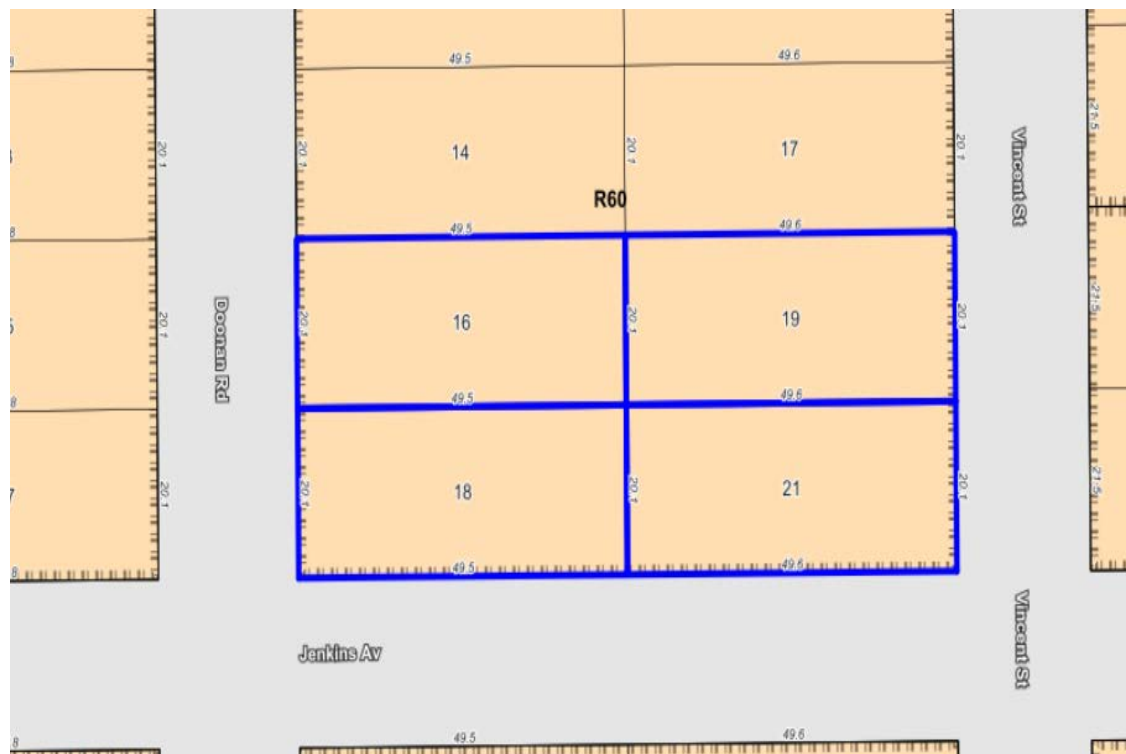
This policy details the requirements relating to the ceding and creation of a laneway between the properties at 16 and 18 Doonan Road Nedlands and 19 and 21 Vincent Street Nedlands located parallel to Jenkins Avenue, running east to west. The policy also details the built form requirements for properties abutting the proposed laneway. This Policy has been created as a measure to capture the ceding of land and construction of a laneway abutting the properties mentioned in response to developers seeking to subdivide and develop to the new density code. This subsequently may result in an undesirable development of maximum width crossovers to both Doonan Road and Jenkins Avenue.

The aim of the policy is to protect and maintain the existing landscaped and tree lined streetscapes whilst minimising the amount of crossover, driveways and hardstand needed along Doonan Road, Vincent Street and Jenkins Avenue.

Background

The properties at 16 and 18 Doonan Road and 19 and 21 Vincent Street Nedlands have been up coded to R60 under the City's recently adopted Local Planning Scheme No. 3 (LPS 3). This allows the properties to develop approximately 5/6 grouped dwellings (townhouses) at 2 storey height limits or approximately 6-10 multiple dwellings (apartments) over a 3-storey height limit.

The properties at 16 and 18 Doonan Road and 19 and 21 Vincent Street Nedlands are shown in the below image.



Within the City's new Local Planning Scheme No. 3 (LPS 3) Clause 32.3 allows the City to require that a developer create a laneway and cede and construct that Laneway at the developers cost for the purpose of creating rights of way or laneways which are identified by the scheme or a, structure plan, local development plan, activity centre plan or local planning policy at the time of the owner developing or subdividing the land. Therefore, if the City chooses to adopt this policy the City will have the head of power under Clause 32.3 to acquire the land and require developers to construct the laneway as designated to the City's specifications at the time of subdivision or significant redevelopment.

The City has recently considered a subdivision referral from the WAPC for a 5-lot subdivision at 18 Doonan Road whereby significant concerns were raised by administration due to the subsequent streetscape impact this proposal will likely cause to Jenkins Avenue.

Note: A full copy of all relevant plans received by the City has been given to Councillors prior to the Council Meeting.

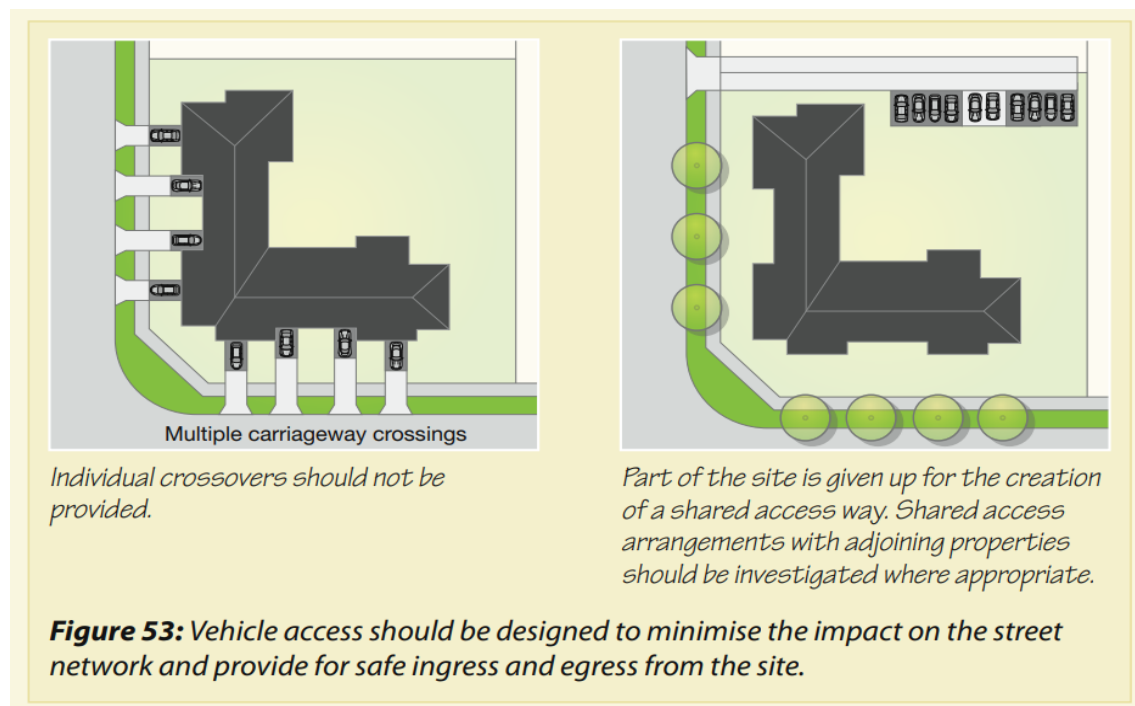
18 Doonan Road and it's interface with Jenkins Avenue transitions density from R60 to R10 on the South side of Jenkins Avenue. A preliminary development application shown to Administration proposes 5 double width crossovers with 4 double width crossovers planned to Jenkins Avenue. Administration believes that this would pose an undesirable streetscape outcome and that garage and crossovers should be located to the rear and front a new laneway. This proposed laneway will seek to connect Doonan Road with Vincent Street. This policy therefore has been put forward as a measure to aid the City in identifying the required land between these lots for a laneway to be created and constructed which will then remove the requirement for a large number of crossovers to the existing street. The laneway created will result in only one crossover/entry point being required at Doonan Road and one at Vincent Street, therefore removing up to 15 direct vehicle crossings. The proposal also opens development opportunity to the subject lots to the north as they will have a newly created frontage to a laneway if and when they choose to develop or subdivide in the future.

Detail

This draft policy details the laneway requirements for the proposed laneway between Doonan Road and Vincent Street. The draft policy sets out the land identified to be ceded for the creation of a laneway and the requirements for the ceding and development. The policy requires a 3.5m strip of land to be designated from each of the properties through the centre boundary line. Once each property has ceded 3.5m a 7.0m wide laneway will be created which will be constructed to the City's specifications including being sealed, drained and with lighting and landscaping. In the interim a the 3.5m ceded portion may act as a one-way access like that of a battle-axe driveway.

The benefits of a laneway servicing these properties is not only the minimisation of crossovers to the street but also the potential for the properties to the north 16 Doonan Road and 19 Vincent Street who were formerly land locked to develop green title lots. Currently without the designated Laneway those lots will only have been able to be subdivided as survey strata lots with a common property driveway (battle-axe configuration) or a maximum of two street frontage green title lots. The laneway will create lesser hardstand area than what would currently be required for a battle-axe style development with a common driveway. This is because Clause 5.3.5 in the Residential Design Codes Volume 1 states that a driveway serving 4 or less dwellings must have a driveway of no less than 3m and in the case of a driveway serving 5 or more dwellings it must accommodate two way access therefore would require 6m or the ability to manoeuvre to allow for vehicles to enter and exit in forward gear.

The explanatory guidelines of the Residential Design Codes Volume 1 Clause 6.5 Vehicular Access Figure 53 shown below discusses that individual crossovers to the street should not be provided instead consolidated access is encouraged. This Clause discusses the detrimental impact that multiple crossovers has on the amenity and streetscape. The Clause discusses that too many crossovers cause loss of kerbside parking space, lack of space for street trees and furniture, interruption to pedestrian use of footpaths and increased hazards for cyclists. The method encouraged is that what the policy seeks to enforce, of vehicle access located to the rear of the site where possible and to encourage shared access by utilising an aggregate vehicle access solution for future lots.



The built form controls factored within the policy are to encourage activated frontages and that the laneway to not be a solid wall of garages, instead having a street like appearance with pedestrian access and visual surveillance opportunities to and from the laneway from the adjacent dwellings. The development or subdivision of properties on 16 Doonan Road and 19 Vincent Street will create opportunities for lots/dwellings to have their primary frontage to the laneway. Where lots are developed for single dwellings the laneway would be developed having the appearance of a minor street including landscaping, pedestrian friendly access-ways and major openings from buildings overlooking the laneway. This will mean that although the main purpose is for vehicle access to dwellings, as well as removal of potentially multiple crossovers from the street that it will continue to maintain the elements of traditional Nedlands street appearance which is pedestrian friendly, green, landscaped and a tree lined built environment.

The policy through built form controls aims to encourage a pedestrian friendly, landscaped street appearance within the laneway. This is done through mandating fencing to the laneway to be in line with the primary street fencing requirements being open in style to allow for passive surveillance. A clear definable pedestrian entry way is to be provided from the laneway and this is to encourage the space to not be car dominated and pedestrian friendly, it is also proposed that visual surveillance from a habitable room from the dwelling(s) be provided to look out to the laneway.

Without this Policy in place, the City lacks the ability to apply LPS 3 Clause 32.3 mandating the ceding of land for the creation of a laneway. If the properties chose to subdivide first, which is the case with 18 Doonan Road, this is approved by the West Australian Planning Commission (WAPC) and not the City. The WAPC's position is that the City can deal with multiple crossovers at the development application stage but once the 5 separate parcels have been created the City would be unable to refuse access to each lot and multiple crossovers will be built.

Administration have requested both the WAPC and the applicant's planning consultant Taylor Burrell Barnett to provide the City and WAPC with a Local Development Plan to demonstrate a better built form and urban design outcome, however the applicant has refused to undertake this task and the WAPC has not agreed to enforce it through condition of subdivision. The argument has been expressed that the landowners bought this site for its development potential which it wishes to maximise. This is not a valid planning consideration and given that the role of local government planning is to protect the interests of the City holistically a proactive approach is being applied.

The current local planning framework is evolving and unresolved. Any purchase of development sites within the density transition areas cannot solely rely on LPS3 as a guaranteed development pathway as the City is currently formulating localised planning policy responses to better augment the R-Codes to suit City of Nedlands and its localised streetscape, desired future character and best practice urban design for this area.

In this circumstance the proposed subdivision and subsequent redevelopment of 18 Doonan Road would create 5 crossovers to the street on what is currently one lot with one crossover. The application of this policy over the four parent lots will seek to avoid the construction of up to 8 double crossovers to Jenkins Road over the two parent lots if redeveloped in accordance with the newly adopted and higher R60 coding.

The majority of submissions received during the advertising period of LPS 3 discussed concerns in relation to increased crossovers and hardstand to the street, reduction of trees and the degradation of the Nedlands green leafy suburban character due to inappropriate development and subdivision within the up coded areas. Without a local planning policy mandating a laneway in this location the proposed development and subdivision proposals will result in a poor redevelopment precedent. The significant increase in crossovers will compromise the orderly and proper planning for this precinct and sets a poor precedent for minimisation of crossovers to the street. This does not accord with the future desired streetscape character for Doonan Road, Jenkins Avenue or Vincent Street.

If this policy is adopted for advertising as per Administration recommendation it can be given due regard for development applications and subdivision referrals. It is envisaged that this process will be repeated for corner redevelopment lots within the density transition up coded areas applicable under LPS 3 and that through precinct planning processes, a series of new laneways will be identified and established through local planning policies. A future goal for the City would also be to investigate the possibility of these laneways being used for waste and other services to remove vehicle movements from the main streets.

WAPC Approval

If Council adopts this LPP, the standards in relation to Vehicle Access, Outdoor Living Areas and Landscaping will not be enforceable until such time as the Western Australian Planning Commission (WAPC) approves the LPP.

This is because under Part 7.3 of the Residential Design Codes Volume 1 these areas can only be amended if approval from the WAPC is granted.

Accordingly, once a final version is adopted by Council post advertising, the LPP will be referred to the WAPC in order to seek their approval for provisions related to Vehicle Access, Outdoor Living Areas and Landscaping. This report, together with Council's resolution on the report, will also be referred to the WAPC.

Consultation

If Council resolves to prepare the draft LPP, it will be advertised for 21 days in accordance with Schedule 2, Part 2, Division 2, Clause 4 of the Planning and Development (Local Planning Scheme) Regulations 2015 (P&D Regs.2015) and the City's Consultation LPP. This will include a notice being published in the newspaper, details being included on the City's website and the Your Voice engagement portal.

The four affected landowners have been notified of this report and will be consulted during the advertising of this policy.

Following the advertising period, the policy will be presented back to Council for it to consider any submissions received and to:

- a) Proceed with the policy without modification;
- b) Proceed with the policy with modification; or
- c) Not to proceed with the policy.

Statutory Provisions

Planning and Development (Local Planning Schemes) Regulations 2015

Under Schedule 2, Part 2, Clause 3(1) of the Planning Regulations the City may prepare a local planning policy in respect to any matter related to the planning and development of the Scheme area.

Once Council resolves to prepare a local planning policy it must publish a notice of the proposed policy in a newspaper circulating in the area for a period not less than 21 days.

City of Nedlands Local Planning Scheme No. 3

Under Clause 32.3 of the City of Nedlands Local Planning Scheme No. 3 the City requires the ceding of land for laneways identified through a Local Planning Policy. This policy will give effect to this clause and require developers to cede land identified for a laneway before development or subdivision approval will be granted. Clause 32.3 is shown below.

Clause 32.3

Ceding of rights-of-way and laneway widening.

1. The owner of land affected by a right-of-way or laneway identified by the scheme, structure plan, local development plan, activity centre plan or local planning policy is to, at the time of developing or subdividing the land:
 - a) cede to the local government free of cost that part of the land affected by the right-of-way or laneway; and

- b) construct the relevant section of the right-of-way or laneway to the satisfaction of the local government.
2. The intention expressed in sub-clause (1) may be reinforced by a condition of subdivision or development approval.

Conclusion

The Doonan Road Laneway and Built Form Requirements LPP is the preferred mechanism to provide for the enforcement of Clause 32.3 in the City's Local Planning Scheme No. 3 to create a laneway through the properties at 16 and 18 Doonan Road and 19 and 21 Vincent Street Nedlands. The main outputs of the policy are to minimise the number of crossovers to the street and to encourage built form provisions that will provide for a laneway which has the appearance of a Nedlands local street rather than a blank wall of garages. Without a local planning policy, the City will lack the mechanism to enforce the provision of a laneway to service the subject sites and therefore will have no mechanism to limit 5 or 6 crossovers being approved when subdivision is applied for first. The City already has a Subdivision Referral and has seen a preliminary Development Application plan on an affected site and this Policy is needed to be adopted to advertise imminently to avoid a negative development and built form outcome.

As such, it is recommended that Council endorses Administration's recommendation to prepare (adopt to advertise) the Doonan Road Laneway and Built Form Requirements LPP.