



City of Nedlands

# ***Minutes***

## ***Special Council Meeting***

***4 August 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.

## Table of Contents

Declaration of Opening.....	3
Present and Apologies and Leave of Absence (Previously Approved).....	3
1. Public Question Time.....	4
2. Addresses by Members of the Public.....	5
3. Disclosures of Financial and/or Proximity Interest.....	5
4. Disclosures of Interests Affecting Impartiality.....	6
5. Declarations by Members That They Have Not Given Due Consideration to Papers.....	6
6. Local Planning Policy - Residential Aged Care Facilities.....	6
7. Underground Power – Hollywood East, Nedlands North and Nedlands West.....	21
Declaration of Closure.....	28

## City of Nedlands

**Minutes of a Special Meeting of Council held online via Teams and livestreamed for the public and onsite in the Council Chambers, 71 Stirling Highway, Nedlands (Councillors Only) on Tuesday 4 August 2020 at 5.30 pm for the purpose considering a revised Draft Local Planning Policy for Residential Aged Care Facilities for consent for advertising and Underground Power – Hollywood East, Nedlands North and Nedlands West.**

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### **Declaration of Opening**

The Presiding Member declared the meeting open at 5.37 pm and drew attention to the disclaimer below.

### **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 A W Mangano	Dalkeith Ward
	Vacant	Dalkeith Wards
	Councillor B G Hodsdon	Hollywood Ward
	Councillor P N Poliwka	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** A maximum of 15 members of the public logged into the live stream of the proceedings and 2 members of the public attended for the public address session only.

**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 acting on any matter that they may have before Council.

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## **1. Public Question Time**

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

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

### **1.1 Mr Ted Graham, 42 Marita Road, Nedlands**

#### Question

Could you please advise how do the Mayor and Councillors ensure that the Council Admin. and Planning staff conduct themselves in a professional and appropriate manner that reflects the ethics and integrity required of them in their role in relation to Council business?

#### Answer

While this is the responsibility of the CEO, legislation requires that local governments have an Audit and Risk Committee made up of elected members and members of the community. This committee deals with ethics and integrity.

### **1.2 Mr George Gelavis, 69 Riley Road, Nedlands**

Please advise what the intentions are with Kidz Galore land parcel on Melvista Ave.

#### Question 1

Are council intending to sell the land?

#### Answer 1

Yes.

#### Question 2

Are there any caveats being placed on the property before sale?

Answer 2  
No.

Question 3  
What uses are council currently entertaining for the property?

Answer 3  
The current use and only uses permitted under the current land zoning.

Question 4  
Will multi storey Development be allowed on the site?

Answer 4  
Only to the extent permitted under the current land zoning.

Question 5  
What processes are council using to value the land? As the current rent at \$45k for 40 childcare places I believe is below market, so a yield basis is not a suitable valuation basis.

Answer 5  
Council use a professional valuer to value the land.

## **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 Matthew McNeilly, 71 Doonan Road, Nedlands Item 6  
(spoke in support of the recommendation)

Mr Dale Harris, 61 Melvista Avenue, Nedlands Item 7  
(spoke in relation to Underground Power)

## **3. Disclosures of Financial and/or Proximity 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*.

##### 4.1 Councillor Mangano – Item 7 - Underground Power – Hollywood East, Nedlands North and Nedlands West

Councillor Mangano disclosed an impartiality interest in Item 7 - Underground Power – Hollywood East, Nedlands North and Nedlands West. Councillor Mangano disclosed that he contracts to Western Power, and as a consequence, there may be a perception that his impartiality on the matter may be affected. Councillor Mangano declared that he would consider this matter on its merits and vote accordingly.

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

Nil.

#### 6. Local Planning Policy - Residential Aged Care Facilities

<b>Council</b>	4 August 2020
<b>Applicant</b>	City of Nedlands
<b>Director</b>	Peter Mickleson – Director of Planning & Development
<b>Employee Disclosure under section 5.70 Local Government Act 1995</b>	Nil
<b>Attachments</b>	<ol style="list-style-type: none"> <li>1. Draft Residential Aged Care Facilities LPP – tracked changes by McLeod's Barristers &amp; Solicitors</li> <li>2. Draft Residential Aged Care Facilities LPP – clean version inclusive of changes proposed by McLeod's Barristers &amp; Solicitors</li> </ol>
<b>Confidential Attachments</b>	Nil.

**Regulation 11(da) - Council determined that some minor wording changes to the policy prior to advertising would clarify Council's intent.**

Moved – Councillor Coghlan

Seconded – Councillor McManus

**That the Recommendation to Council be adopted.**

(Printed below for ease of reference)

Amendment

Moved – Mayor de Lacy

Seconded – Councillor Coghlan

**That the Recommendation to Council be adopted subject to:**

- 1. adding the words “as amended” after the words “Attachment 2.”;**
- 2. include the following “Council instructs the CEO to table a report at the August 2020 Council meeting regarding the suitability of car parking ratios for Residential Aged Care Facilities in the Local Planning Policy ‘Parking’ with a view to proposing amendments requiring Council approval.”**
- 3. amend Attachment 2 as per the following:**
  - a. cl 3.2 Delete the words “using sympathetic building materials and building styles.”;**
  - b. cl 4.2.1 Delete dot point 2 “within proximity to an area of public open space” and revise dot point 3 to read “within proximity to an area of public open space, hospitals, medical centres, shopping precincts and high frequency bus routes”;**
  - c. cl 4.4.1 Add the word “scale” before the word “design”;** and
  - d. cl 4.7.6 Delete the words “and landscaping” after the words “Mature trees”.**

**The AMENDMENT was PUT and was**

**CARRIED UNANIMOUSLY 12/-**

Amendment

Moved - Councillor Coghlan

Seconded - Councillor Hay

**That the LPP be amended as follows:**

**cl 4.3.3.1 Delete the words “where relevant” after the words “R codes”.**

**cl 4.3.4 (2) Add subclause b (v) a minimum 50% of site area provided as open space is required.**

**cl 4.3.4.2 add subclause (c) any boundary wall shall be minimised by the building design and shall not exceed the acceptable outcome standard under the R -Codes.**

**cl 4.6.1 amend paragraph 2 to read “outdoor active habitable space (balconies, decks, verandas and the like) which have a finished floor level**

more than 0.5 metres above (NGL) and overlook any part of any other residential property behind its street setback line, are to provide permanent screening or obscured glazing to a minimum height of 1.6 metres above finished floor level to restrict views within the cone of vision from any habitable room window or unenclosed outdoor active habitable space.”

The AMENDMENT was PUT and was

**CARRIED 10/2**  
**(Against: Crs. McManus & Wetherall)**

The Substantive was PUT and was

**CARRIED UNANIMOUSLY 12/-**

## **Council Resolution**

**Council:**

- 1. 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, Division 2, Clause 4 the Local Planning Policy – Residential Aged Care Facilities provided as Attachment 2 as amended;**
- 2. instructs the CEO to table a report at the August 2020 Council meeting regarding the suitability of car parking ratios for Residential Aged Care Facilities in the Local Planning Policy ‘Parking’ with a view to proposing amendments requiring Council approval;**
- 3. amends attachment 2 as follows:**
  - a. cl 3.2 Delete the words “using sympathetic building materials and building styles.”;**
  - b. cl 4.2.1 Delete dot point 2 “within proximity to an area of public open space” and revise dot point 3 to read “within proximity to an area of public open space, hospitals, medical centres, shopping precincts and high frequency bus routes”;**
  - c. cl 4.4.1 Add the word “scale” before the word “design”;**
  - d. cl 4.7.6 Delete the words “and landscaping” after the words “Mature trees”;**



- e. **cl 4.3.3.1 Delete the words “where relevant” after the words “R codes”;**
- f. **cl 4.3.4 (2) Add subclause b (v) a minimum 50% of site area provided as open space is required;**
- g. **cl 4.3.4.2 add subclause (c) any boundary wall shall be minimised by the building design and shall not exceed the acceptable outcome standard under the R -Codes; and**
- h. **cl 4.6.1 amend paragraph 2 to read “outdoor active habitable space (balconies, decks, verandas and the like) which have a finished floor level more than 0.5 metres above (NGL) and overlook any part of any other residential property behind its street setback line, are to provide permanent screening or obscured glazing to a minimum height of 1.6 metres above finished floor level to restrict views within the cone of vision from any habitable room window or unenclosed outdoor active habitable space.”**

## 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, Division 2, Clause 4 the Local Planning Policy – Residential Aged Care Facilities provided as Attachment 2.

## 1.0 Executive Summary

The purpose of this report is for Council to prepare (adopt for advertising) a new Local Planning Policy – Residential Aged Care Facilities (LPP). This LPP will replace the Residential Aged Care Facilities Local Planning Policy that was revoked at the 28 July 2020 OCM. It is proposed that the new LPP include built form provisions that are consistent with proposed Scheme Amendments No 10 and 11 which were adopted by Council for the purposes of advertising.

The purpose of this policy is to provide guidance to the community by establishing development provisions for operators seeking to establish Residential Aged Care Facilities within the City of Nedlands.

Should Council resolve to consider the new LPP, it will be advertised to the community as per the requirements of the City’s Local Planning Policy - Consultation of Planning Proposals and the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* and in accordance with the City’s *Local Planning Policy - Consultation of Planning Proposals*.

## 2.0 Background

At the Council Meeting 17 December 2019 Council resolved to prepare and advertise the Local Planning Policy - Residential Aged Care Facilities for a period of 21 days, in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015* Schedule 2, Part 2, Clause 4.

It was noted in a memorandum to Council on the 15 April 2020 that during the advertising period errors had been identified in the advertised LPP by Administration. These errors included that where a site was greater than 2000m<sup>2</sup>, the policy was advertised with provisions that incorrectly specified the primary controls as being 3 storeys and plot ratio of 0.8, in lieu of 4 storeys with a plot ratio of 1.0.

At the Council Meeting 28 April 2020 Council resolved to adopt the Local Planning Policy – Residential Aged Care Facilities and include the provisions that had not been advertised, being the 4 storey height limit and plot ratio of 1.0 in the adopted version.

The LPP was first tested in the assessment of a JDAP development application for a Residential Aged Care Facility proposal at 16-18 Betty Street and 73-75 Doonan Road Nedlands. During the application process, several key built form elements that the LPP did not adequately address were identified.

Administration then received legal advice which identified that certain provisions of the former Local Planning Policy – Residential Aged Care were not appropriate to be applied in the context of commercial development. Due to this, Administration proposed amendments to the LPP that applied built form provisions consistent with the proposed Scheme Amendments No. 10 and 11 as presented to Council on the 28<sup>th</sup> July 2020.

A Council Workshop was held by Administration on the 27 July 2020 to explain in detail the proposed amendments to the Local Planning Policy – Residential Aged Care and the proposed Scheme Amendments 10 and 11. The City's legal representative Denis McLeod, of McLeod's Barristers and Solicitors (McLeod's) was also in attendance at this workshop to provide the Council with legal advice on the difference between rescinding and revoking a Local Planning Policy.

At the Ordinary Council Meeting on the 28 July 2020, an alternative recommendation was moved and Council resolved to revoke the existing Local Planning Policy - Residential Aged Care Facilities in accordance with Schedule 2, Clause 6(b) of the *Planning and Development (Local Planning Schemes) Regulations 2015*. A notice of the revocation of the Local Planning Policy – Residential Aged Care Facilities was published in The Post newspaper on Saturday 1 August 2020.

As the former Local Planning Policy – Residential Aged Care Facilities was revoked, a new LPP has been prepared and reviewed by McLeod's. The final version of this new LPP, inclusive of modifications suggested by McLeod's, is now presented to Council for their endorsement to advertise.

### **3.0 Design Requirements**

The proposed LPP retains many design elements of the former Residential Aged Care Facilities Local Planning Policy. New provisions relate to the following clauses:

- 3.0 – Objectives
- 4.2 – Policy Measures
- 4.3 - Design Requirements
- 4.6 - Visual Privacy
- 4.7 - Landscaping
- No longer includes Boundary Fencing
- 4.11 – Location of Vehicular Access and Car Parking
- 5.0 – Primary Controls Table
- 7.0- Additional Development Requirements
- 11.0 - Legislation
- 12.0 – Definitions

#### *Clause 3.0 - Objectives*

A new objective 3.2 has been included relating to streetscape character as follows:

- 3.2 To ensure the building design and appearance of Residential Aged Care Facilities responds to and enhances the distinctive elements of the existing streetscape character using sympathetic building materials and building style.

#### *Clause 4.2 – Policy Measures*

A new policy measure has been included as 4.2.1, relating to the preferred location for the establishment of Residential Aged Care Facilities:

4.2.1 RAC Facilities are preferred to be located:

- on a lot which has no more than two boundaries to an adjacent residential lot;
- within proximity to an area of public open space; and
- within proximity to relevant amenities including hospitals, medical centres, shopping precincts and high frequency bus routes.

#### *4.3 – Design Requirements*

All Design Requirements contained within clause 4.2 of the former LPP are proposed to be deleted and replaced with the following provisions:

- 4.3.1 In accordance with clause 32.4(5) of LPS 3, where applied for in the Mixed-Use zone, Residential Aged Care Facilities shall comply with relevant development standards of the R-AC density coding applicable to the subject site.
- 4.3.2 In relation to an application for a RAC Facility on land coded R10, R12.5, R15, R20, R30 and R35, subject to Western Australian Planning Commission (**WAPC**) approval, a Local Development Plan (**LDP**) may be required (as provided for in Part 6 of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015 (LPS Regulations)*). The purpose of an LDP is to provide specific guidance for RAC Facilities to ensure the achievement of orderly and proper planning outcomes. The LDP must be consistent with the requirements of the following provisions of this Policy.
- 4.3.3
- 1) Where there is no approved Structure Plan, LDP, Precinct Plan and/or Activity Centre Plan, or specific local planning policy to the site, RAC Facility applications are to comply with the R-Codes where relevant except where varied by the following provisions of this clause:
    - 2) In relation to land coded R10 to R35:
      - a) A maximum building height of two storeys with a maximum external wall height of 8.5m and maximum overall height of 10m as measured from Natural Ground Level (**NGL**) apply. (A 'storey' is as defined in the R-Codes); and
      - b) The following setbacks shall apply:
        - (i) 6m minimum street setback; and
        - (ii) 6m side and rear boundary setbacks.
      - c) Maximum plot ratio of 1.0 applies.
      - d) A minimum 50 percent of site area provided as open space is required.
- 4.3.4 In relation to land zoned Residential, with no R Coding shown on the Scheme Map, RAC Facilities are to comply with the following provisions of this clause:
- 1) Where the requirement of an LDP is indicated in LPS 3, subject to the approval of the City and the WAPC pursuant to deemed clause 47(d), a LDP is to be prepared. The purpose of the LDP is to provide specific guidance for future development on the land affected by A9 and to ensure the achievement of orderly and proper planning outcomes.
  - 2) Where there is no approved LDP, structure plan, and/or activity centre plan, the following development standards apply:
    - a) An R-Code of R12.5 applies in respect of residential land use and development (i.e. non RAC Facility applications).

- b) The following provisions apply in respect of RAC Facility land use and development:
- (i) A minimum 6m street setback applies; and
  - (ii) Minimum 6m side and rear boundary setbacks apply; and
  - (iii) A maximum building height of two storeys with an external wall height of 8.5m and maximum overall height of 10m applies, as measured from NGL. (A 'storey' is as defined in accordance with the R Codes); and
  - (iv) A maximum plot ratio of 1.0 applies.

*Clause 4.6 – Visual Privacy*

All Visual Privacy requirements contained within clause 4.5 of the former LPP are proposed to be deleted and replaced with the following provisions under clause 4.6:

4.6.1 Where located adjacent to residential properties, RAC Facilities are to be designed so that windows to habitable rooms are as defined by the National Construction Code - Building Code of Australia.

Outdoor active habitable space (balconies, decks, verandas and the like) which have a finished floor level more than 0.5 metres above NGL and overlook any part of any other residential property behind its street setback line, are to:

- be setback in accordance with the cone of vision, from the lot boundary, of the residential density code; or
- be set back in direct line of sight within the cone of vision from the lot boundary at a minimum distance of 6m for habitable room windows and 7.5m for unenclosed outdoor active habitable space (where the site is not subject to a residential density code); or
- where the visual privacy setback cannot be achieved, permanent screening or obscured glazing to a minimum height of 1.6m above finished floor level should be provided to restrict views within the cone of vision from any habitable room window or unenclosed outdoor active habitable space.

*Clause 4.7 – Landscaping*

Modification to the wording contained within former clause 4.6.5 (Landscaping) of the former LPP and the insertion of an additional clause 4.7.6:

4.7.5 Where an open-air car parking facility or area is provided at ground level a landscaping plan shall be provided demonstrating appropriate planting of 1 mature tree per every 6 car parking bays; and

- 4.7.6 Mature trees and landscaping are encouraged on site to provide buffering between the facility and any adjacent residential properties.

*Boundary Fencing – all provisions from former LPP removed*

Deletion of all provisions contained under clause 4.7 (Boundary Fencing) in the former LPP and to renumber the remaining provisions accordingly.

*Clause 4.11 – Location of Vehicular Access and Car Parking*

Modification and addition of car parking provisions to include the following:

- 4.11.2 Vehicle parking areas and structures shall be provided at basement level and/or integrated into the design of the building and screened from view of the neighbouring residential properties. The design and location of vehicle parking should minimise negative visual and environmental impacts on amenity and the streetscape.
- 4.11.4 Visitor car parking areas located within the front setback area shall be setback from the front property boundary behind a soft landscaping strip a minimum of 1.0 metre in width.
- 4.11.5 Staff parking bays shall be located on site.

*Clause 5.0 – Primary Controls Table*

Inclusion of Clause 5.0 and 5.1 Primary Controls Table outlining the development requirements for Residential Aged Care Facilities established on residential sites coded R40 to R160.

	R40	R50	R60	R80	R100	R160
Building height (storeys)	2	3	3	4	4	5
Boundary wall height (storeys) <sup>1, 2</sup>	1 <sup>3</sup>	1 <sup>3</sup>	1 <sup>3</sup>	2 <sup>3</sup>	2 <sup>3</sup>	2 <sup>3</sup>
Minimum primary and secondary street setback	4m <sup>4</sup>	2m	2m	2m	2m	2m
Minimum side setback	2m	3m	3m	3m	3m	3m
Minimum rear setback	3m	3m	3m	3m	6m	6m

Minimum average side/rear setback where building length exceeds 16m	2.4m	3.5m	3.5m	3.5m	3.5m	4.0m
Plot Ratio <sup>5</sup>	1.0	1.0	1.0	1.0	1.3	2.0
Open Space <sup>6</sup>	50%	40%	40%	30%	25%	25%
Notes	<sup>1</sup> Wall may be built up to a lot boundary, where it abuts an existing or simultaneously constructed wall of equal or greater proportions. <sup>2</sup> Where the subject site and an affected adjoining site are subject to different density codes, the length and height of any boundary wall on the boundary between them is determined by reference to the lower density code. <sup>3</sup> Boundary wall only permitted on one boundary, and shall not exceed 2/3 length <sup>4</sup> Minimum secondary street setback 1.5m. <sup>5</sup> Refer to definitions for calculation of plot ratio. <sup>6</sup> Open space percentage is the percentage of site area to be retained as open space.					

#### *Clause 7.0 – Additional Development Application Requirements*

Modification to former clause 6.2 of the former LPP which includes changes to the existing wording or a new provision added under new Clause 7.2:

- Hours of operation of the Residential Aged Care Facility;
- Hours of visitation and number of visitors permitted at any time;
- Staff numbers;
- Any supplementary or incidental uses, and supporting evidence that those uses are appurtenant to the predominant use of “Residential Aged Care”

#### *11.0 – Legislation*

Correct references to Local Planning Policies relating to Parking, Consultation of Planning Proposals and Signs have been included.

It is noted that different levels of government each have a role to play in legislating the development of Residential Aged Care Facilities. Local Government deals with the building and planning standards under the Building Code of Australia (BCA) and the Planning and Development Act 2005 (P&D Act). Higher levels of control including subsidising of services, developing federal policy and assessing services to ensure quality standards are governed by the Federal Government. The State Government’s Department of Health are responsible for licensing nursing homes and assessing the facilities prior to

granting approval to operate. This LPP is developed at a Local Government level, and therefore focusses on those elements dealt with under the BCA and P&D Act.

### *12.0 – Definitions*

Additional definitions included and contained within Clause 12.1 as follows:

- Incidental Use (inclusive of footnote 1)
- Plot Ratio

Removal of existing definitions that were contained within former Clause 11.1 of the former LPP as follows:

- Multiple Dwellings
- Resident
- Visitor
- Staff

Additional clause 12.2 added –

A word or expression that is not defined in this policy –

- Has the same meaning it has in Local Planning Scheme No. 3; or
- If it not defined in the Local Planning Scheme No. 3 it has the same meaning it has in the R-Codes.

### *Justification:*

The proposed modifications to Clause 4.3 Design Requirements of the former LPP are intended to achieve the following outcomes:

- The City has an existing provision within LPS 3 that applies residential design requirements to non-residential development within the Mixed Use, Local Centre and Neighbourhood Centre Zones (Clause No 32.4(5)). The City is progressing a scheme amendment (Scheme Amendment No 11) to apply the R- Codes to non-residential development where it is proposed in the Residential Zone. This LPP has been written in accordance with the requirements of this Scheme Amendment.
  - Where development standards are not otherwise provided for in an approved Structure Plan, Local Development Plan, Local Planning Policy and or activity centre plan, Residential Aged Care Facility developments in the Mixed Use Zone are to be consistent with clause 32.4(5) of LPS3, being subject to the relevant standards of the R-Codes.
  - On land coded between R10 and R35, Residential Aged Care Facility development may be subject to the preparation of a Local Development Plan to account for the different operational, access, parking and servicing needs of this commercial use and the sensitive interfacing considerations in surrounding traditional residential areas.



- Where a Local Development Plan is not provided or adopted, Residential Aged Care development is to comply with the relevant R-Code provisions with the exception of Building Height, Setbacks, Plot Ratio and Open Space. The justification for these provisions includes:
  - The proposed maximum building height is consistent with the City's Local Planning Policy Residential Development: Single and Grouped Dwellings, being the typical form and style of development in the City's traditional residential neighbourhoods.
  - A minimum 6m street setback is proposed. The setback applies to all street frontages and although less than the traditional 9m front setback which applies to the surrounding land pursuant to clause 26(1)(a)(i) of LPS3, it strikes a balance between the primary and secondary street setbacks permitted under the LPS3 and R-Codes Vol. 1, noting the affected land has three road abuttals. At 6m, the street setback will likely provide for sufficient landscaping opportunity and streetscape activation generally consistent with the existing character of the area and future expectations for the R12.5 coding.
  - Together with proposed setbacks and plot ratio (not currently provided for under R-Codes Vol. 1), it is unlikely that a height above 2 storeys (10m) could be achieved. The proposed maximum height is generally consistent with the City's Local Planning Policy: Residential Development: single and grouped dwellings and the R-Codes Vol.1 as applicable in the surrounding neighbourhood (coded R10-R12.5) and on the adjoining land to the north (coded 12.5).
  - The proposed setbacks are less than the minimum 9m primary street achievable under LPS3 for land coded R10 to R15, but are with primary street setbacks under the R-Codes for land coded R15, R20 and R25, and marginally more generous than land coded R30 to R40 where a 4m setback applies.
  - The proposed setbacks are sufficiently dimensioned to achieve a vegetated 'garden' interface to the street, allowing for deep soil planting areas that support canopy tree planting. The physical separation to the side and rear will also allow for vegetated side and rear gardens that are consistent with a residential setting and may assist with the buffering and sleeving of a Residential Aged Care Facility's operational, accessing and servicing needs.
  - A maximum plot ratio of 1.0 is proposed for sites with a density code of R80 and below. Notwithstanding the affected land area, this plot ratio is considered appropriate to the maximum height, setback standards and a commercial use. The plot ratio applicable to a commercial use under LPS3 is the ratio of the entire floor area of a building to the area of land within lot boundaries i.e. the calculation includes communal or common areas used by aged care residents, service and machinery, air-conditioning and equipment rooms,

space below natural ground level, parking below ground, storage areas and lobbies, balconies and courtyards or roof top terraces.

- The proposed open space requirement represents the effective average anticipated for residential development on land coded R10 to R35. It is considered appropriate to achieving a future building envelope within a residential context.
- Land coded R40 – R160 RAC Facility development will otherwise comply with the relevant provisions of the R-Codes Vol.2.

With respect to the remaining modifications to the former LPP, the proposed changes are intended to address the following issues:

- Clause 4.6 Visual Privacy: These changes have been included to minimise potential adverse impacts on the privacy of adjoining dwellings and private open spaces.
- Clause 4.7 Landscaping: Additional landscaping requirements have been included to ensure an appropriate landscaping buffer interface is achieved for existing and adjoining Residential zoned land.
- Boundary fencing: Clauses 4.7.1 to 4.7.3 of the former LPP have been removed in this new version as boundary fencing is governed by separate legislation under the *Dividing Fences Act 1961* and the City's Fill & Fencing Local Planning Policy has been revoked.
- Clause 4.11 Location of Vehicular Access and Car Parking: Additional items have been added to preference basement car parking, require parking to be screened from public view, and require staff parking to be provided on site.
- Clause 5.0 – Primary Controls Table: An additional controls table has been included to provide development provisions for Residential Aged Care Facilities on lots with a density code of R40 – R160.
- Clause 7 Additional Development Application Requirements: Additional operational items have been included to ensure these are reflected within any prospective application.
- Clause 11 Legislation: Correct references to relevant local planning policies have been included
- Clause 12 Definitions: Additional definitions have been included which reflect incidental uses and plot ratio, which were not previously defined. In addition, Clause 11.2 clarifies where terms are undefined in the Policy, the LPS3 definitions prevail over any

definition which may be contained within the R-Codes. Definitions relating to Multiple Dwelling, Resident, Visitor and Staff have been removed.

### **Key Relevant Previous Council Decisions:**

Ordinary Council Meeting 28 April 2020 - PD11.20 – Local Planning Policy – Residential Aged Care Facilities.

## **4.0 Consultation**

If Council resolves to prepare the new 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 Schemes) Regulations 2015. This will include a notice being published in the newspaper and details being included on the City's website, YourVoice page and social media pages, in accordance with the City's Local Planning Policy - Consultation of Planning Proposals.

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

- Proceed with the policy without modification; or
- Proceed with the policy with modification; or
- Not to proceed with the policy.

## **5.0 Strategic Implications**

### **How well does it fit with our strategic direction?**

The objectives for the Residential zone within the City's Local Planning Scheme requires non-residential uses and their built form to be compatible with the residential landscape where they are proposed in a residential area. The objectives for the Mixed Use zone includes the requirement that development should be of an appropriate scale to the desired character of the area. The proposed amendments to the LPP provide built form controls that will guide Residential Aged Care Facilities to sit comfortably within the City's strategic direction for these zones.

### **Who benefits?**

The community benefits from the amendments to this LPP, as it imposes built form controls for Residential Aged Care Facilities where they are proposed within the Residential and Mixed Use zones.

### **Does it involve a tolerable risk?**

This LPP is not considered to pose a strategic risk to the City.

**Do we have the information we need?**

Yes.

**6.0 Budget/Financial Implications**

**Can we afford it?**

The costs associated with this Local Planning Policy are in relation to advertising.

**How does the option impact upon rates?**

As above.

**7.0 Conclusion**

The new LPP – Residential Aged Care Facilities provides the City with an operative local planning framework in place under LPS3 to adequately address the built form and management requirements associated with the Residential Aged Care Facilities use. The new LPP proposes an improved framework for Residential Aged Care Facilities within the City of Nedlands, with its built form provisions nuanced to the unique residential environment that the City contains. This LPP is a considered instrument through which the City may seek to control the built form outcomes of future development proposals for Residential Aged Care Facilities.

It is recommended that Council endorses administration's recommendation as set out in the resolution.

**7. Underground Power – Hollywood East, Nedlands North and Nedlands West**

<b>Council</b>	4 August 2020
<b>Applicant</b>	City of Nedlands
<b>Employee Disclosure under section 5.70 Local Government Act 1995</b>	Nil
<b>Director</b>	Jim Duff – Director Technical Services
<b>Attachments</b>	1. Western Power Works Planning Report – Hollywood East 2. Western Power Works Planning Report – Nedlands North 3. Western Power Works Planning Report – Nedlands West
<b>Confidential Attachments</b>	Nil.

**Councillor Mangano – Impartiality Interest**

Councillor Mangano disclosed an impartiality interest, his interest being that he contracts to Western Power, and as a consequence, there may be a perception that his impartiality on the matter may be affected. Councillor Mangano declared that he would consider this matter on its merits and vote accordingly.

Councillor Coghlan left the meeting at 6.29 pm.

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

Moved – Councillor Wetherall  
Seconded – Councillor Poliwka

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

Councillor Coghlan returned to the meeting at 6.30 pm.

**CARRIED 10/2**  
**(Against: Crs. Bennett & Mangano)**

## **Council Resolution / Amended Recommendation to Council**

### **Council:**

- 1. approves an increase in the operations budget from \$180,000 to \$983,260 to fund the detailed design, project planning and contract documentation with a hold point prior to contract advertising for underground power in Nedlands East (Hollywood East), Nedlands North (Floreat) and Nedlands West (Mt Claremont);**
- 2. approves the CEO to authorise Western Power to proceed with the detailed design, project planning and contract documentation for the Nedlands East (Hollywood East), Nedlands North (Floreat) and Nedlands West (Mt Claremont) underground power projects, with the additional funds required to come from the operational surplus, to be reviewed at the mid-year review, with the balance from the Underground Power Reserve Fund if required; and**
- 3. notes this is a work in progress and a further report will be presented to Council in April 2021 following completion of the design phase activities.**

## Recommendation to Council

### Council:

1. approves an increase in the operations budget from \$180,000 to \$983,260 to fund the detailed design, project planning and contract documentation with a hold point prior to contract advertising for underground power in Nedlands East (Hollywood East), Nedlands North (Floreat) and Nedlands West (Mt Claremont);
2. approves the CEO to authorise Western Power to proceed with the detailed design, project planning and contract documentation for the Nedlands East (Hollywood East), Nedlands North (Floreat) and Nedlands West (Mt Claremont) underground power projects, with the additional funds required to come from the operational surplus, to be reviewed at the mid-year review, with the balance from the Underground Power Reserve Fund if required; and
3. notes this is a work in progress and a further report will be presented to Council in April 2021 following completion of the design phase activities.

## **Executive Summary**

The 2020/21 operating budget includes a provisional estimate of \$180,000 for detailed design, project planning, contract documentation and project implementation of underground power in Nedlands East (Hollywood East), Nedlands North (Floreat) and Nedlands West (Mt Claremont). The Western Power quotation of \$983,260 for the works was received with insufficient time for its inclusion in the 2020/21 budget. An increase in the operating budget of \$803,260 is requested.

## **Discussion/Overview**

### **Project Justification**

Approximately 78% of the City has underground power installed to their properties, with approximately 1,700 properties remaining without underground power in Hollywood East, Nedlands North and Nedlands West, Mt Claremont.

Underground power provides the following benefits:

- Improves the standard of electricity supply by addressing reliability and network performance issues.
- Cost savings through reduced maintenance and distribution losses.
- Reduced vehicle collisions with power poles.
- Reduced accidents due to live wire contact.
- Reduced visual impact of the overhead infrastructure on the community.
- Improved street tree canopy as trees can grow unimpeded by overhead powerlines.
- Improved and more sustainable street lighting.

### **Expenditure to Date**

Expenditure to date is \$54,000 in 2019/20 for Western Power to complete the first phase of the projects, producing Work Planning Reports for each project (see Attachments 1, 2 and 3). This expenditure was allowed for in the 2019/20 operating budget.

### **Cost Estimate and Schedule**

The City received Works Planning Reports from Western Power on 16 June 2020 for the following proposed underground power projects:

- Hollywood East – 800 Lots
- Nedlands North (Floreat) – 233 Lots
- Nedlands West (Mount Claremont) – 620 Lots

The Works Planning Reports provide a project schedule and +/-30% cost estimate. The project schedule is shown in Table 1 and the cost estimates in Table 2.

<b>Description</b>	<b>Date</b>
LGA Approval to proceed with +/-10% project planning	Mid Sept 2020
Business Case Approval	June 2021
Agreement Approval	July 2021
Project Start	July 2021
In Service	August 2022

**Table 1 – Project Schedule**

Note: Schedule assumes all three projects are undertaken concurrently.

<b>Location</b>	<b>Total Cost</b>	<b>Western Power Contribution (Net Benefits)</b>	<b>Nedlands Contribution (City &amp; residents combined)</b>
Hollywood East	\$10.456m	\$3.210m	\$7.246m
Nedlands North	\$4.829m	\$1.430m	\$3.399m
Nedlands West	\$8.831m	\$2.449m	\$6.382m
<b>Total</b>	<b>\$24.116m</b>	<b>\$7.089m</b>	<b>\$17.027m</b>

**Table 2 – Cost Estimates (+/-30%)**

The Western Power contribution (net benefit) is current as of May 2020, however, is subject to change with the ageing of assets, and will be recalculated during the scoping and planning phase.

Western Power has reviewed their Asset Management System and confirmed that no planned works are to proceed within the next 12 months. They also advised they will be undertaking weekly risk-based reviews of the assets within the project areas to determine if intervention treatment is required. Western Power notes that any intervention works needing to be undertaken over this period, will be of minimal impact on Western Power's net benefit and corresponding contribution to the project (with the exception of extreme weather events where emergency maintenance and renewal is undertaken). The Net Benefits will be locked in from the date of execution of the Relocation Works Contract (at commencement of the Construction Works) – estimated to be in 12 months.

Western Power have confirmed their preference is to undertake the works in the order below. With potential economy of scale cost savings overall of up to 3.5% should the projects be amalgamated. Amalgamation also offers the potential to reduce the project duration by completing the design tender (3 months) and construction tender (3 months) together.

1. Hollywood East
2. Nedlands North
3. Nedlands West



## Western Power Proposal

The Western Power proposal contains multiple deliverable components including the Detailed Design, Extensive Project Planning, Contract Documentation and Project Implementation all contained within the fee proposal inclusive of GST and Capital Contribution Recovery Tax (CCTR). The costs are shown below in Table 3.

Location	Cost
Hollywood East	\$414,580
Nedlands North	\$205,026
Nedlands West	\$363,654
Total	\$983,260

Table 3 – Western Power Design Proposal

The scope of work comprises the following:

- RFQ for engineering and design.
- Detailed design.
- Community consultation.
- Construction ready RFT (to inform the +/-10% estimate).

### Key Relevant Previous Council Decisions:

Nil.

## Consultation

The community was notified through Your Voice in January 2020 that the City is progressing with the detailed designs for the three remaining areas (Hollywood East, Nedlands North and Nedlands West, Mt Claremont) for the installation of underground power. Western Power have been engaged to complete the detailed designs and cost estimates which is due by mid-2020. Once the designs are received, a report will be presented to Council.

Western Power will undertake community consultation on behalf of the City as part of the scoping and planning phase. The City will assist Western Power with community engagement as required.

## Strategic Implications

### How well does it fit with our strategic direction?

Underground power is identified in the Strategic Community Plan 2018-2028 as a priority. This Strategic Community Plan and associated Long Term Financial Plan seeks to deliver underground power to all properties in the district.

**Who benefits?**

Approximately 78% of the City has underground power installed to their properties, with approximately 1,700 properties remaining without underground power in Hollywood East, Nedlands North and Nedlands West, Mt Claremont. Completion of the program will ensure an equitable distribution of benefits.

**Does it involve a tolerable risk?**

Yes, the risk is tolerable. The overall risks will be mitigated through the development of a comprehensive design and extensive project planning, coupled with industry best practice cost estimation based on relevant project delivery experience. Western Power has completed a number of these types of projects since the West Hollywood project. This has resulted in improved project delivery outcomes, along with more accurate cost management and contract compliance.

Administration was asked to explore the feasibility of the City outsourcing the design component to reduce costs. Western Power has confirmed there are no regulatory requirements to use their design services, and in fact Western Power may outsource elements of the work to deliver overall cost savings. Administration does not recommend being involved in the outsourcing of the design and project planning elements as it exposes the City to significant potential design and contractual liabilities that would otherwise be borne by Western Power, who hold the expertise to manage these risks.

Furthermore, the City would need to employ an Electrical Engineer to assist with overseeing every phase of the project, and to act as an Interface Manager with Western Power internal design and engineering resources. Based on the potential risk, any perceived benefit would be far outweighed by the associated liabilities.

**Do we have the information we need?**

Yes.

**Budget/Financial Implications**

The 2020/21 operations budget includes a provisional estimate of \$180,000 for underground power in Hollywood East, Nedlands North and Nedlands West, Mt Claremont. The Western Power's project proposal was received with insufficient time for inclusion in the 2020/21 budget. The Administration provisional estimate of \$180,000 was based on the West Hollywood design cost of \$119,404 for 600 lots. Western Power have advised that the upfront design cost per allotment for the West Hollywood project was lower, as scoping and planning costs were recovered later in the project and unit rates have increased since November 2016.

An increase in the operating budget of \$803,260 is required for the design of underground power in Hollywood East, Nedlands North and Nedlands West. The additional cost is proposed to come from the Underground Power Reserve Fund.

### **Can we afford it?**

The installation of underground power to remaining properties within the City has been provisionally allowed for in the Long-Term Financial Plan (LTFP). The LTFP is currently being reviewed and will be updated accordingly to align with the Chief Executives key result requiring completion by 2026.

Underground power is a Western Power asset with a funding contribution for design and construction from the City of Nedlands and benefiting residents. Maintenance costs will be borne by Western Power over the lifecycle of the asset.

The +/-30% cost estimate to deliver all three projects is \$17.027m. Allowing for 50% contribution from benefiting residents the current LTFP funding required is \$8.5m. The City will need to be in a financial position to bankroll the \$17.05m on agreement to proceed with construction, with Western Power.

### **How does the option impact upon rates?**

The installation of underground power may result in rate increases if revenue in addition to current LTFP strategies is not identified.

**Declaration of Closure**

There being no further business, the Presiding Member declared the meeting closed at 7.04 pm.