



City of Nedlands

# ***Minutes***

## ***Special Council Meeting***

***5 March 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 held in the Council chambers, Nedlands on Thursday, 5 March 2020 at 6.30 pm for the purpose of considering Local Planning Scheme 3 – Local Planning Policy Waratah Village Laneway Requirements, Local Planning Scheme 3 – Local Planning Policy: Smyth Road, Gordon Street and Langham Street Laneway and Built Form Requirements and Confidential item – 97-99 Waratah Avenue Dalkeith – Construction of Designated Laneway and associated Cost Recovery for Laneway Access – Waratah Village Laneway.

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### Declaration of Opening

The Presiding Member declared the meeting open at 6.30 pm and drew attention to the disclaimer below.

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

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

<b>Councillors</b>	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 B G Hodsdon	Hollywood 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

<b>Staff</b>	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 36 members of the public present.

**Press** The Post Newspaper representative.

**Leave of Absence (Previously Approved)** Nil.

**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.

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

## **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.

### **1.1 Ms Carmen Tutor, 8A Alexander Road, Dalkeith**

#### **Question**

Regarding 95 Waratah Avenue application to develop, I support the laneway from Adelma to the Dalkeith hall site, but this is valuable land and I ask what \$ compensation will be paid by the developer to City and therefore taxpayers?

#### **Answer**

The Local Planning Scheme No. 3 provides that no compensation is payable when land is ceded for a laneway.

## **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.

Mr Mark Burns, 27 Butch Street, Subiaco  
(spoke in opposition to the recommendation)

Item 6

Mr Max Hipkins, 26 Minora Road, Dalkeith  
(spoke in relation to the items)

Items 6 & 8.1

Mrs Elaine Jacoby, 29 Jutland Parade, Dalkeith  
(spoke in opposition to the recommendation)

Item 6

Mr Jeremy Hofland, Level 3, 369 Newcastle Street, Northbridge Item 6 & 8.1  
(spoke in support of the recommendation)

### **3. Disclosures of Financial Interest**

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

There were no disclosures of financial interest.

### **4. Disclosures of Interests Affecting Impartiality**

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

There were no disclosures affecting impartiality.

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

Nil.

Moved – Councillor Mangano  
Seconded – Councillor Hassell

**That item 7 be brought forward and item 6 be discussed behind closed doors.**

**CARRIED 9/3  
(Against: Crs. Bennett Hodsdon & Senathirajah)**

**PLEASE NOTE: THIS ITEM WAS BROUGHT FORWARD FROM PAGE 21**

**7. Local Planning Scheme 3 – Local Planning Policy: Smyth Road, Gordon Street and Langham Street Laneway and Built Form Requirements.**

<b>Council Date</b>	5 March 2020
<b>Director</b>	Peter Mickleson – Director Planning & Development
<b>Reference</b>	Nil
<b>Previous Item</b>	Nil
<b>Attachments</b>	<ol style="list-style-type: none"> <li>1. Draft Smyth Road, Gordon Street and Langham Street Laneway and Built Form Requirements Local Planning Policy (LPP)</li> <li>2. Proposed Development at 92 Smyth Road (CONFIDENTIAL)</li> </ol>

**Regulation 11(da) – Not Applicable – Recommendation Adopted**

Moved – Councillor Hodsdon  
 Seconded – Councillor Hassell

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

Councillor Mangano left the room at 7.31 pm and returned at 7.34 pm.

**CARRIED 11/1  
 (Against: Cr. Smyth)**

**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 Smyth Road, Gordon Street and Langham Street Laneway and Built Form Requirements Local Planning Policy.**

**Executive Summary**

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

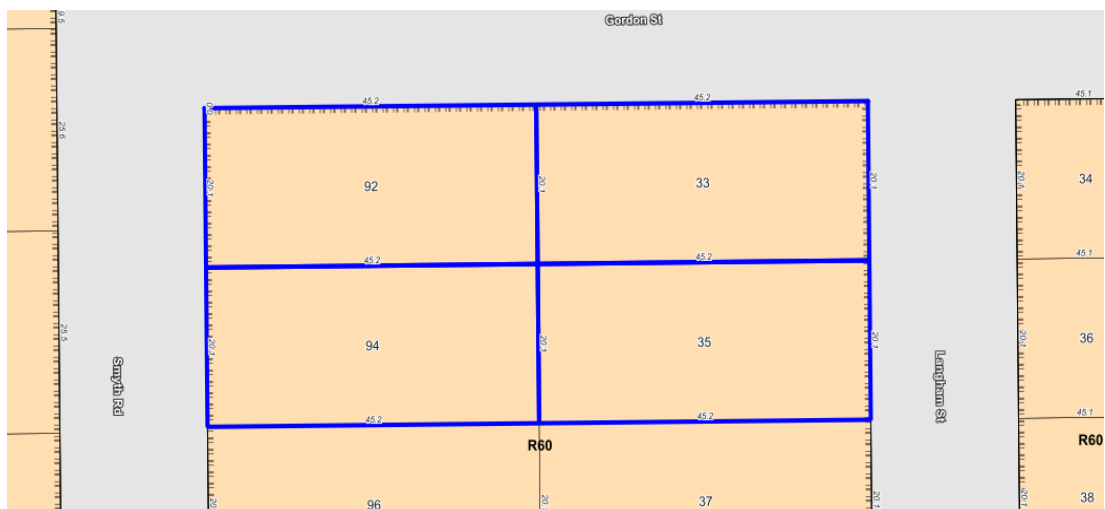
This policy details the requirements relating to the ceding of private land and creation of an east-west laneway between the properties at 92 and 94 Smyth Road, Nedlands and 33 and 35 Langham Street, Nedlands, located parallel to Gordon Street. It also outlines the built form requirements for properties abutting the proposed laneway.

This policy has been created as a mechanism to enable the ceding of land and construction of a laneway abutting the abovementioned properties. The policy responds to future development and subdivision under the new density code, which may otherwise result in the undesirable development of maximum width crossovers to Smyth Road, Langham Street and Gordon Street.

The aim of the policy is to protect and maintain the existing landscaped and tree lined streetscapes whilst minimising the extent of crossovers, driveways and hardstands along Smyth Road, Gordon Street and Langham Street.

## Background

The properties at 92 and 94 Smyth Road, Nedlands and 33 and 35 Langham Street, Nedlands (shown below) 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 6 grouped dwellings (townhouses) at 2 storey height limits or approximately 6-10 multiple dwellings (apartments) over a 3-storey height limit.



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 developer's 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 (emphasis added) 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 to the City's specifications at the time of subdivision or significant redevelopment.

The City recently received a development application for four (4) Grouped dwellings at 92 Smyth Road Nedlands. Significant concerns were raised by Administration due to the likely subsequent streetscape impact on Gordon Street.

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

The properties at 92 Smyth Road and 33 Langham Street are located on the southern side of Gordon Street. They are in a transitional density area and interface with lower coded (R12.5) residential properties located on the northern side of Gordon Street. Preliminary development plans shown to Administration propose 4 double width crossovers to Gordon Street. Administration considers that this would pose an undesirable streetscape outcome and that garages and crossovers should be located to the rear of the property with access from a new laneway. This proposed laneway will seek to connect Smyth Road and Langham Street.

This policy therefore has been put forward to aid the City in identifying the required land between these lots to create and construct a laneway which will then remove the requirement for a large number of crossovers on Gordon Street. The laneway created will result in one crossover/entry point being required on Smyth Road and Langham Street, therefore removing up to 4 direct vehicle crossovers. The proposal also opens up development opportunity for the properties to the south of the laneway (94 Smyth Road and 35 Langham Street) which will benefit from a newly created laneway frontage if and when they are the subject of a future development or subdivision.

## Detail

This policy details the requirements for the proposed laneway between Smyth Road and Langham Street. It sets out the land identified to be ceded for the creation of a laneway and the requirements for the ceding and subsequent development. The policy requires a 3.5m wide strip of land to be ceded by each of the affected properties, measured from 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 provided with lighting and landscaping. In the interim, the 3.5m ceded portion may act as a one-way access, akin to a battle-axe driveway.

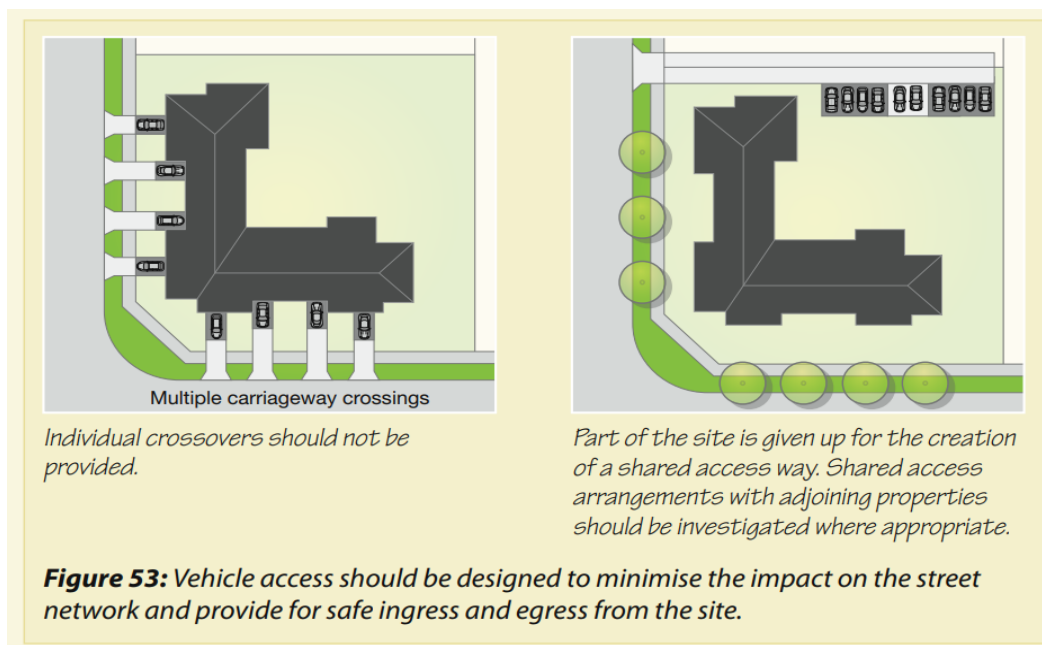




The benefits of a laneway servicing the abovementioned properties is not only the minimisation of crossovers to the street but also the potential for the properties at 94 Smyth Road and 35 Langham Street, which are currently land locked, to be developed as green title lots. Without the designated Laneway, these lots can only 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 result in a reduced hardstand area compared to what is currently required for a battle-axe style development with a common driveway. Clause 5.3.5 in the Residential Design Codes Volume 1 requires a driveway serving 4 or less dwellings to have a driveway of no less than 3m. In the case of a driveway serving 5 or more dwellings it must accommodate two-way access. Therefore, the laneway will ultimately 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, reproduced below, encourages consolidated street access in lieu of individual crossovers, which are discouraged. This figure identifies the detrimental impact caused by multiple crossovers on the amenity and streetscape, noting 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 by Figure 53 is consistent with the proposed policy, ensuring vehicle access is located to the rear of properties where possible, and encouraging shared access by utilising an aggregate vehicle access solution for future lots.



The built form controls in the policy seek to encourage activated frontages. The laneway is not to present as a solid wall of garages but instead maintain a street-like appearance with pedestrian access and amenity, and visual surveillance opportunities to and from the laneway and adjacent dwellings.

The development or subdivision of properties at 94 Smyth Road and 33 Langham Street will create opportunities for some lots/dwellings to have their primary frontage to the laneway. For these properties, the laneway will be developed with 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 its primary purpose is providing vehicle access to dwellings, the laneway will avoid potential multiple crossovers to the street, as well as maintaining the character of Nedlands' traditional streetscape, being pedestrian friendly, green, landscaped and a tree lined.

The policy, through its built form controls, aims to encourage a pedestrian friendly, landscaped street appearance along the laneway. This is done by mandating that fencing to the laneway (for 94 Smyth Road and 35 Langham Street) remains consistent with 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 legibility and ease of access as well as avoiding the frontage from being car dominated. It also encourages passive visual surveillance of the laneway from habitable rooms of the dwelling(s).

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 were subdivided first, as has been the case on similar lots such as at 18 Doonan Road, the application would be determined by the West Australian Planning Commission (WAPC) and not the City. It is understood that the WAPC's position is that the City can deal with multiple crossovers at the development application stage. However, once four (4) separate parcels have been created through the subdivision process, the City would be unable to refuse access to each lot and multiple crossovers will likely be built. It is also unlikely that were a future subdivision application lodged, the WAPC would impose a future condition requiring the preparation of a Local Development Plan to alternatively control and guide future development. The lack of alternative comprehensive planning tools creates challenges for the City to achieve a holistic, long term planning approach.

The current local planning framework is evolving and unresolved. Any purchase of properties 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, its localised streetscape, desired future character and best practice urban design for this area.

In this circumstance, the proposed subdivision and subsequent redevelopment of 92 Smyth Road and 33 Langham Street would create 4 crossovers to Gordon Street where there are currently two crossovers. The application of this policy will seek to avoid the construction of four (4) double crossovers to Gordon Street if redeveloped as Grouped dwellings or (8) double crossovers if both sites were to develop 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, future development and subdivision proposals will result in a poor redevelopment precedent for the minimisation of crossovers. The significant increase in crossovers will also compromise the orderly and proper planning for this precinct and does not accord with the desired streetscape character for Smyth Road, Gordon Street and Langham Street.

If this policy is adopted for advertising as per the Administration's recommendation, it can be given due regard during the assessment of development applications and subdivision referrals. It is envisaged that this process will be repeated for other corner redevelopment lots within the density transition up-coded areas applicable under LPS 3 and that through future 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 for the purpose of advertising, 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 when approval from the WAPC is granted.

Accordingly, once a final version of the policy is adopted by Council following advertising, the LPP will be referred to the WAPC in order to seek its approval for provisions related to Vehicle Access, Outdoor Living Areas and Landscaping. This report, together with Council's resolution, 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 Smyth Road, Gordon Street and Langham Street Laneway and Built Form Requirements LPP is the preferred mechanism to enable the enforcement of clause 32.3 in the City's Local Planning Scheme No. 3 to create a laneway through the properties at 92 and 94 Smyth Road, Nedlands and 33 and 35 Langham Street, Nedlands.

The primary purposes 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 require the provision of a laneway to service the subject sites, and or limit the approval of 4 multiple crossovers in the event an application for Grouped dwellings or Multiple dwellings or subdivision approval is applied for first. The City has already received a development application for 92 Smyth Road. Therefore, this Policy has been prepared for imminent adoption for advertising in order to avoid a sub-optimal development and built form outcome.

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

Closure of Meeting to the Public

Moved – Councillor Hassell

Seconded - Councillor Hay

**That the meeting be closed to the public in accordance with Section 5.23 (d) of the Local Government Act 1995 to allow confidential discussion on the following Items.**

**CARRIED**

**(Against: Crs. Bennett Hodsdon Coghlan & Senathirajah)**

The meeting was closed to the public at 7.38 pm.

## 6. Local Planning Scheme 3 – Local Planning Policy Waratah Village Laneway Requirements

<b>Council Date</b>	5 March 2020
<b>Applicant</b>	City of Nedlands
<b>Director</b>	Peter Mickleson – Director Planning & Development
<b>Employee Disclosure under section 5.70 Local Government Act 1995</b>	Nil.
<b>Reference</b>	Nil
<b>Previous Item</b>	PD56.19 – 17 December 2019 OCM
<b>Attachments</b>	<ol style="list-style-type: none"> <li>1. Draft Waratah Village Laneway Requirements Local Planning Policy (LPP) – Tracked Changes</li> <li>2. Draft Waratah Village Laneway Requirements Local Planning Policy (LPP)</li> <li>3. Schedule of Submissions</li> <li>4. Submissions (CONFIDENTIAL)</li> </ol>

**PLEASE NOTE: This item was brought behind closed doors for discussion as this item was likely to refer to confidential advice necessitating consideration behind closed doors.**

**Regulation 11(da) - Not applicable – resolution adopted with minor clarifications.**

Moved – Councillor Hassell  
Seconded – Councillor Hay

### **Council Resolution**

**That Council proceeds to adopt the Waratah Village Laneway Requirements Local Planning Policy, with modifications as set out in Attachment 2, in accordance with the Planning and Development (Local Planning Schemes) Regulations 2015 Schedule 2, Part 2, Clause 4(3)(b)(ii) subject to amending clauses 4.1.2 and 4.1.3 of the LPP by adding the following words to the end of each clause “unless an alternative suitable arrangement is entered into”.**

**CARRIED UNANIMOUSLY 12/-**

### **Recommendation to Council**

That Council proceeds to adopt the Waratah Village Laneway Requirements Local Planning Policy, with modifications as set out in Attachment 2, in accordance with the Planning and Development (Local Planning Schemes) Regulations 2015 Schedule 2, Part 2, Clause 4(3)(b)(ii).

## Executive Summary

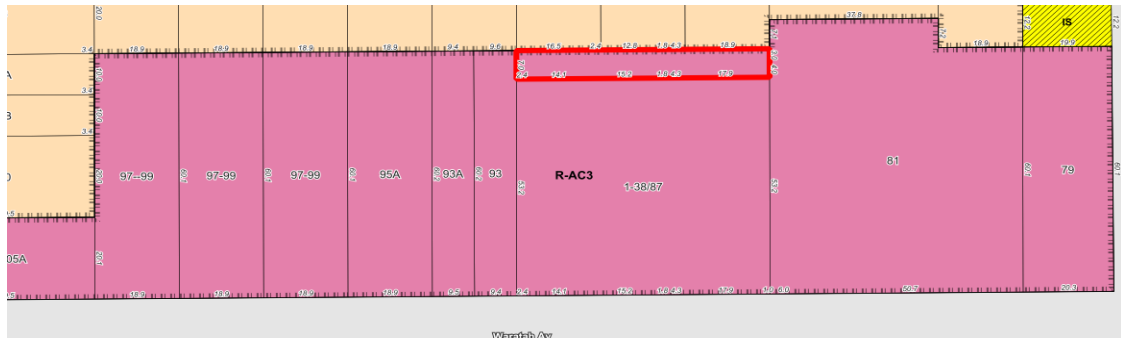
The purpose of this report is for Council to adopt the Waratah Village Laneway Requirements, Local Planning Policy required under Local Planning Scheme 3 (LPS 3).

This policy details the requirements relating to the ceding and creation of a laneway for the Waratah Village. This Policy has been created as an interim measure to capture the ceding of land for the laneway in Waratah Village with the absence of both the mechanisms under the previous Town Planning Scheme No. 2 (TPS 2) and the proposed Waratah Village Precinct Local Planning Policy.

This policy has become a priority for the City due to the application for a mixed-use development at 95A Waratah Avenue, Dalkeith.

## Background

Under the City's former Town Planning Scheme No. 2 (TPS 2) Appendix 6 Dalkeith Redevelopment Special Control Area Provisions, the City required a 7m laneway in the location as currently suggested in the Waratah Village Laneway Requirements Policy. The following image shown below illustrates how the parcel was ceded to the City when the Waratah Apartments at 87 Waratah Avenue were developed.



Within the City's new Local Planning Scheme No. 3 (LPS 3) Clause 32.3 allows the City to acquire land free of 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. The previous provisions outlined in the Dalkeith Redevelopment Special Control Area under TPS 2 and the identified laneway location were not carried over into LPS 3. The vision of the City is that the laneway designation would be included as part of the current work being undertaken on the Waratah Village Precinct, Local Planning Policy. The Precinct Local Planning Policy is not scheduled to be presented to Council for adoption to advertise until later this year due to built form modelling being conducted. The City has current development applications lodged within the Waratah Village precinct adjacent to the proposed laneway location, as identified under TPS 2 however there is no mechanism to acquire the land or for it to be constructed at this time.

Therefore, this policy has been put forward as an interim measure to aid the City in acquiring the land required to formulate a laneway between the mixed use properties on Waratah Avenue and the residential properties to the north on Philip Road laneway in the absence of the finalised Precinct Local Planning Policy.

## **Detail**

This draft policy details the laneway requirements for Waratah Village which were previously identified under Appendix 6 of the City of Nedlands Town Planning Scheme No. 2 (TPS 2). 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 of the identified laneway. The provisions are based on what was previously adopted in 2012 as Scheme Amendment 192 to TPS 2. Through the scheme amendment process the City consulted the community before both Council and the Minister supported the insertion of the amendment into TPS 2.

The City seeks to further engage with the community and Council in relation to the laneway location through the Waratah Village Precinct Local Planning Policy. A draft of this document will not be completed prior to the Responsible Authority Report (RAR) deadline for the Joint Development Assessment Panels (JDAP) decision on a significant development application adjacent to the proposed laneway at 95A Waratah Avenue Dalkeith. Without this Policy in place the City lacks the ability under LPS 3 Clause 32.3 to mandate the ceding of land for the creation of a laneway through the rear of the lots along Waratah Village that are not owned by the City. This could compromise the orderly and proper planning for this precinct. This Policy is proposed to address this issue and its aim is to act as an interim measure to capture the Development Applications which will need to be determined prior to the adoption of a draft Waratah Village Precinct Local Planning Policy and so that the City is able to acquire the land for the laneway.

The previous design of the development at 95A Waratah Avenue presented to the JDAP on the 6 February 2020 had minimal interaction with the streetscape along Waratah Avenue and was heavily car dominated. Without the laneway and relocation of vehicle access to the rear of the development the front of the development onto Waratah Avenue become mostly hardstand for vehicle and truck entrances, this would be likely to be replicated along the street if the laneway was not in place. Having viewed the draft Waratah Laneway Requirements Local Planning Policy the applicants have agreed to redesign their development having greater street presence along Waratah Avenue, relocating vehicle movements including waste trucks to the rear of the development and designing pedestrian friendly interaction with both Waratah Avenue and the portion of the proposed laneway on the Dalkeith Hall site.

Part of the laneway abutting 87 Waratah Avenue was ceded free of cost to the City under TPS 2 when the site was redeveloped for the Dalkeith on Waratah Apartments in March 2013. Without the other Mixed-Use landowners on Waratah Avenue ceding the land for the laneway at development stage, the City will have no use for the portion at the rear of 87 Waratah Avenue which is



currently land locked and only gains access to the street utilising a private agreement between two land owners. Legal advice received by the City has suggested that if the owners at 87 Waratah Avenue could establish that representation was made that the City would provide intermediate and long term access to the rear of the property via a new laneway, which was the case due to the designation under TPS 2, if this was not reinstated under LPS3 and it was proven that representation had been made for the long term provision for a laneway through Waratah Village that the City may be exposed to potential risk.

The proposed laneway will provide improved moveability and access through the precinct. Encouraging access from the rear of developments along Waratah Avenue will reduce vehicular pressure and will limit the number of crossovers needed from the primary frontage of any new developments. This also supports the ability to establish a pathway, access for delivery vehicles and waste services. The city aims to achieve a more pedestrian friendly and walkable environment within the precinct. The desire to create a laneway was previously supported, resulting in the addition of those provisions under TPS 2 and was also generally supported at the most recent engagement in relation to the Waratah Avenue Precinct Local Planning Policy undertaken in November 2019.

The current proposed location of the laneway has been referenced from TPS 2. However, the previous Detailed Area Plan is unclear as to whether the access leg was wholly within the Dalkeith Hall site or within the 95A Waratah Avenue property boundaries. The proposed configuration is considered to be the optimum location for the laneway as it provides access from Waratah Avenue all the way through to Adelma Road.

The proposed laneway location will remove the Eastern parking bays from the Dalkeith Hall site. This will leave approximately 32 bays available remaining on the site. The Dalkeith Hall is predominantly booked within after work hours within the week. During these times there are a surplus of parking spaces on the street as well as in the site itself. The parking ratio set for the use of Civic Space within the Parking Local Planning Policy is 1 per 4 persons. Although the maximum capacity of the Dalkeith Hall site is 185 persons the venue is never booked to its full capacity. The Hall would be able to cater for 128 persons while still being in line with the current Parking Local Planning Policy with the remaining 32 parking bays. It should also be noted that many of the patrons that frequent the Hall and NCC services travel to the site via bus which drop off and pick up the patrons. They would therefore not need parking to be available.

Once this policy is adopted as per Administration's recommendation it can be given full consideration for development applications and will be considered a seriously entertained planning instrument. The City envisages that the laneway location will be later carried through to the Waratah Village Precinct Local Planning Policy at which time this policy can be revoked upon final adoption of the precinct plan.

## **Modifications to the Policy**

Minor modifications have been made to the policy to add clarity or legal weight around provisions as shown in Attachment 1. A truncation has also been added across the 95A Waratah Avenue site to allow for the adequate turning of vehicles in line with submission 1 and advice from Technical Services.

The modifications proposed to the draft LPP, which the public have not had the opportunity to comment on, are considered minor in nature and are not considered to warrant further advertising of the draft LPP.

## **Consultation**

Following Council's resolution in December 2019 to prepare the draft LPP, it was advertised for 21 days from the 17 January till the 8 February 2020 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 included a notice being published in the newspaper, details being included on the City's website and the Your Voice engagement portal.

Following the advertising period, the policy is 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.

The City received 5 submissions with one submission being received outside of the advertising period. The schedule of submissions can be viewed in Attachment 3 with a summary of the submissions and Administration responses. The majority of submissions were supportive of the proposed laneway and suggested minor changes be made in order to improve the laneway and policy itself. This included truncating the corner of the laneway, allowing for waste servicing in the future and allowing for access from the residential properties to the North of the laneway from properties in Philip Road. The laneway is now proposed to have a 6m by 6m truncation over the 95A Waratah site which has been reviewed by the City's Technical Services department, this will also allow for waste collection from the rear of the properties along Waratah Avenue. In relation to access for the Philip Road properties, once the laneway has been completed and becomes a gazetted road all owners who abut the laneway will be able to use it for vehicle and pedestrian access.

The late submission received on the 13 February 2020 objects to the laneway. The submission raises concerns in relation to parking on the Hall site and the removal of the Dalkeith Hall which is used by residents. As shown in Administrations responses in Attachment 3 the laneway will not affect the current operation of the Dalkeith Hall site as a hub for the community. The parking which will remain for the site is more than adequate as discussed above

to cater for the Hall. People should not be using the Hall parking for the use of cafes and shops within the area as they should provide adequate on-site parking for their own development and also may utilise the abundance of on street parking.

## **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.

### 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 of 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 in the Waratah Village Precinct before development 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 Waratah Village Laneway 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 Waratah Village Precinct. Without this Policy the City will lack the mechanism to enforce a laneway through the rear of the sites even though part of the laneway was already ceded and constructed. The City is currently considering a live Development Application on an adjacent site and this Policy will facilitated a negotiated re-design outcome. If the Laneway is not agreed upon by Council the determination of this application will require access directly into Waratah Avenue which administration have concerns regarding waste management, pedestrian safety and a lack of activated street frontage at ground level.

As such, it is recommended that Council endorses administration's recommendation to adopt the Waratah Village Laneways Requirements LPP.

**PLEASE NOTE: THIS ITEM WAS BROUGHT FORWARD SEE PAGE 6.**

**7. Local Planning Scheme 3 – Local Planning Policy: Smyth Road, Gordon Street and Langham Street Laneway and Built Form Requirements.**

<b>Council Date</b>	5 March 2020
<b>Director</b>	Peter Mickleson – Director Planning & Development
<b>Reference</b>	Nil
<b>Previous Item</b>	Nil
<b>Attachments</b>	<ol style="list-style-type: none"> <li>1. Draft Smyth Road, Gordon Street and Langham Street Laneway and Built Form Requirements Local Planning Policy (LPP)</li> <li>2. Proposed Development at 92 Smyth Road (CONFIDENTIAL)</li> </ol>

## 8. Confidential Items

### 8.1 97-99 Waratah Avenue Dalkeith – Construction of Designated Laneway and associated Cost Recovery for Laneway Access – Waratah Village Laneway

Confidential report circulated to Councillors separately.

Moved - Councillor Hodsdon  
Seconded - Councillor Hay

**That the meeting be reopened to members of the public and the press.**

**CARRIED UNANIMOUSLY 12/-**

The meeting was reopened to members of the public and the press at 9.45 pm.

In accordance with Standing Orders 12.7(3) the Presiding Member read out the motions passed by the Council whilst it was proceeding behind closed doors and the vote of the members to be recorded in the minutes under section 5.21 of the Local Government Act 1995.

**Regulation 11(da) - Council determined that it would invite the developers to submit an acceptable proposal for the cost of construction and use of the laneway from which they will benefit.**

Moved – Councillor Hassell  
Seconded – Councillor McManus

### **Council Resolution**

**That the laneway policy having been agreed to, the developers be so advised and invited to offer a proposal for the construction of the laneway at their expense and a proper payment for City Freehold Land used during their construction and prior to ceding of the land.**

**CARRIED UNANIMOUSLY 12/-**

## **Declaration of Closure**

There being no further business, the Presiding Member declared the meeting closed at 9.46 pm.