

**MINUTES**

**Council Meeting**

**Tuesday, 23 April 2024**

**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.

**Information**

Council Meetings are run in accordance with the City of Nedlands *Standing Orders Local Law 2016*. If you have any questions in relation to the agenda, procedural matters, addressing the Council or attending these meetings please contact the Executive Officer on 9273 3500 or [council@nedlands.wa.gov.au](mailto:council@nedlands.wa.gov.au)

**Public Question Time**

Public question time at a Council Meeting is available for members of the public to ask a question about items on the agenda. Questions asked by members of the public are not to be accompanied by any statement reflecting adversely upon any Council Member or Employee.

Questions should be submitted as early as possible via the online form available on the City’s website: Public question time | City of Nedlands

Questions may be taken on notice to allow adequate time to prepare a response and all answers will be published in the minutes of the meeting.

**Addresses by Members of the Public**

Members of the public wishing to address Council in relation to an item on the agenda must complete the online registration form available on the City’s website: [Public Address Registration Form | City of Nedlands](https://www.nedlands.wa.gov.au/council/council-meetings/public-questions-time.aspx)

The Presiding Member will determine the order of speakers to address the Council and the number of speakers is to be limited to 2 in support and 2 against any particular item on a Special Council Meeting Agenda. The Public address session will be restricted to 15 minutes unless the Council, by resolution decides otherwise.

**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. Declaration of Opening

The Presiding Member declared the meeting open at 7.00 pm and acknowledged the Whadjuk Nyoongar people, Traditional Custodians of the land on which we meet, and pay respect to Elders past, present and emerging. The Presiding Member drew attention to the disclaimer on page 2 and advised the meeting was being livestreamed and recorded.

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

**Councillors** Mayor F E M Argyle (Presiding Member)

Councillor B Brackenridge Melvista Ward

Councillor R A Coghlan Melvista Ward

Councillor H Amiry Coastal Ward

Councillor K A Smyth Coastal Ward

Councillor F J O Bennett Dalkeith Ward

Councillor N R Youngman Dalkeith Ward

Councillor L J McManus Hollywood Ward

**Staff** Mr T G Free Acting Chief Executive Officer

Mr M R Cole Director Corporate Services

Mr M K MacPherson Director Technical Services

Mr R A Winslow Acting Director Planning & Development

Ms L J Kania Coordinator Governance & Risk

Ms E Bock PA to the Director Corporate Services

Mr A Fisher Senior Information System Officer

**Public** There were 6 members of the public present and 5 online.

**Press** The Post Newspaper Representative.

**Approved Leave of Absence** Councillor L J McManus Hollywood Ward

**(Previously Approved)**

**Apologies** Nil.

# 3. Public Question Time

Questions received from members of the public were read at this point.

## 3.1 Mr Ken Perry

Question

The Chellingworth development approval expires on the 21st February 2025. This is 10 months away and there is no sign of any intention to substantially commence development. The value of the approval is around $40 million in plot ratio and height bonuses and should not be able to be extended. What actions is the City taking to contact the developers to alert them to this?

Answer

The City has confirmed with the DAP Secretariat that the expiry date for this approval is February 2027 due to the state governments COVID emergency arrangements that were in place at the time of the decision. Any decision to apply for an extension of time application is at the discretion of the applicant. The City does not actively contact applicants to confirm their intentions in this regard.

Any extension of time application will be required to be assessed on its merits and consider the following matters:

1. whether the planning framework has changed substantially since the development approval was granted;
2. whether the development would likely receive approval now;
3. whether holders of the development approval have actively and relatively conscientiously pursued the implementation of the development approval;
4. whether the landowner has sought to 'warehouse' the development approval; and
5. whether the time period for substantial commencement originally imposed was adequate.

The above are the parameters in which a decision maker (in this case, the Development Assessment Panel) will consider any application to extend the approval period. At this point in time, no application has been made.

## 3.2 Mr David Lim

Question 1

Reading through the proposed Integrated Transport Strategy 2024, there is no reference to the UWA-QEII Precinct Plan, a key strategic planning document, guiding amongst other things, traffic management in the area. UWA and QEII Medical Centre form a Specialist Centre which is bordered by the City of Nedlands. In its Peer review, QEIIMC Trust stated:

• It is important to acknowledge and accept the future of the larger City of Nedlands and adjacent local council areas are interconnected

What steps has the City of Nedlands taken to partner with the City of Perth to facilitate the development of the Precinct Plan?

Answer 1

Nedlands and the City of Perth have been working together with the Department of Planning with the intent to create a precinct structure plan for the area. Work is ongoing and consultation on the project is tentatively expected to begin by the end of this year.

Question 2

In receiving the Transport Impact Assessments, the City of Nedlands has received comprehensive traffic analysis for five distinct precincts, namely Broadway, Hampden Hollywood, Hospital, Stirling Highway and Waratah. These Assessments provide recommendations on traffic management solutions including infrastructure installation and modifications to traffic conditions and user behaviour. In its Peer review, QEIIMC Trust has recognised:

• Local residential areas interface with long existing UWA, Hollywood Private Hospital and QEIIMC infrastructure, services and expansions.

• This is acknowledged and all stakeholders must work to balance the rights and obligations along with economic, social and environmental future needs.

• State agencies such as Transport, Planning and Main Roads must come along and provide support, encouragement and financial assistance, as well as practical improvements and expertise.

What steps is the City considering to manage the complex interactions between pedestrian and vehicular traffic particularly with regards to road safety awareness?

Answer 2

The City’s Integrated Transport Strategy has several objectives related to road safety including Objective 2.1 Improve road safety to enhance street experience for all users. To meet this objective the City is proposing the following actions:

2.1.1 develop prioritisation and warrant criteria for local area traffic management requests within the City of Nedlands.

2.1.3 develop a Local Area Traffic Management sub-program within the Road Safety forward works program.

2.1.4 Review the current Safe Active Streets Program within the City with the Department of Transport.

2.1.5 Advocate to Main Roads WA to reduce speed limits to 40km/h for all road uses on local roads in residential areas.

3. In the immediate term, what avenues can the City take to encourage the State Government to progress and prioritise the Metronet Mid-Tier Transport Planning Project, advocate on an east-west mid-tier transport route and involve the community?

Question 3

In the immediate term, what avenues can the City take to encourage the State Government to progress and prioritise the Metronet Mid-Transport Planning Project, advocate on an east-west mid-tier transport route and involve the community?

Answer 3

The ITS will adopt a position regarding the advocacy for the Mid Teir Transit. This will allow staff and council to advocate with a council endorsed position on the project.

# 4. Addresses by Members of the Public

Nil.

# 5. Requests for Leave of Absence

A request for leave of absence was dealt with at this point.

Moved – Councillor Mayor Argyle

Seconded – Councillor Hodsdon

**Mayor Argyle be granted leave of absence from 1 July – 22 Aug 2024.**

**CARRIED UNANIMOUSLY 9/-**

# 6. Petitions

Two petitions were tabled at this point.

# 6.1 Petition – Objection to Proposed Speed Bumps on Vincent Street, Nedlands

The Acting CEO tabled a petition on behalf of Ms Maria Miniello and 29 others objecting to the proposed speed bumps on Vincent Street, Nedlands.

# 6.2 Petition – Mount Claremont Post Remain Open

The Acting CEO tabled a petition on behalf of Michele Drouart and 74 others requesting the Post Office in Mount Claremont Village currently located in the Mount Claremont Post, New and Gifts’, not be closed on 23 May of this year, 2024, as planned by Australia Post, but that it remain open to serve its many customers.

Moved – Councillor Hodsdon

Seconded – Councillor Smyth

**Recommendation**

**That Council receive the petitions.**

**CARRIED UNANIMOUSLY 9/-**

# 7. Disclosures of Financial Interest

The Presiding Member reminded Council Members 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.

# 7.1 Councillor – Youngman- Item 20.4

Councillor Youngman disclosed a financial interest in Item 20.4, his interest being that he is a financial member of the Local Government Elected Members Association (LGEMA) who will be the beneficiary if the motion is successful. Councillor Yongman declared that he would leave the room during discussion on this item.

# 7.2 Councillor – Hodsdon – Item 16.3

Councillor Hodsdon disclosed a financial interest in Item 16.3, his interest being that he owns a property in the area. Councillor Hodson declared that he would leave the room during discussion on this item.

# 7.3 Councillor Bennett – Item 22.2

Councillor Bennett declared that he would not participate in the vote on this item.

# 8. Disclosures of Interests Affecting Impartiality

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

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

* 1. Councillor Youngman – including but not limited to Items – 20.2, 20.3, 20.4 and 21.1

Councillor Youngman disclosed an impartiality interest in any items referring to the Local Government Elected Members Association (LGEMA) including items but not limited to 20.2, 20.3, 20.4 and 21.1. Councillor Youngman disclosed that he is a financial member of LGEMA, and therefore, there may be a perception that his impartiality on the matter may be affected. Councillor Youngman declared that he would consider this matter on its merits and vote accordingly.

* 1. Councillor Hodsdon – Item 18.4

Councillor Hodsdon disclosed an impartiality interest in Item 18.4 as the recommendation was for his appointment of the member of the Audit and Risk Committee.

* 1. Mayor Argyle – Confidential items 22.1 and 22.2
  2. Councillor Amiry – Item 20.2 and 20.4

Councillor Amiry declared that she is a member of the Local Government Elected Members Association and will consider the matter impartially.

* 1. Councillor Coghlan – Item 20.2 and 20.4

Councillor Amiry declared that she is a member of the Local Government Elected Members Association and will consider the matter impartially.

* 1. Councillor Youngman – Item 22.1

Councillor Youngman disclosed an impartiality interest in Item 22.1. Councillor Youngman disclosed that he is a party to this item, and therefore, there may be a perception that his impartiality on the matter may be affected. Councillor Youngman would like to request that he be permitted to remain in the chamber and shall consider this matter on its merits and vote accordingly.

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

Members who had not read the business papers made declarations at this point due to receipt of the lateness of added items.

**9.1 Cr Youngman**

Cr Youngman declared he had not had sufficient time to read all the papers.

**9.2 Cr Bennett**

Cr Bennett declared he had not had sufficient time to read all the papers.

# 10. Confirmation of Minutes

## 10.1 Ordinary Council Meeting 26 March 2024

Moved – Councillor Cr Smyth

Seconded – Councillor Cr Youngman

**The Minutes of the Ordinary Council Meeting held 26 March 2024 be confirmed.**

**CARRIED UNANIMOUSLY 9/-**

# 11. Announcements of the Presiding Member without discussion

The Presiding Member Mayor Argyle gave the following speech:

Well, Good evening, Ladies and Gentlemen,

It has been what seems like a short month, with Easter and all.

While there have been many wonderful community activities. I would like to focus and speak about the Audit Issue at the City of Nedlands.

As many of you are aware, The City of Nedlands received a disclaimer of opinion for its 2022- 2023 financial year. This was under the previous Chair of the Audit and Risk, Councillor Leo McManus and Former CEO, Mr. Bill Parker.

I would like to reassure rate payers there is now a clear path moving forward to resolve this issue, and progress to date has been very successful.

At the City of Nedlands, there are currently four new people soon to be five, currently working to resolve this issue as well as city finance staff who are focused on the task at hand.

With, the appointment of Ms. Lauren Fitzgerald, on the 25th of March 2024, who is now the Manager of Financial Services. I have full confidence in Ms Fitzgerald, who told me " I will move a camp bed in here to make sure we get an unqualified audit."

There has also been the appointment of Mr. Craig Ross, the Independent Consultant who commenced work at the City of Nedlands on 3 April for a three-month contract.

As well as a two day a week consultant, who is a CPA qualified accountant.

This also includes, a second in charge Accounts Co-Ordinator role currently being interviewed by the Manager of Financial Services.

And in technical services, an Asset Manager, who will assist in managing the asset data.

Following the commencement of a new Manager of Financial Services, and the impending recruitment of a Coordinator Accounting Services, the City is more confident it can significantly improve the audit result for the 2023/2024 annual financial audit and meet future financial reporting obligations. The City also believes sufficient time is available to 30 September 2024 to prepare and complete records and reconciliations as of 30 June 2023 and 2024.

Such positive actions, which has included a meeting with the Office of the Auditor General and the Executive Director at the DLGSC, plus the additional Audit and Risk Meetings, which are now held every two weeks, is extremely reassuring.

The right steps and actions are being taken.

I would like to wish the team well and look forward to a good outcome for our 2023/2024 Accounts.

Thank you.

# 12. Members Announcements without discussion

Written announcements by Council Members were tabled at this point.

Cr McManus – Spoke in response to the Mayor’s comments on the Audit and Risk Committee

Cr Bennett – Read out the below correspondence from Independent Member of the Audit and Risk Committee Mr Graeme Baws.

I have just learned that there is a proposal to disband the Audit & Risk Committee  
(ARC) as it presently exists and fold it into the full council. At the same time,  
dispense with the two community members appointed last August and confirmed  
last October. It was the first-time community members have sat on the ARC since  
2021 and both are experienced and qualified accountants. From my brief  
discussions, it appears there is no similar experience existing within the councillors  
on the ARC. I also understand that the appointments are important representatives  
of the ratepayers of Nedlands. That’s what inspired me to join the committee.  
From the first meeting it was clear that there were problems, given the backlog of  
matters, some going back years. It was also clear that some members of the ARC  
were consumed with personal issues. That came to a head when one councillor  
walked out of a meeting. It’s my view that democracy rules; what happens if you  
don’t win all the motions that you vote on? Move on and support the job that has  
to be done. Both Kim and I did that. There was also a lack of leadership but  
fortunately some councillors and administration staff were keen to work to a  
solution. By the way, we only learnt of the audit failure on 16 February.  
If this motion is successful, the only effective change will be removing the two  
community members, both professional accountants. The current task is to recover  
the accounts and get the audit back on track, but improvements for the future are  
also necessary. We had just begun to address this to make sure that such a failure  
cannot happen again and that the City is in a better position to spot problems  
earlier in the business cycle. Those ideas, briefly discussed as recently as last  
night, appeared to be supported. I do not know what has prompted this proposal, but it seems to have nothing to do with the provision of accounting oversight from the community members and nothing to do with risk mitigation which is the other half of the ARC’s work, and which hasn’t been mentioned. Finally, and until the accounting is brought up to date and risk issues are being monitored by the ARC, I would have thought there was a greater need for a separate ARC and the independent view that the two community members can  
provide.

Graham Baws  
23 April 2024

# 13. Matters for Which the Meeting May Be Closed

For the convenience of the public, the following Confidential items were identified to be discussed behind closed doors, as the last items of business at the meeting.

**Item 22.1 CEO11.04.24 - Confidential Final Determination Report (7344/23)**

**Item 22.2 CEO12.04.24 - Confidential Request for Legal Representation**

# 14. En Bloc Items

Moved - Councillor Cr Youngman

Seconded – Councillor Cr Coghlan

**That the officer recommendations for Items 15.1,16.4, 17.3, 17.5, 17.6, 18.1, 18.2, 18.3, 19.1, and 19.2, 21.2, 21.3, be adopted en bloc, and the following items be dealt with separately 16.1, 16.2, 16.3, 17.1, 17.2, 17.4, 18.4, 18.5.**

**CARRIED 8/1**

**(Against: Cr. Bennett)**

# 15. Minutes of Council Committees and Administrative Liaison Working Groups

# 15.1 Minutes of the following Committee Meetings (in date order) are to be received:

This is an information item only to receive the minutes of the various meetings held by the Council appointed Committees (N.B. This should not be confused with Council resolving to accept the recommendations of a particular Committee. Committee recommendations that require Council’s approval should be presented to Council for resolution via the relevant departmental reports).

**Audit & Risk Committee Meeting**   **8 April 2024**

Unconfirmed, circulated to Councillors on 17 April 2024

Moved - Councillor Cr Youngman

Seconded – Councillor Cr Coghlan

**That the Recommendation be adopted.**

(Printed below for ease of reference)

**The Minutes of the Audit and Risk Committee Meeting held 8 April 2024 be confirmed.**

**CARRIED EN BLOC 8/1**

**(Against Cr. Bennett)**

# 16. Divisional Reports - Planning & Development

## 16.1 PD26.04.24 Consent to Advertise draft Local Planning Policy 3.3 – Tree Retention

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting – 23 April 2024 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | The author, reviewers and authoriser of this report declare they have no financial or impartiality interest in this matter. |
| **Report Author** | Nathan Blumenthal – Acting Manager Urban Planning |
| **Director** | Roy Winslow – Acting Director Planning and Development |
| **Attachments** | 1. Draft Local Planning Policy 3.3 - Tree Retention |

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

Moved – Councillor Youngman

Seconded – Councillor McManus

**That the Recommendation be adopted.**

(Printed below for ease of reference)

**Council Resolution**

**That Council**

1. That Council adopts the draft Local Planning Policy 3.3 – Tree Retention (Attachment 1) for the purpose of advertising in accordance with Clause 4 of the Deemed Provisions of Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015.

**CARRIED 5/4**

**(Against: Mayor Argyle, Crs Bennett, Brackenridge, Coghlan,)**

**Purpose**

The purpose of this report is for Council to adopt for advertising the draft Local Planning Policy 3.3 – Tree Retention (the Policy), found at **Attachment 1.**

Revised Officer Recommendation

1. That Council adopts the draft Local Planning Policy 3.3 – Tree Retention (Attachment 1) for the purpose of advertising in accordance with Clause 4 of the Deemed Provisions of Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015.

**Voting Requirement**

Simple Majority.

**Background**

The Policy has been prepared by Officers in response to the Ministers refusal of Scheme Amendment 12 – Tree Retention on Private Land (R20 and below). As a result of the refusal, City Officers are without a planning mechanism to protect mature trees and the canopy they provide. This results in a steady erosion of urban canopy on private land as a result of development across the City.

In March 2024 the Western Australian Local Government Association (WALGA) released a Tree Retention Model Local Planning Policy (LPP). City Officers have referred to this document in the preparation of this Policy.

**Discussion**

The loss of mature trees on private land is a key factor to the loss of canopy cover which is visible across the City. It is imperative that through the development process this loss is mitigated. This Policy aims to encourage and facilitate the retention of trees and as a result enhance the tree canopy to:

* Preserve and improve the neighbourhood amenity and character
* Mitigate the heat island effect
* Reduce air pollution
* Improve groundwater quality
* Contribute to biodiversity.

The need for a response to the loss of tree canopy is being addressed by many Local Governments across the State and, as such, WALGA prepared a Model LPP for tree retention that could be used by local governments to regulate the removal of trees on private land. In discussions with officers at other local governments, City Officers understand that many are preparing to move forward with local planning policies of their own based on the WALGA template. The adoption of a common template as a foundational basis will assist in achieving a level of consistency and acceptance across local governments. Though it is acknowledged that local governments will modify the template somewhat based on local preferences.

The model LPP prepared by WALGA, in partnership with multiple local governments, has been used in the preparation of this Policy. WALGA members prioritised the development of effective regulatory measures to retain trees on private land as a key policy goal. In 2023, WALGA collaborated with the Local Government Urban Forest Working Group to address tree retention challenges. A key finding was that the removal of a tree is deemed as works and could require development approval. The advice recommends specifying circumstances where approval for tree removal is necessary. The Policy has been drafted to not require Western Australian Planning Commission (WAPC) approval.

The Policy:

* Provides objectives to guide the City and applicants to encourage and facilitate the protection of trees at all stages of development.
* Defines what constitutes tree damaging activities and regulated trees (i.e. trees subject to the Policy).
* Outlines when a development application is required and circumstances where tree damaging activities are exempt from requiring approval from the City, such as pruning.
* Sets out the information to be provided by applicants for development applications associated with tree damaging activities, including an aborist report.
* Provides the considerations and elements the City will give due regard to when assessing development applications.
* Provides criteria for any new trees required as replacements for regulated trees.

The Policy applies to all Residential zoned land with a density of R20 or below. On affected lots, it also applies to any tree damaging activity to a regulated tree where any other works on the site are exempt from approval under Schedule 2 Part 7 Clause 61 of the Planning and Development (Local Planning Schemes) Regulations 2015. This means that a Single House that meets the deemed-to-comply requirements of the R-Codes Volume 1 would still need development approval for removal of a regulated tree.

A regulated tree is defined within the Policy and matches that within the previous scheme amendment, being an existing tree which has a:

* Average canopy diameter of 6m or greater; and/or
* Height of 8m or greater; and/or
* In the case of a tree with a single trunk, a trunk circumference of 1.5m or greater, measured 1.4m above the ground; or in the case of a tree with multiple trunks, a total trunk circumference of 1.5m or greater, with an average trunk circumference of 625 millimetres or greater, measured 1.4m above the ground.

Based on comments from the previous scheme amendment, pruning and maintenance has been better defined to exclude common tree maintenance that does not result in the death or serious harm to a tree. This results in less onerous restrictions on landowners maintaining their gardens.

It is noted that there is no provision for replacement trees in the event of tree removal. This is due to the fact that requiring replacement trees would trigger the need for WAPC approval, as it could be construed as varying an existing R-Codes Volume 1 provision. Given the Minister’s refusal of scheme amendment 12, it is unlikely this Policy would be approved by the WAPC if a referral was triggered. However, the voluntary provision of replacement trees can be considered as part of an assessment and would be encouraged. Should this occur, it could form a condition of approval.

**Consultation**

If Council resolves to adopt the Policy for advertising it will be advertised in accordance with the City’s Local Planning Policy – Consultation of Planning Proposals, which involves the following methods of consultation:

* Minimum 21-day advertising period
* Notice in a local newspaper
* Notice on the City’s notice board
* Notice on the City’s Your Voice engagement portal
* Notice on the City’s social media channels

Letters will be sent to all affected owners on land coded Residential R20 and below.

**Strategic Implications**

This item is strategically aligned to the City of Nedlands Council Plan 2023-33 vision and desired outcomes as follows:

**Vision** Sustainable and responsible for a bright future

**Pillar Planet**

**Outcome** 4. Healthy and sustainable ecosystem

5. Climate resilience

**Pillar** **Place**

**Outcome** 6. Sustainable population growth with responsible urban planning.

7. Attractive and welcoming places.

**Budget/Financial Implications**

If the City proceeds with the Policy, advertising costs are within the current FY budget. After adoption, there may be instances when the City will need to seek third-party advice on proponents’ arborist reports but these will be handled on a case by case basis and are expected to be infrequent.

**Legislative and Policy Implications**

Clause 3(1) of the Deemed Provisions of Schedule 2 of the [Planning and Development (Local Planning Schemes) Regulations 2015](https://www.legislation.wa.gov.au/legislation/prod/filestore.nsf/FileURL/mrdoc_46884.pdf/$FILE/Planning%20and%20Development%20(Local%20Planning%20Schemes)%20Regulations%202015%20-%20%5B00-o0-00%5D.pdf?OpenElement) allows the City to 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, in accordance with Clause 4 of the Deemed Provisions it must publish a notice of the proposed policy for a period of not less than 21 days and seek submissions. Further detail on the advertising of the Policy is provided in the Community Consultation section above.

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

1. Proceed with the Policy without modification; or
2. Proceed with the Policy with modification; or
3. Not proceed with the Policy.

**Decision Implications**

If Council resolves to adopt the Policy for advertising, it will be advertised in accordance with the process outlined above.

If Council resolves not to endorse the recommendation, the Policy will not be advertised or progressed. Doing so will mean City Officers are without a planning mechanism which would see the protection of trees and the enhancement of the tree canopy on Residential lots within the City.

**Conclusion**

The Policy has been developed to provide City Officers a mechanism with which to facilitate the protection of the City’s tree canopy provided by mature trees on private land. It is recommended that Council adopts the Recommendation and formally advertises the Policy.

**Further Information**

**Question / Request**

Councillor Youngman - Why is a site survey required? If the City of Nedlands is going to assign the Regulated Trees, meaning the position in space must be known, why is there a need for a Site Survey which will cost at least $2,000?

**Officer Response**

The Policy allows for a site plan or site survey to be provided. The City does not know which trees are regulated trees and relies on a site plan, assessment and/or site visit during each particular development. A site plan (as opposed to a site survey) does not have to be done by a registered surveyor and is a current requirement of all applications showing where the development sits on the site. The only addition would be to identify the location of any regulated trees. We expect that site plans prepared by the applicant will be used for proposals where trees only are to be removed, or for small-scale development proposals.

**Question / Request**

Councillor Youngman - 7.1.1 Is perpetuity the correct wording in the document? The use of the word “Perpetuity” seems to be out of context for a tree which has a finite life.  Should more suitable wording be used?

**Officer Response**

The words “in perpetuity” could be deleted without changing the meaning or intent. A revised version of the Policy reflecting this change has been included in this agenda, in attachment 1.

**Question / Request**

Councillor Youngman - 7.1.4 Solar installations.  Solar panels do not work in the shade.  If the State or Federal Government were to mandate renewables will that override this policy?

**Officer Response**

It would depend on the mechanism used by the State to require renewables. Certain legislation could override sections of this policy. Should such legislation be imposed by the state, this policy may need to be amended at a later date to reflect any changes. This is a common approach for local planning policy given its need to reflect other legislation and regulation that may change from time to time.

**Question / Request**

Councillor Youngman - Definitions “general appearance”.   Pruning isn’t about appearance; it is about keeping the tree healthy and importantly balanced.  Could better wording be used?

**Officer Response**

The term “general appearance” is worded to be flexible enough to allow discretion while attempting to limit the actions of bad actors who may prune with the intent to kill the tree. Tree health is already captured in the definition. To be more specific, the term “…, or is to balance the tree.” has been appended to the end of part C of the definition., as reflected in Attachment 1.

**Question / Request**

Councillor Youngman - Penalties What penalties would apply if the policy were not adhered to?

**Officer Response**

Whilst prosecution under Part 13 of the Planning and Development Act would be available, the serving of a Planning Infringement Notice and modified penalty of $500 is an alternative to prosecution.

**Question / Request**

Councillor Hodsdon - Will the local policy be as robust as the previously proposed amendment 12 in the town planning scheme?

**Officer Response**

A Scheme prevails over a local planning policy where there is inconsistency. However, in this case, the Policy supplements the Scheme in providing guidance on tree removal as a ‘work’ that requires development approval. As the Scheme does not explicitly exempt tree removal from requiring development approval, it is available to Council to make a policy that ‘triggers’ an approval.

As a local planning policy rather than a scheme, the legal weight afforded to the document is somewhat less than had the scheme amendment been approved. Notwithstanding this, WALGA advice indicates the proposed Policy can be effective.

**Question / Request**

Council Hodsdon - Will there be any rights of appeal against decisions made based on a policy and will those appeals be handled any differently to how appeals are treated against the town planning scheme?

**Officer Response**

Yes, there will be a right of review to the State Administrative Tribunal (SAT) where an applicant is aggrieved by a decision. SAT will not handle the application for review any differently and will provide due regard to the local planning policy. The ‘weight’ provided by the SAT to the policy is subject to deliberation in a hearing and will take into account a range of factors.

**Question / Request**

Councillor Hodsdon - Will there be a need to have extra staff for the management of this local policy change and has this been budgeted.

**Officer Response**

No additional staff resources have been identified or budgeted at this time. Staffing demands will need to be monitored over time and will depend on the number and complexity of applications.

## PD27.04.24 - Endorsement of Public Open Space Strategy, Adoption of Local Planning Policy 7.7 – Public Open Space Contributions, and Progression of Amendments to the Local Planning Strategy

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting – 23 April 2024 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | The author, reviewers and authoriser of this report declare they have no financial or impartiality interest in this matter. |
| **Report Author** | Nathan Blumenthal - Acting Manager Urban Planning |
| **Director** | Roy Winslow – Acting Director Planning and Development |
| **Attachments** | 1. Draft Public Open Space Strategy 2. Draft Local Planning Policy 7.7: Public Open Space Contributions 3. Draft Amendments to the Local Planning Strategy |

**Regulation 11(da) – Council endorsed the Public Open Space Strategy and Policy, and instructed that the Public Open Space Strategy is to be expanded to include the whole of the City of Nedlands.**

Moved - Councillor Cr Smyth

Seconded - Councillor Cr Youngman

**That the Revised Officer Recommendation be adopted.**

(Printed below for ease of reference)

**Council Resolution / Recommendation**

**That Council:**

1. endorses the draft Public Open Space Strategy (Attachment 1), which requires a cash-in-lieu contribution 5% for the creation of 3-5 lots.
2. proceeds with modifications to Local Planning Policy 7.7: Public Open Space Contributions (Attachment 2) in accordance with Regulation 4 of the Deemed Provisions of Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015.
3. proceeds with draft amendments to the City of Nedlands Local Planning Strategy as shown in Attachment 3 in accordance with Clause 17(1) of Part 3 of Schedule 1 of the Planning and Development (Local Planning Schemes) Regulations 2015.
4. refers the Local Planning Strategy amendments to the Western Australian Planning Commission in accordance with Clause 17(1) of Part 3 of Schedule 1 of the Planning and Development (Local Planning Schemes) Regulations 2015.
5. Requests CEO to extend the LK Advisory study area to be inclusive of the entire City (ie: suburbs of Floreat, Mt Claremont, Shenton Park and Swanbourne) to enable future refinement of the Strategy, so that is inclusive of the whole City. This complimentary task is not to delay the effect of clauses 1 – 4.

**CARRIED 8/1**

**(Against: Cr. Bennett)**

**Purpose**

The purpose of this report is for Council to endorse the draft Public Open Space Strategy (the Strategy), consider modifications to the draft Local Planning Policy 7.7: Public Open Space Contributions (the Policy) for adoption post advertising

The Strategy proposes a cash-in-lieu contribution of:

* 5% for 3-5 lots and
* 7% for 6 or more lots

This contribution will be sought at the time of subdivision; thus, the requirement will be solely at the discretion of the Western Australian Planning Commission.

Recommendation

That Council:

1. endorses the draft Public Open Space Strategy (Attachment 1), which requires a cash-in-lieu contribution 5% for the creation of 3-5 lots.
2. proceeds with modifications to Local Planning Policy 7.7: Public Open Space Contributions (Attachment 2) in accordance with Regulation 4 of the Deemed Provisions of Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015.
3. proceeds with draft amendments to the City of Nedlands Local Planning Strategy as shown in Attachment 3 in accordance with Clause 17(1) of Part 3 of Schedule 1 of the Planning and Development (Local Planning Schemes) Regulations 2015.
4. refers the Local Planning Strategy amendments to the Western Australian Planning Commission in accordance with Clause 17(1) of Part 3 of Schedule 1 of the Planning and Development (Local Planning Schemes) Regulations 2015.

**Voting Requirement**

Simple Majority.

**Background**

The Policy and amendments to the LPS were adopted by Council for advertising at the Ordinary Council Meeting of 22 August 2023. Feedback from submissions have been taken into consideration post advertising and minor changes have been made to the Policy. These changes are discussed below. A Public Open Space Strategy has been prepared to provide a framework to guide the provision of public open space (POS) in the City and use of contributions. All documents were included as part of the public consultation.

**Discussion**

**Changes to the Policy**

Minor changes have been made to the Policy as a result of feedback from community consultation and public commentary surrounding the advertising of the Western Australian Planning Commission’s (WAPC) Development Control Policy 2.3 – Public Open Space in Residential Areas (DC2.3). The Policy measures for a subdivision application resulting in three to five residential lots has been changed from the advertised version. The Policy is proposing a cash contribution recommendation to the WAPC be reduced to the value equivalent to 5% of the gross subdivisible area from the 7% proposed in the draft version for the creation of 3-5 lots.

It is important to strike a balance between reasonable public open space contributions and housing supply. The reduction in contribution is based on the City receiving a significant number of four lot subdivisions and imposing a 7% contribution could be a limiting factor in future small scale subdivision projects and housing supply. Reducing the contribution to 5% also aligns with the draft DC2.3 released in June 2023 which implies a maximum contribution of 5% can be collected from the creation of 3 or more lots.

The Policy measures relating to the vesting of land where appropriate and the 7% contribution for the creation of 6 or more lots have not been changed.

It should be noted that the WAPC is the ultimate decision-maker for subdivisions and may choose not to impose the POS contribution on a subdivision even where requested by the City. City Officers construe this the most likely outcome, particularly in the near term, considering the current state of housing supply and the Minister for Planning’s public position. However, the Policy will be in existence should circumstances change.

**Public Open Space Strategy**

The Strategy is a high-level planning document that provides the City with a framework guiding the provision of POS and the use of POS contributions obtained through the Policy for investment in parks and reserves.

The Strategy seeks to establish minimum standards; optimise existing POS aligned to community expectations; address the impacts of new development and population growth on the POS network; improve accessibility to high quality POS; and establish principles to prioritise expenditure of cash-in-lieu of POS.

The Strategy is structured in two parts, the Implementation and the Background and Analysis Report. Part 1 – Implementation provides detail on the research and analysis of the parks and reserves in Nedlands and Dalkeith and the resulting conclusions and recommendations for the provisions and maintenance of POS for the projected population growth. Part 2 of the Strategy – Background and Analysis provides details of the background work to support Part 1.

**Amendments to Local Planning Strategy (LPS)**

There are no changes proposed to the advertised version of the amendments to the LPS. Should Council endorse the draft amendments, Officers will refer them to the WAPC for endorsement.

**Consultation**

The Policy and amendments to the LPS were advertised from 17 November 2023 to 17 January 2024. During this period members of the community were invited to make a submission. Three submissions where received. The submissions are detailed in the table below, along with officer responses.

|  |  |  |
| --- | --- | --- |
| City of Nedlands Resident | Submission | Officer Comment |
| Yes | **OBJECT**  Strongly object to the policy. Can understand a POS contribution for large scale apartment developments, however the City should be supporting good, well designed small scale developments for ‘mums and dads’. | Objection is noted. The Policy has been amended to reduce the cash contribution for subdivisions resulting in 3-5 lots from 7% to 5% of the values of the subdivisible area. |
| Yes | **SUPPORT**  We are supportive of the Public Open Space Contributions and Amendment to the Local Planning Strategy but believe two modifications need to be made.   1. Any POS ceded to the crown (Council) by the developer or cash in lieu provided by the developer should be provided or expended within 400m of the development in question. Without this requirement the distribution of the proceeds of the policy is open to abuse leaving those most affected by the development even further disadvantaged. 2. Last Paragraph of Attachment 2: Draft Amendments to the Local Planning Strategy, POS Contribution Basis where it states ‘The land around Stirling Highway, particularly south of Stirling Highway is most affected, which also coincides with the areas most affected by population growth’ is factually incorrect. The area most affected by population growth is north of Stirling Highway. This northern area has had substantial areas up zoned, particularly in the Hollywood ward, includes the proposed Chellingworth Towers, William Stirling Towers, Nedlands Village, New UWA Accommodation Hall, Hampden Road development etc. No other area in Nedlands has this magnitude of growth in dwellings approved/forecast. | Support is noted. In respect to the two suggested modifications:   1. The WAPC has an established policy on how POS contributions are to be allocated and Council is required to maintain transparency in how funds are allocated and distributed. 2. Concerns noted and analysis of development / forecast development in proximity to Stirling Highway is still considered relevant. |
| Yes | **COMMENT ONLY**  The reports prepared by the City staff are comprehensive and start from a very sound analysis of the issues. However, it is not clear whether the additional infill population from the development of high rise apartment towers are included. If not, then this needs to be included somehow.  The analysis shows the decline in individual amenity suffered as population grows. This is exacerbated where the community is exposed to overdevelopments. | City planning staff are acutely aware of the impact poorly planned, higher density development can have on amenity. The City continues to update its planning policy framework to address built form amenity impacts and contemporary urban design issues. |

During the advertising period members of the community were provided with the opportunity to attend an information session on 4 December 2024. There were no attendees at this session.

**Strategic Implications**

This item is strategically aligned to the City of Nedlands Council Plan 2023-33 vision and desired outcomes as follows:

**Vision** **Sustainable and responsible for a bright future**

**Pillar** **Place**

**Outcome** 6. Sustainable population growth with responsible urban planning.

7. Attractive and welcoming places.

**Budget/Financial Implications**

The LPS amendment includes some assumptions on development takeup, density and land values to arrive at a figure of almost $64 million in developer contributions to the City by the year 2050. This figure can be broken down as follows:

$42.48 million Purchase of 11 new parks (averaging 1,816 sqm per park)

$4 million Upgrading of new parks after purchase

$9.7 million Sports and recreation Facilities on existing public open space

$6.2 million Upgrades to 31 existing parks

$1.5 million Converting drainage sumps and parks

As per the Planning and Development Act 2025 and DC2.3, such money can only be spent on certain items related to public open space and only with approval of the Minister for Planning. The figures above are based on what City Officers believe can be reasonably be paid for with cash-in-lieu funds.

**Legislative and Policy Implications**

The [Planning and Development Act 2005](https://www.legislation.wa.gov.au/legislation/prod/filestore.nsf/FileURL/mrdoc_45817.pdf/$FILE/Planning%20and%20Development%20Act%202005%20-%20%5B04-s0-01%5D.pdf?OpenElement) provides the head of power for local governments to require a public open space or cash in lieu contribution for new development of not less than 3 lots. The Western Australian Planning Commission’s [Development Control Policy 2.3: Public Open Space in Residential Areas](https://www.wa.gov.au/system/files/2021-07/DCP_2-3_public_open_space.pdf) and the [draft DC2.3](https://consultation.dplh.wa.gov.au/strategy-and-enagagement/public-open-space/supporting_documents/Operational_Policy_Draft%20Planning%20for%20Public%20Open%20Space%202.3%20April.pdf) allows the Commission to impose a public open space contribution on 3 lots or more where the local government has identified an existing or potential deficiency of public open space and has an adopted strategy to improve or provide open space by land acquisition in the locality of the subdivision.

Clause 3(1) of the Deemed Provisions of Schedule 2 of the [Planning and Development (Local Planning Schemes) Regulations 2015](https://www.wa.gov.au/system/files/2024-03/planning-and-development-local-planning-schemes-regulations-2015.pdf) allows the City to prepare a local planning policy in respect to any matter related to the planning and development of the Scheme area.

**Decision Implications**

Council may resolve to:

1. Proceed with the Strategy, Policy and amendments to the Local Planning Strategy without modification; or
2. Proceed with the Strategy, Policy and amendments to the Local Planning Strategy with modification; or
3. Not to proceed with the Strategy, Policy and amendments to the Local Planning Strategy.

If Council resolves to proceed with or without modification, the amendments to the Local Planning Strategy will be referred to the Commission for endorsement and the Policy and Strategy will become operative after public notice has been given.

If Council resolves not to proceed, the Strategy, Policy and amendments to the Local Planning Strategy will not be adopted and the City will have a legislative deficiency for enforcement of public open space contributions. The contribution rates and lot creation thresholds will default to those in DC 2.3. Without the necessary legislative framework such contributions will be more difficult to require and spend, as well as more open to appeal.

**Conclusion**

It is recommended that Council endorse the draft Public Open Space Strategy and draft Amendments to the City’s Local Planning Strategy and adopt the draft Local Planning Policy 7.7: Public Open Space Contributions.

**Further Information**

**Question / Request**

Councillor Youngman - Allen Park page 38 and 109 in other location. Shouldn’t the POS funds be spent on those areas referenced in the report bottom of page 38. On page 38 there is mentioned “Allen Park” and on page 109 “other locations” when discussing where the funds raised by this policy might be allocated.  Is there some form of proximity allocated to these funds relative to where the development is being proposed?  Noting that the Hollywood area has the most desperate need for more park land, does the policy allow the funds to be directed to this area?

**Officer Response**

The City must seek ministerial approval to spend POS funds. Generally, funds collected should be spent near the locality they were collected so that there is a direct benefit to the development that contributed. There is an argument to be made that regional parks (such as Allen Park) are unique and draw people from a wider area. Therefore, a benefit connection could be made between the park and developments in Nedlands and Dalkeith. Hence the inclusion of Allen Park in the strategy. Local and district parks should be located closer to the developments that have contributed funds.

**Question / Request**

Councillor Youngman - On page 39 (Amenity scores) How did Paul Hasluck Reserve receive a score of 39? Provide additional information. Paul Hasluck Reserve scored an Amenity Score of 39 (see page 39).  Given there is no playground equipment, tables and chairs or barbecue facilities, plus there is contaminated ground there, why does it score so highly compared to other parks?

**Officer Response**

The audit was a simplified process to get a general understanding of the amenity of existing parks. Analysis was based on site visits where quantitative data such as availability of usable turf, bins, toilets, clubrooms, drinking fountains, etc. was collected. No investigation was made into contamination or other factors. It is understood that priorities may shift but that the intent was to provide some sort of priority list, not to definitively state which park has more amenity than another.

**Question / Request**

Councillor Youngman - What happens when the developer gives up the land instead of paying the contribution? On pages 110 & 111 the discussion is about forfeiting 10% of the land or paying 5% or 7% of the land value.  What if the proponent chooses to give up the land what contingency is in place to deal with this?  On a 1000 square metre block the City of Nedlands could end up with a 100 square metre section of land that nothing can be done with.

**Officer Response**

The situation already exists where a subdivider can give up land and the local government must accept this. This is the intent of the Planning and Development Act, which seeks the land in the first instance. Cash-in-lieu of public open space is only available where a subdivider elects not to or cannot for whatever reason give up the land. Whilst legally this situation has existed for many decades, the practicalities of giving up small areas of land as public open space tend to make this unattractive, and there are few examples that we are aware of where this has occurred.

**Question / Request**

Deputy Mayor Smyth - The LK Advisory report represents the study area only for the development of the Strategy; however, the Strategy is used to inform the Policy which covers the whole City. Hence, the Strategy (study area) is silent on the remainder of the City. This raises the question how well informed is the Policy applicable to the whole City?

**Officer Response**

The Strategy is focussed on areas where significant numbers of subdivisions creating 3 lots or more are anticipated based on density coding and lot size. The Strategy is intended to focus new POS on areas of most need, this being where significant increases in dwellings are anticipated. The Swanbourne, Mt Claremont and Floreat residential areas densities are not conducive to the creation of subdivisions that will trigger POS contribution. Given this, the Strategy is focussed where the POS contribution is likely to be received.

**Question / Request**

Deputy Mayor Smyth - Citing Admin Report - Legislative and Policy Implications

States that the “Clause 3(1) of the Deemed Provisions of Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015 allows the City to prepare a local planning policy in respect to any matter related to the planning and development of the Scheme area.”

Will the WAPC be made aware that the LK Advisory Strategy that informs the Policy only applies to a study area that is not inclusive of the whole City?

Will the WAPC expect the Policy to apply to the whole City?

**Officer Response**

The purpose of a POS Strategy is to inform the provision of POS that occurs as a result of subdivision. As explained above, the Strategy has been focussed on the areas where there is likely to be subdivision that triggers POS provision. The WAPC and DPLH have not objected to the Strategy being focussed in this way.

**Question / Request**

Deputy Mayor Smyth - Citing LK Advisory Attachment 1

A close up of a document

Description automatically generated

How many lots were up coded in the remainder of the City, and what is the potential contribution to the infill targets?

This question is referring to the Floreat and Mt Claremont up zoning and also the likely increases due to Montario Quarter and Graylands subdivisions.

**Officer Response**

Exact figures are not available but the majority of properties outside the strategy study area were not upcoded. Most of the properties outside Nedlands/Dalkeith are currently coded R20 and below and would generally not be capable of subdivision into more than 2 lots, if at all, and would therefore be of minimal contribution to infill.

The existing WAPC policy would require that large land subdivisions such as Montario Quarter and Graylands incorporate public open space as part of the subdivision plan to cater for the new residents.

**Question / Request**

Deputy Mayor Smyth - Citing LK Advisory Attachment 1 Part 1 – Section 6. Summary of POS in Nedlands and Dalkeith

Referencing Tables 1, 2, & 3

Could figures for the whole City of Nedlands be included for comparison?

**Officer Response**

Based on readily available information, Table 1 can be amended as follows:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Suburb** | **Local** | **Neighbourhood** | **District** | **Total** |
| **Nedlands** | 7 | 4 | 3 | 14 |
| **Dalkeith** | 8 | 7 | 2 | 17 |
| **Mt Claremont** | 20 | 1 | 1 | 22 |
| **Floreat** | 2 | 1 | 0 | 3 |
| **Swanbourne** | 6 | 1 | 1 | 8 |

Figures for the other tables have not been comprehensively captured in a way that would allow easy comparison against the figures already in the strategy.

**Question / Request**

Deputy Mayor Smyth - Citing LK Advisory Attachment 1 Part 1 – Section 8. Conclusion

States that the “there is a need to establish a road map to resolve the existing and growing gap in POS accessibility within the study area.”

Will this Strategy be applied across the whole City?

Will the 5% contributions apply to subdivisions not in the study area?

What research has been undertaken to establish POS needs in remaining area of City outside the study area?

**Officer Response**

The Strategy applies to the area stipulated for the reasons explained above. The 5% contributions will not apply outside of the Strategy area as there are few opportunities to subdivide a lot into three lots or more that would trigger the POS contribution. Should there be a subdivision of this kind, the contribution would not be applied for 3, 4 or 5 lots as it is not included in the Strategy. If a larger site outside of the Strategy area is redeveloped, it is likely that this would be provided with public open space, similar to Montario Quarter.

The Strategy was focussed on the POS needs cause by subdivision that triggers a POS contribution. Given this, no research has been undertaken outside of this area at this time.

**Question / Request**

Deputy Mayor Smyth - Citing LK Advisory Attachment 1 Part 2 – City of Nedlands Study Area Maps

Referencing Figures 2, 6, 7, 8, 9, 11, 14, 15, 16, 17,18

All these Maps carry the title City of Nedlands – plus subject line, this is misleading and incomplete information.

The title is more accurately: City of Nedlands (south) or (study area only)

Could the Map titles be changed to avoid misunderstanding that the whole City of Nedlands is being depicted in the maps?

**Officer Response**

Amending the titles of the figures as suggested is an administrative change that would not require further Council approval and will be implemented after approval.

**Question / Request**

Deputy Mayor Smyth - Citing Policy Attachment 3 Table 19 Local Park

Can Annie Dorrington Park be added to the list of Local Parks?

Noting this omission was identified prior to advertising; has a valuable Public Art installation; and accounts for the POS allocation associated with the Old Swanbourne Hospital LPP.

Of concern - Officer response to Further Information for Item 16.10 PD18.03.24 Adopt Amended Local Planning Policy 5.2 – Old Swanbourne Hospital Precinct (OCM March 2024) States “The ongoing management of the POS, natural bush and greenways within the Old Swanbourne Hospital Precinct area it is not a matter for the LPP to address.” This is of concern because although the Annie Dorrington Park was part of a developer contribution it does not have access to Policy or LPP.

**Officer Response**

The list of local parks is limited to those within the study area of Nedlands and Dalkeith. Annie Dorington park sits outside this area and is therefore not captured within the current document. Annie Dorrington Park is a public open space reserve with a management order that sits with the City of Nedlands. The care and maintenance is the City’s responsibility as part of its internal processes and no development controls are necessary to be imposed through a local planning policy.

## PD28.04.24 - Consent to Advertise Heritage Areas and Local Planning Policy 6.2: Heritage Protected Places

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting – 23 April 2024 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | The author, reviewers and authoriser of this report declare they have no financial or impartiality interest with this matter. |
| **Report Author** | Nathan Blumenthal - A/Manager Urban Planning |
| **Director** | Roy Winslow – A/Director Planning and Development |
| **Attachments** | 1. Draft LPP 6.2: Heritage-Protected Places 2. Draft Possible Heritage Area Designation Map |

Cr Hodsdon left the room at 7.49pm

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

Moved – Councillor Cr Youngman

Seconded – Councillor Cr Brackenridge

**That the Revised Officer Recommendation be adopted.**

(Printed below for ease of reference)

**Council Resolution / Recommendation**

**That Council:**

1. supports consideration of designating the following as Heritage Areas to conserve and enhance their cultural heritage significance and character:
2. Tyrell Street North Heritage Area, which includes both sides of Tyrell Street between Edward Street and Elizabeth Street in Nedlands;
3. Tyrell Street North Heritage Area, which includes both sides of Tyrell Street between Stirling Highway and Edward Street in Nedlands;
4. Tyrell Street South Heritage Area, which includes the western side of Tyrell Street between Princess Road and Melvista Avenue in Nedlands;
5. Meriwa Street Heritage Area, which includes both sides of Meriwa Street between Hardy Road and Gordon Street in Nedlands;
6. Clifton Street Heritage Area, which includes both sides of Clifton Street between Hardy Road and Gordon Street in Nedlands; and
7. Mountjoy Road Heritage Area, which includes both sides of Mountjoy Road between Jenkins Avenue and Princess Road in Nedlands.
8. initiates community consultation regarding designation of the above Heritage Areas in accordance with regulation 9 of the Planning and Development (Local Planning Scheme) Regulations 2015.
9. initiates community consultation on the draft Local Planning Policy 6.2 Heritage-Protected Places as shown in Attachment 1 in accordance with regulation 4 of the Planning and Development (Local Planning Scheme) Regulations 2015.
10. Supports consideration of a wider range of areas for inclusion in the Local Planning Policy 6.2 Heritage-Protected Places, once the Pilot has been assessed. These additional areas should include:
11. Heritage Lane, and Old Swanbourne Hospital precinct,
12. Graylands Hospital precinct and Directors House
13. James St, and Clare Cops, Swanbourne
14. Floreat Hackett precinct
15. River Foreshore

**CARRIED UNANIMOUSLY 8/-**

**Purpose**

For Council to consider supporting specific Heritage Areas and a draft Local Planning Policy 6.2: Heritage-Protected Places (the Policy) for the purposes of public consultation.

The heritage areas include sections of Merriwa Street, Clifton Street, Mountjoy Road and Tyrell Street. Extensive consultation will be undertaken to gauge the level of public support for this form of heritage protection and, if successful, lead to the introduction of more areas in the future.

**Recommendation**

**Voting Requirement**

Simple Majority.

**Background**

The City currently has an adopted Municipal Heritage Inventory 2018 (now called the Local Heritage Survey, or LHS) and an adopted Heritage List containing twenty one places of state and local heritage significance. The LHS includes a number of individual places and areas that are important to the City’s local heritage. However, the LHS does not provide statutory protection. It is a document of record only. In order to ensure places within the record are maintained, they must be designated as an individually-listed place, or be designated to sit within a Heritage Area.

Efforts by the Council and the community to preserve the City’s unique streetscapes and character of Nedlands are nothing new. Under the previous Town Planning Scheme No. 2 (TPS2) several areas were subject to Local Structure Plans and Scheme provisions governing setbacks and infill design criteria that operated from 2006 until 2019. Unfortunately, these provisions were not carried over into Local Planning Scheme No. 3.

Heritage Areas are collections of places in an area that form a cohesive pattern of heritage significance. The *Planning and Development (Local Planning Scheme) Regulations* provides legislative weight to preserve individual places and Heritage Areas and allows the local government and the community to achieve their strategic vision. Absent such heritage designations, there remains the possibility that places are demolished and the streetscapes irrevocably altered.

Council’s recently adopted Council Plan item 1.3.1 sets out an ambition that the City will “Update the Local Heritage Survey and list of places the City deems are, or may become, of heritage significance”. The proposed Heritage Areas discussed below are in line with that aim.

Heritage Area designations and the draft Policy (**Attachment 1**) are essential first steps of proposed changes to the heritage framework at the City. Currently, the City does not have any designated Heritage Areas. From previous reviews of the LHS, City Officers have identified 11 potential candidates for Heritage Area status. As per the Regulations, the designation of specified Heritage Areas must be accompanied by a local planning policy that sets out the significance of the place and creates design guidelines and an assessment framework.

**Discussion**

**Heritage Area Designation**

Designating areas as Heritage Areas is essential to maintaining the streetscape character of established parts of Nedlands and will provide a bulwark against future density increases within such areas. Heritage considerations take precedence over density concerns, implying that any future state-driven upcoding would exclude designated Heritage Areas. This is due to the fact that the primary purpose of a Heritage Area designation is to retain the streetscape feel of an area. The central location of existing houses within blocks complicates future imposition of higher density, thus inhibiting the encroachment of large townhouse developments such as those constructed on lots closer to Stirling Highway.

Properties within Heritage Areas are designated as either “contributory” or “non-contributory”. Contributory properties are those that contribute to the significance of the locality, generally the original housing stock or those that still display a frontage consistent with elements of their original construction. Non-contributory properties are lots where the original house was demolished and replaced with a newer house, or where the place has been altered such that the significance is lost. All properties within a Heritage Area will be subject to design guidelines within the Policy to ensure the retention of the streetscape.

The proposed Heritage Areas only affect lower coded land (R10, R12.5 and R40), which usually have generous street setbacks. Detailed assessment criteria are provided in the draft Policy, but the criteria generally entail that development is not permitted forward of the house, or in a manner that would be contrary to the existing development when viewed from the street.

It is acknowledged that many landowners or prospective purchasers of properties in proposed Heritage Areas may be apprehensive. To date, heritage designations are a relatively unknown quantity for landowners within the city. However, residents have also lamented the loss of streetscapes and the local identity that runs parallel with unsympathetic development. The most noticeable loss of cultural fabric is within the areas around Stirling Highway which were upcoded to R60 with the adoption of Local Planning Scheme No. 3 in 2019. These streets have since seen numerous stately character houses with generous front yards demolished and replaced with large townhouse developments that come almost to the street. While it is not intended to designate any areas coded R60 and above, Heritage Area designations of existing low-coded land will restrain future upcoding, inhibit encroachment of out-of-character development, and retain the existing streetscapes.

Without the designation of Heritage Areas, the current state will persist, leading to the gradual erosion of streetscapes and the built environment within the City. Over time, the prevalence of new dwellings may surpass original houses, resulting in a permanent loss of the integrity of heritage-worthy streetscapes.

**Policy Provisions**

Heritage Area designation will be accompanied by the draft Policy, which applies criteria to both contributory and non-contributory properties. The criteria aim to maintain streetscape appearance in terms of bulk, scale, street setbacks, and overall design, without attempting to replicate heritage elements on non-contributory properties. Also included are criteria on how to approach additions such as upper floors and rear extensions. The intent is to retain the streetscape appearance of contributory properties, and ensure non-contributory properties are in keeping with the built form of the Heritage Area.

The draft Policy also informs those purchasing a property in a Heritage Area of their obligations and development opportunities. Since Heritage Areas primarily focus on streetscape preservation, internal additions and external alterations that are not visible from the street do not fall under heritage protection.

The Policy Appendix sets out the distinct Heritage Areas, includes a statement of significance for each, and identifies which properties are contributory within each area.

**Heritage Value**

There is a perception in the community that the public benefit to recognizing and preserving unique buildings and localities comes at a cost to private property owners. Critics argue that part of these costs include a detrimental effect on property values. However, in Sydney it was found that Heritage Areas became highly sought after because they became distinguished through their cultural quality and rarity. As more and more townhouse developments on smaller lots occur, the unique streetscapes preserved within Heritage Areas become increasingly valuable. A larger survey of over 3,000 properties in North America found that heritage overlays resulted in a neutral or positive effect on home values and that there was a distinct and robust market for such homes.

The experience of other local governments that have adopted Heritage Areas, such as Cottesloe, Fremantle, Claremont, Mount Lawley, Subiaco, Shenton Park, and Peppermint Grove, is that heritage listing protects the high visual amenity of their suburbs. This preservation benefit is highly valued by the community, as reflected in the current Council Plan. At the same time, the heritage listing of properties and the establishment of Heritage Areas provides certainty for homeowners. It is often the case that run-down or derelict properties are restored and creative architecture employed to adapt older houses for modern living. This outcome becomes a source of pride for both landowners and the community.

The need for additional professional input in the assessment process is a consideration. Although the requirement for a heritage assessment may add to the cost to the approval process, this cost is insignificant relative to the project cost. For example, heritage assessments for additions to residential properties in heritage areas are, depending upon complexity, around $1500.00. Statistics provided by the City’s building services indicate the average value of alterations and additions to a single dwelling in Nedlands and Dalkeith is approximately $450,000. Therefore, the additional cost due to a house being either on the heritage list or in a heritage area, would be 0.003% of costs. It should also be noted that rear additions, not readily seen from the street do not have to follow the design or finish standards of the original house and would not necessarily be more expensive to build.

To allay some of the costs and further encourage heritage preservation, a suite of heritage initiatives are being considered by City Officers and may include incentives such as development application fee waivers, heritage consultation assistance, and matching grant funding.

**Consultation**

The proposed Heritage Areas are based on the recommendations made in the review of the LHS carried out in 2022. Appendix 1 of the LPP provides a statement of significance and separate maps for each proposed Heritage Area. Within each area, houses are marked as either contributory or non-contributory.

It is proposed to run a pilot program by consulting with only four streets at this stage, being Tyrell Street North and South, Meriwa Street, Clifton Street and Mountjoy Road. Under the Planning and Development (Local Planning Scheme) Regulations 2015 a Local Planning Policy and a proposed Heritage Area designation must be advertised for a minimum period of 21 days, including writing to all affected owners and posting a public sign within the affected area.

City Officers acknowledge that owner and resident support is critical to success and likely to involve multiple discussions with stakeholders. It is therefore planned to go over and above the minimum in order to achieve a high response rate from affected owners. Consultation will be carried out in pairs (two of the four streets at a time) for a period of 28 days each pair. Consultation may include letter drops, informational brochures, and multiple site visits to the proposed areas at varying times of day for City Officers to be available to discuss the proposal with residents in person.

Following the conclusion of the consultation period, a further report will be submitted to Council. Should the proposal be received positively by residents, City Officers will recommend adopting the Heritage Areas and the LPP as well as propose beginning staggered consultation with the remaining areas identified for retention. Should the proposal receive a significant negative response there will be an opportunity to cease the project.

At the concept forum for Councillors, several questions were raised. These are summarised below followed by officer comments:

* What is the full list of proposed Heritage Areas?

A full map of the 11 areas identified for possible Heritage Area designation is included as **Attachment 2**. Only the four streets discussed above are being considered at this stage as part of the pilot program.

* Can we offer incentives for heritage retention?

The City currently has an incentives policy that offers heritage advice sessions with a qualified consultant and waiving of planning fees for certain heritage related proposals. City Officers are investigating expanding heritage incentives as part of the ongoing broader heritage review, and some proposals may come out of the consultation process described in this report.

* Can we include other streets/areas and individual properties?

This pilot program is only for a select number of areas. Should it prove successful, City Officers intend to consult with 7 other areas identified in the Local Heritage Survey as potentially having heritage significance. City Officers may also take recommendations for additional areas from the community for later consideration. Any proposed Heritage Area designation must be backed up by careful research that demonstrates it presents as a cohesive area of cultural significance.

Listing individual properties will not occur during this current process but is being considered as a separate project later in the year. It is noted that the City has recently received a few unsolicited enquiries from residents interested in heritage-listing their properties.

* Will other residents in higher density areas (such as the R60/R160 properties in northern Tyrell Street) be consulted?

These residents will be able to provide comment, however, City Officers are not considering designating any areas above R40 as Heritage Areas at this time. This is due to the fact that potential for high density development on these lots is incompatible with heritage area protection. Now that the density has been in place for several years, there has been a considerable amount of redevelopment and it would be difficult to justify designating such areas (the north of Tyrell Street, for example) as Heritage Areas.

* Why are some R40 areas being considered as Heritage Areas? It seems that these areas are also coded high enough for subdivision.

The R40 areas under consideration have, to date, shown a pattern of replacing a single house with a single house rather than replacing a single house with grouped or multiple dwellings. Additionally, the existence of a rear laneway will allow the ability to subdivide in many cases without impacting the significance of the proposed Heritage Areas. The lot sizes of these areas also make achieving the R40 density less likely. The areas chosen as part of the pilot program are intact streets with houses predominantly in good condition, demonstrating that the residents care deeply about maintaining the historic look and feel of their street.

* Is there any service planning or staffing implications?

Depending on the uptake of Heritage Areas and (later in the year) heritage-listed properties, it may be necessary to create a Heritage Officer position to assess developments at some point. In the interim, once heritage protections are established, the City can utilise outside contractors for assessment on a case-by-case basis until the level of demand is more certain.

**Strategic Implications**

This item relates to the following elements from the City’s Council Plan:

**Vision** Sustainable and responsible for a bright future

**Pillar Place**

**Outcome**6. Sustainable population growth with responsible urban planning.

**Action 1.3.1:** Update the Local Heritage Survey and list of places the City deems are, or may become, of heritage significance.

**Local Planning Strategy**

Clause 5.8 of the Local Planning Strategy proposes that Council seek to:

“Retain and enhance the character and streetscape of the City’s existing residential areas. whilst promoting best practice urban design principles in targeted infill areas. Maintaining and enhancing high quality streetscapes will be of the utmost importance to decision making, and developments will need to respond to the unique character of each precinct.”

The following relevant strategies were recommended in order to achieve the above objective:

1. Ensure the Local Planning Scheme and other development controls are in place to retain and enhance the existing character of each identified precinct.
2. Further understand the elements that contribute to streetscapes to inform consistent statutory control.

**Budget/Financial Implications**

There are no financial implications associated with the proposed advertising of this LPP and the four proposed heritage areas. The anticipated costs can be covered within the 2023/24 strategic planning budget.

**Legislative and Policy Implications**

Local governments have the ability to designate areas as Heritage Areas under Regulation 9 of the [Planning and Development (Local Planning Schemes) Regulations 2015](https://www.legislation.wa.gov.au/legislation/statutes.nsf/law_a9408.html). If an area is designated a Heritage Area, the local government must adopt a local planning policy for the area through the process set out in Regulation 4.

**Decision Implications**

Should Council adopt the recommendation, City Officers will begin the program of advertising and consulting owners and residents of the affected properties. A further report will be presented to Council with the results and a final recommendation once the consultation within all four areas has been completed.

Should Council resolve not to support the recommendation, the Heritage Area project will not proceed, which will put the City at risk of losing culturally unique streetscapes.

**Conclusion**

The City’s Local Planning Strategy and the Council Plan have identified the need for the City to protect its local heritage, including its streetscapes. This is best done initially through the creation of Heritage Areas, which offer statutory protection stronger than that of a simple planning policy. The corresponding draft Policy provides criteria for development within heritage-protected places and sets out statements of significance to inform any new proposals.

It is recommended that Council support initiation of community consultation for the proposed Heritage Areas and the draft Local Planning Policy 6.2: Heritage-Protected Places.

**Further Information**

**Question / Request**

Councillor Bennett - Why do Allen Park and the foreshore Heritage areas treated separately?

**Officer Response**

The proposed pilot program is based on residential areas rather than non-residential or public places. This has been done to allow for the policy position and heritage processes to be developed and tested prior to expanding to other areas of the City, including the foreshore and Allen Park. It is intended to create heritage areas for these sites as part of the ongoing project once the pilot has been completed.

**Question / Request**

Deputy Mayor Smyth - Can an amendment be prepared for the Council meeting to include Allen Park and the foreshore as Heritage areas?

**Officer Response**

It is recommended that the foreshore and Allen Park are undertaken as a separate project to the pilot program. This is due to the need to undertake additional research and heritage assessment prior to being in a position to develop policy provisions and conduct consultation. We will also need to consider if a heritage area prescription is the best course of action, of if a series of individual place listings covering the areas are more appropriate.

**Question / Request**

Deputy Mayor Smyth - As this is a Pilot of only four streets how will other areas be added? For example: Local Planning Policy 6.2 Heritage-Protected Places as shown in Attachment 1, will there need to be other Heritage LLP for other areas of the City.

**Officer Response**

No additional local planning policies will be required. Rather, it is intended that draft LPP 6.2 is updated and expanded as required to include additional heritage areas in the appendix. This will allow Council to consider new areas and potentially additional controls as the project matures.

**Question / Request**

Deputy Mayor Smyth - Can we have a guarantee that assessment of heritage streetscapes is applied equitably across the City?

**Officer Response**

Yes, heritage is not limited to those areas already researched. Other areas of the City can be nominated by Council, officers or the community over time. The areas currently identified are considered the starting point. With community involvement, the application of heritage areas can be expanded to protect the heritage and character of other areas.

**Question / Request**

Councillor Coghlan - Can an amendment be prepared and considered to include Tyrell Street South to Stirling Highway.

**Officer Response**

The following has been included into the revised officer recommendation:

1b - Tyrell Street North Heritage Area, which includes both sides of Tyrell Street between Stirling Highway and Edward Street in Nedlands;

This will extend the currently proposed heritage area coverage on Tyrell Street north of Edward Street to Stirling Highway.

1. Supports consideration of a wider range of areas for inclusion in the Local Planning Policy 6.2 Heritage-Protected Places, once the Pilot has been assessed. These additional areas should include:
2. Heritage Lane, and Old Swanbourne Hospital precinct,
3. Graylands Hospital precinct and Directors House
4. James St, and Clare Cops, Swanbourne
5. Floreat Hackett precinct
6. River Foreshore

## PD29.04.24 - Reconsideration of Car Parking Contribution for Hot Springs Development at 120 Esplanade, Dalkeith

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting – 23 April 2024 |
| **Applicant** | Tawarri Hot Springs |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil |
| **Report Author** | Roy Winslow A/Director Planning and Development |
| **CEO** | Matthew MacPherson A/CEO |
| **Attachments** | 1. 2022 Car Parking Plan 2. Drainage Concept |

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

Moved - Councillor Cr Youngman

Seconded – Councillor Cr Coghlan

**That the Recommendation be adopted.**

(Printed below for ease of reference)

**Council Resolution/Recommendation**

**That Council:**

1. **approves the reallocation of the $200,000 (incl GST) cash-in-lieu of car parking requested by Council on 28 June 2022 for the Tawarri Hot Springs development for the purposes of addressing drainage and infrastructure improvement works within the City-controlled road reserve and foreshore reserve adjacent to the Tawarri site; and**
2. **notes the following parameters of agreement will form the basis of a future agreement between the proponent’s of the Tawarri Hot Springs development and the City of Nedlands (the City):**
3. **No contribution being provided to the City for the provision of car parking.**
4. **The existing formalised and informal parking areas along the Esplanade verge being retained in their current state and used by all users in the vicinity, including the proposed Tawarri Hot Springs.**
5. **A drainage solution being designed by the City to drain the current pooling in the Esplanade “triangle”.**
6. **As part of the drainage works, undertaking any other improvements to the ‘triangle’ area, such as landscaping, path works and similar (by agreement between the proponent and the City on scope, extent, etc).**
7. **This drain to be located on City-controlled land where practicable with any need for Tawarri land to be subject to prior agreement.**
8. **The City to obtain all relevant approvals, including from the Department of Biodiversity, Conservation and Attractions (DBCA).**
9. **The proponent to provide $200,000 inc. GST to the City as a contribution to the works, with the funds to be provided prior to occupation of the Tawarri development.**
10. **The City to undertake the works as part of its normal capital works budget as soon as practicable after receipt of the contribution.**

**CARRIED EN BLOC 8/1**

**(Against Cr. Bennett)**

**Purpose**

The purpose of this report is for Council to consider supporting an alternative to the WAPC development condition requiring a cash in lieu contribution for the provision of car parking for the proposed Tawarri Hot Springs development at 120 Esplanade, Dalkeith.

It is proposed to reallocate the cash-in-lieu contribution from car parking provision to the construction of drainage to resolve an existing water ponding issue at the end of Esplanade, close to the proposed facility.

**Voting Requirement**

Simple Majority.

**Background**

**Initial Review and Approval**

The 2022 development approval for the proposed Tawarri Hot Springs in Dalkeith was granted by the Western Australian Planning Commission (WAPC) under the state significant development clauses of Part 17 of the Planning and Development Act 2005. During the assessment process, the City were a referral agency, providing comment to the State Development Assessment Unit (SDAU).

At its Ordinary Meeting held on 28 June 2022, Council resolved to recommend refusal for a number of detailed reasons. Notwithstanding this position of not supporting the proposal, Council determined it prudent to provide a list of conditions for the consideration of the WAPC in the event of approval being granted. The following condition relating to car parking was requested by Council:

1. The proponent providing a cash contribution prior to occupation of $200,000 being for the provision of formalised car parking spaces to be constructed by the City of Nedlands in accordance with the City’s car parking plan (Attachment 3) as part of the future upgrading of Esplanade between the Nedlands Yacht Club entrance and the development site.

A copy of the abovementioned car parking plan is included at **Attachment 1** for reference purposes.

A version of Council’s recommended condition was incorporated into the WAPC development approval dated 18 May 2023 as follows:

1. Prior to the occupation of the development, suitable arrangements are to be made for a contribution of $268,960 (excl GST) towards the provision of parking and access upgrades within the Esplanade road reserve to the satisfaction of the Western Australian Planning Commission, on advice from the City of Nedlands.

**SAT Review**

Subsequent to the WAPC approval in May 2023, the proponent elected to apply for review of the above Condition 13 to the State Administrative Tribunal (SAT). Several sessions of mediation have taken place with the City invited to participate, given its involvement in the condition.

Prior to mediation resuming, the proponent has requested the City consider modifying the parameters of the condition to allow for a contribution to be made to the City for drainage in lieu of car parking. This forms the focus of this report and recommendation to Council.

**Drainage Issues**

There are currently unresolved drainage issues at the western end of Esplanade, adjacent to the Tawarri site and the Jo Wheatley All-abilities Play Space. During winter, the roadway abutting the entry to the play space holds water. This is due to the soak well drainage associated with the roadway being inundated due to a high water table. The result is stormwater being unable to “get away”.

Council has been aware of this issue and has previously resolved to investigate options to deal with the issue. The most practicable option from a cost and practicability perspective is included at **Attachment 2**. It is this option that forms the basis of the discussion in this report.

**Discussion**

**Need for Agreement to change condition**

In order to consider a change to Condition 13, the WAPC is inviting the City to come to an agreement with the proponent on the parameters of any change. In effect, an agreement between the City and Proponent will act as the “suitable arrangements” referred to in Condition 13.

The first step in the process of changing Condition 13 is for the City and proponent to agree to terms. The second step will be for the WAPC to agree to modify the condition, as the decision maker.

**Parameters of Potential Agreement**

The proponent is seeking Council approval to an agreement on the following parameters:

1. No contribution being provided to the City for the provision of car parking.
2. The existing formalised and informal parking areas along the Esplanade verge being retained in their current state and used by all users in the vicinity, including the proposed Tawarri Hot Springs.
3. A drainage solution being designed by the City to drain the current pooling in the Esplanade “triangle”.
4. As part of the drainage works, undertaking any other improvements to the ‘triangle’ area, such as landscaping, path works and similar (by agreement between the proponent and the City on scope, extent, etc).
5. This drain to be located on City-controlled land where practicable with any need for Tawarri land to be subject to prior agreement.
6. The City to obtain all relevant approvals, including from the Department of Biodiversity, Conservation and Attractions (DBCA).
7. The proponent to provide $200,000 inc. GST to the City as a contribution to the works, with the funds to be provided prior to occupation of the Tawarri development.
8. The City to undertake the works as part of its normal capital works budget as soon as practicable after receipt of the contribution.

**Alternative to Potential Agreement**

The above agreement parameters identify that no contribution will be provided towards the provision of formal car parking. The proponent’s stated position is that the existing grassed and limestone verge area on the western and northern side of Esplanade are sufficient to augment the formal bays abutting the Jo Wheatley All-abilities Play Space.

An alternative to the above parameters is to include provision for some level of formalisation of car parking as part of the agreement. This would utilise any remaining funds carried over from the drainage works and direct these to the car parking areas. Additional funding from the City would be required to augment the contribution. The standard of finish for the verge parking areas would be subject to further investigation.

This alternative option has not been the subject of discussions with the proponent to date.

**Consultation**

Consultation on this matter has been limited to the confidential mediation process conducted by the SAT. There has been no public consultation take place on the proposed changes to Condition 13. It is noted that a wider consultation conducted by the State Development Assessment Unit took place during consideration of the initial application.

**Strategic Implications**

This item is strategically aligned to the City of Nedlands Council Plan 2023-33 vision and desired outcomes as follows:

**Vision** Sustainable and responsible for a bright future

**Pillar** Place

**Outcome** 7. Attractive and welcoming places.

8. A city that is easy to get around safely and sustainably

**Budget/Financial Implications**

Currently, the WAPC development approval allows for a cash contribution of $268,960 (excl GST) to be paid to the City of Nedlands for the purposes of car parking. This condition is the subject of a current SAT review.

It is recommended that Council adopts a position that will call for a $200,000 (inc. GST) contribution to be made towards drainage and associated works. The amount is generally consistent with Council’s previously resolved position of a contribution of $200,000 (GST status unstated).

This represents a net receipt of $181,818.18 which is a shortfall of $18,1818.82 in the Council’s previous position.

**Legislative and Policy Implications**

Condition 13 of the development approval is being reviewed by the SAT in accordance with the review functions of Part 14 of the Planning and Development Act 2005. Any determination or Orders made by the SAT will be made under the State Administrative Tribunal Act 2004 and will be binding on all parties.

**Decision Implications**

Should Council endorse the recommendation, the WAPC will be informed of the City’s position in relation to a cash-in-lieu contribution. A positive recommendation will also allow for a formal agreement to be reached with the proponent, based on the parameters outlined in this report.

In the event Council does not support the recommendation, the WAPC will be informed that a cash-in-lieu of car parking contribution remains the expectation of the City.

Notwithstanding the City’s resolved position, the matter remains subject to a SAT application. As the City is not a party to these proceedings, the two parties may agree, or the SAT may determine an outcome not consistent with either the City’s current or potential future position regarding cash contributions.

**Conclusion**

It is recommended that Council modify its previous resolution requiring a cash-in-lieu of car parking contribution of $200,000 for the Tawarri Hot Springs development. Instead, it is recommended that the Council accepts a cash-in-lieu of drainage and associated works for the same amount. This contribution would be guided by the parameters of agreement outlined above.

**Further Information**

**Question / Request**

Councillor Bennett - Where will the City be left financially when addressing the drainage within the area, in the event that the proposed condition is accepted and a $200,000 contribution is provided towards drainage rather than $268,000 towards car parking improvements?

**Officer Response**

City officers are confident that the preferred drainage option outlined in the report can be delivered within the $200,000 proposed. Exact costs are contingent on detailed design work and a commitment from DBCA of its requirements.

It is noted that the drainage solution costs vary on the option adopted. The preferred option is a cheaper option that is reliant on nutrient stripping prior to outfall into the river. DBCA has indicated that this is a possibility, subject to consideration of more detailed design. Other options included the modification of road levels to redirect stormwater away from the river. The cost of this option when last considered was approximately $900,000. Given this cost.

The preferred option will address the current drainage issues at the western end of Esplanade and officers are confident it can be delivered within the proposed contribution amount.

# 17. Divisional Reports - Technical Services

## TS11.04.24 Foreshore Master Plan Update

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting – 23rd April 2024 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil. |
| **Report Author** | Daniel Kennedy-Stiff, Manager City Projects & Programs |
| **Director** | Matthew MacPherson, Director Technical Services |
| **Attachments** | 1. Draft Nedlands Foreshore Master Plan - Final |

Cr Hodsdon Returned to the chamber at 7.50pm

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

Moved – Councillor Bennett

Seconded – Councillor Cr Youngman

**Council Resolution**

1. **notes the progress made to date on the Foreshore Master Plan (FMP).**
2. **notes that the FMP is a conceptual work in progress and may evolve with additional technical considerations.**
3. **requests the CEO further investigate and update the Council on the following considerations;**
4. **Creation of a foreshore heritage area.**
5. **Rezoning foreshore bushland reserves to conservation.**
6. **Engagement of Boodjar Consulting for more detailed foreshore Aboriginal Heritage assessment.**
7. **Updating the Karda Bidi walking trails.**
8. **Protection of public access along the historical river high tide mark in perpetuity.**
9. **CHRMAP assessment of the foreshore**
10. **Spatially defining a tree green way to support the Swan River foreshore wildlife corridor**
11. **Spatially defining a tree green way to support the Swan River foreshore wildlife corridor**
12. **Partnering with The Nature Conservancy Australia to address river bank erosion.**
13. **Cost estimates relating to various viable shoreline treatments**
14. **Preference for traversable revetments where rock revetments are proposed.**
15. **Raising playing field surface levels.**
16. **Constructed wetland for stormwater discharge at Charles Court Reserve.**
17. **Possible presence of contaminated soils or groundwater**

**CARRIED UNANIMOUSLY 9/-**

**Purpose**

The purpose of this report is to provide Council with an update on the Foreshore Master Plan (FMP) status, as per the CEO key responsibility area requirements.

**Recommendation**

That Council notes the progress made to date on the Foreshore Master Plan (FMP).

**Voting Requirement**

Simple Majority

**Background**

At the Ordinary Council Meeting held on 17th December 2019, a Councillor put forward a Notice of Motion (NoM) regarding the river wall and foreshore management, recognising that the area is a high profile and important gateway to Nedlands from Perth. Additionally, concerns highlighted that the revetment wall design does not account for coastal ecology, coastal engineering or the relevant physical forces that need to be considered. Aesthetic concerns were also raised.

Consequently, a Foreshore Workshop was organised and held on 10th September 2021 and was attended by the Mayor, Councillors, Administration staff, members from the University of Western Australia and representatives from Department of Biodiversity, Conservation and Attractions (DBCA).

The guiding aims and objectives of the Foreshore Master Plan (FMP), which are consistent with the Swan Canning River Protection Strategy, have been categorised into socio economic, commercial and sustainability benefits realisation objectives, which have been developed, and weighted by relevance, are shown below:

**Tier 1:**

1. Be consistent with the Swan Canning River Protection Strategy, its vision of ‘A healthy river for all, to be enjoyed and shared, now and in the future’, its responses, strategies, and actions.
2. Create a highly accessible and integrated public open space:
3. By improving access, connectivity, and legibility for all users to the foreshore environment.
4. Review current transport provisions and investigate multi modal transport options.
5. Identify transport considerations aimed at reducing car use and conflict between nodes of transport.
6. Create a sustainability benchmark:
7. Develop a strategy to manage the operation, maintenance, renewal, and upgrade of infrastructure assets to meet key stakeholders and community needs in a sustainable, cost effective and holistic manner.
8. Support environmental values to enhance native flora, fauna, and marine species – particularly dolphins.
9. Promote an environment that responds to the requirements of climate change and water sensitive urban design practice and provides biodiversity.
10. Recommend management / maintenance strategies for the next ten years.
11. Establish key areas for sport activities, passive recreation, and nature spaces:
12. Provide safe and diverse recreation choices at the foreshore.
13. Increase activation and appeal of existing spaces.
14. Provide unique environment for fitness and leisure activities with passive and relaxation opportunities.

Tier 2:

1. Celebrate Aboriginal culture and the wider history and heritage as a strong element of the foreshore’s identity:
2. Create opportunities in partnership with the local community to celebrate and educate visitors on the historic use of the foreshore by the Noongar Aboriginal peoples.
3. Create opportunities in partnership with the local community and heritage.
4. Create Partnership Opportunities:
5. Within the local area by attracting commercial opportunities to key nodal areas.
6. Create Education and Training Opportunities:
7. Leverage the location and provide innovative education opportunities through the provision of way finding and other public infrastructure.
8. Leverage the location on the river and relationships with government and community groups for the provision of innovative training and educational water related programmes.
9. By improving access, connectivity, and legibility for all users to the foreshore environment.

Tier 3:

1. Enhance Nedlands as a residential location of choice:
2. By attracting tourists and residents from regional and national and international markets.

In Q2 of 2022 a consultant team was engaged to undertake the development of a FMP for the City. The consultant team consists of a Principal Consultant, a specialist coastal Engineering firm and a communication specialist.

Work on the project has progressed steadily and the FMP has but a handful of tasks to be completed, however, due to ongoing staff shortages across Technical Services there have been a few delays in the completion of this project. The City Projects and Programs team has had great difficulty in recruitment of Project Managers over the past 24 months, with only 1 of 3 staff available, to deliver works and projects being employed until very recently. This has meant other, supervisory, staff members have had share responsibility of the FMP project, whilst dividing time and attention to focus on delivery of capital works and maintenance of the City’s built form assets. As such, work on the FMP, has been delayed in preference of multiple capital works and operational projects which have tight grant funding deadlines and noticeable implications to day-to-day operations.

A summary table of the key project activities undertaken to date is shown below:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Task** | **Deliverable** | **Complete** | **Date complete** | **Notes** |
| 1.  Project start up and planning | Communications and Stakeholder Engagement Plan | **P** | 5 May 2022 |  |
|  | Project Steering Committee (PSG) meeting #1 | **P** | 16 May 2022 |  |
| 2   Context analysis report | Draft report | **P** | 15 July 2022 |  |
|  | Steering Committee meeting #2 | **P** | 25 July 2022 |  |
| 3.  Stakeholder and community engagement | Project information page, ratepayer information, public notices, e-news, social media, Post advertising | **P** | July – September 2022 |  |
| Online survey | **P** | July- September 2022 | 124 resposnes |
| Public information sessions (4) - | **P** | throughout August 2023 | 38 attendees |
| Individual meetings | **P** | various dates | 6 requests |
| Meeting on country with Aboriginal representatives | **P** | October 2022, | 5 representatives |
| 4.  Preparation of Foreshore master plan | Engagement outcomes report | **P** | 21 October 2022 |  |
| Steering Committee meeting #3 | **P** | 7 November 2022 |  |
| Preliminary draft concepts | **P** | 17 January 2023 |  |
| Draft concepts | **P** | 20 March 2023 |  |
| Steering Committee meeting #4 | **P** | 20 March 2023 |  |
| Steering Committee meeting #5 | **P** | 30 May 2023 |  |
| Draft foreshore master plan | **P** | 18 August 2023 |  |
| Draft Masterplan for PSG | **P** | 21 September 2023 |  |
| 5. Review and endorsement of the Foreshore master plan | Steering Committee endorsement to proceed to community consultation |  |  |  |
| Community consultation on draft |  | TBC |  |
| Review and incorporate changes |  | TBC |  |
| Steering Committee review and endorsement |  | TBC |  |
| Council review and endorsement |  | TBC |  |

**Discussion**

The aim of the FMP is to provide a high level, strategic approach to the management of the Nedlands Foreshore. As part of the development, several key themes have been developed as well as concept designs for different areas. The FMP itself does not aim to undertake detailed analysis or investigation of issues, objective, or outcome, but rather provide guidance and priority so that Administration can then propose a:

1. Capital Works project to conduct either:
   1. More detailed investigation or design
   2. Construction works.
2. Operational Project to develop and then implement a non-Capital outcome.
3. Change to service delivery or business as usual activities.

As part of Service Planning and the Annual Budget process Council can then determine a priority of these proposed projects and allocate funding and resources as so desired. For example, if the concept design for Paul Hasluck reserve was to be prioritised for delivery, a Capital Works Project (CWP) for the design works would be proposed for the 24/25 financial year (FY) and a CWP project for delivery would be proposed for the 25/26 financial year (FY).

In order, to define where the FMP sits in the City’s document hierarchy and how it interacts with other key strategies and plans it is proposed to change the title of the FMP from a Management plan to a Master Plan. A Master plan is a dynamic long-term planning document that provides a conceptual layout to guide future projects and improvements. This definition is reflected the strategic objectives and outcomes of the FMP. The final title is yet to be confirmed by the Steering Committee and will be part of ongoing discussions. For the purposes of this report FMP refers to a title of Master/Management until a final choice is endorsed by Council.

The FMP progress sees 17 out of 22 (77%) deliverable tasks now complete, and in late 2023 the draft FMP was distributed to Steering Committee Members, including the Department of Biodiversity, Conservation and Attractions (DBCA) members.

No specific written comments or amendments were provided by the Steering Committee. Minor amendments from City Officers and DBCA have been incorporated into the final draft which is attached to this report. The last comments received by Administration from committee members were in December 2023.

It should be noted that the City is currently in the early stages of a Coastal Hazard Risk Management and Adaptation Plan (CHRMAP). This project aims to define areas of City’s the coastlines that are vulnerable to coastal hazards and to develop an adaption plan to monitor and manage these hazards where required. It is expected that the outcomes of the technical analysis undertaken as part of the CHRMAP may influence the final built form outcomes of some of the objectives/outcomes of the FMP.

Pending budget availability, the City intends to undertake the CHRMAP process for both ocean and riverine sections of the Nedlands Foreshore. There is a grant funding contribution for this project, but, for the ocean segment of Foreshore only. However, Administration believes there is greater urgency for a CHRMAP of the riverine sections of foreshore and will recommend that should there be budgetary limitations, additional funding for this area should be prioritised.

When reviewed against the outcome of the CHRMAP project, a high-level analysis of the draft FMP outcomes/objectives indicates that of the 55 outcomes:

* 20 may need to be reviewed or adjusted after the CHRMAP is complete, and,
* Of these 20m, approximately 10 outcomes require significant design and/or investigation before construction works could occur.

Incorporation of the recommendations of the CHRMAP will not necessarily change the outcome of the FMP but may influence the outcomes of investigation and design undertaken when an outcome is delivered, or the priority/urgency of a particular outcome.

For example, the FMP recommends a change to the built form of the Foreshore, such as at Paul Hasluck reserve. The CHRMAP process will conduct a detail analysis of the risks associated with sea level rise in this area, analyse the proposed concept in the FMP and undertake a cost benefit analysis. The outcome may be a recommendation about the height of beaches, or the extent of additional protection works required to adapt the concept to sea level rise.

This information would then be used as a starting point for detailed design and investigation when that stage of the project is funded. The general concept of returning Paul Hasluck Reserve to a more natural foreshore does not change due to the CHRMAP process or data, however, timelines and extent of water level rises and so forth will help inform the project.

Outstanding tasks required to be complete before the FMP can be presented to Council for endorsement are:

1. Steering Committee endorsement of the draft FMP
2. Community Consultation on the draft FMP
3. Analysis of the consultation results and any required updates or modifications to the FMP
4. Steering Committee endorsement of the final FMP
5. Council endorsement of the FMP.

The draft FMP will soon be represented to the Steering Committee for further commentary and to seek further guidance on the priority and importance of the outcomes and objectives listed in the draft.

The Steering Committee will then need to decide how the project will proceed with typical options at this juncture of plan development being:

1. Endorse the draft FMP for final Community Consultation.
2. Request additional changes be made prior to endorsement for Community Consultation.
3. Request to delay or defer endorsement of the FMP until the associated document (CHRMAP) is complete.

Or another course of action the Steering Committee determines to recommend to Council.

**Consultation**

Various rounds of consultation have occurred, as detailed in the summary table provided under ‘Background’. It is expected that at least one more round of community consultation will be undertaken prior to a final Council decision on endorsing the plan.

**Strategic Implications**

This item is strategically aligned to the City of Nedlands Council Plan 2022-23 vision and desired outcomes as follows:

**Vision** Sustainable and responsible for a bright future

**Pillar People**

**Outcome** 2. A healthy, active and safe community.

**Pillar Planet**

**Outcome** 4. Healthy and sustainable ecosystems.

5. Climate resilience.

**Pillar Place**

**Outcome** 6. Sustainable population growth with responsible urban planning.

7. Attractive and welcoming places.

8. A city that is easy to get around safely and sustainably.

**Pillar Performance**

**Outcome** 11. Effective leadership and governance.

12. A happy, well-informed and engaged community.

**Budget/Financial Implications**

The Foreshore Master Plan (FMP) has an allocated budget of $30,000 for 23/24 financial year, of which all is committed to finalise the project.

While not directly related to this update, once endorsed the FMP will assist the City in applying for grant funding from various State and Federal government agencies. Several potential grants are currently being pursued for a range of activities along the Foreshore including from:

* DBCA
* Department of Transport
* The Federal Government through the Nature Conservancy

An endorsed FMP greatly increases the likelihood of the City being successful in gaining grant funding for various projects along the Foreshore. While the FMP remains an interim draft and time passes, the City will likely miss out on grant funding opportunities to assist in rehabilitating and improving its foreshore areas.

**Legislative and Policy Implications**

Nil applicable for this update report.

**Decision Implications**

This report to Council is solely to update Council on the progress made on the FMP to date. The FMP will be represented to the Steering Committee, in the near future, and Council can elect to provide direct guidance to the Committee through an alternate recommendation.

**Conclusion**

The Foreshore Master Plan (FMP) has gone through a detailed and rigorous development process, with strong community support and input from residents both within the study area, and from the wider City areas. The plan is now nearing completion and will soon be represented to the Steering Committee to seek guidance on how the project should progress.

The foreshore is of great importance to the Nedland’s community and wider Perth population. A number, of draft unendorsed and endorsed foreshore management plans have been developed in the past, and this current project is the latest iteration of these. Given the nature of the foreshore, none of the plans are perfect, and indeed not all the actions proposed reach delivery; but each plan improves upon the previous. The Foreshore Master Plan will provide high level guidance and management for rehabilitation and upgrade works over the long term and allow for Administration to propose Capital and operating project to fully develop the outcomes and objectives listed in the Foreshore Master Plan.

**Further Information**

**Question / Request**

Councillor Bennett - Can we organise a meeting where all Councillors are invited to discuss this prior to the Council meeting?

**Officer Response**

A Concept Forum was held 17 April 2024. Any further information from that Forum will be distributed to Elected Members separately.

## TS12.04.24 Adoption of the Integrated Transport Strategy 2024

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting – 23rd April 2024 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil. |
| **Report Author** | Aaron MacNish, Coordinator Transport and Development |
| **Director** | Matthew MacPherson, Director Technical Services |
| **Attachments** | 1. Attachment 1 – Arup Integrated Transport Strategy Final Report 2. Attachment 2 – City of Nedlands Integrated Transport Strategy 2024 3. Attachment 3 – Broadway Precinct Transport Impact Assessment 4. Attachment 4 – Hampden Hollywood Precinct Transport Impact Assessment 5. Attachment 5 – Hospital Precinct Transport Impact Assessment 6. Attachment 6 – Stirling Highway Precinct Transport Impact Assessment 7. Attachment 7 – Waratah Precinct Transport Impact Assessment 8. Attachment 8 – Arup Steering Committee Briefing Feb 2024 – Final Integrated Transport Strategy |

**Regulation 11(da)** - **Bike path networks should not be prioritised over existing mature trees as seems to be the case all over Perth.**

**As Perth's population increases ferries will become a more viable form of transport to cross the river and improve access to foreshore amenities.**

Moved – Councillor Cr Bennett

Seconded – Councillor Cr Youngman

**Council Resolution**

**That Council:**

1. adopts the Integrated Transport Strategy 2024; and
2. receives the following Transport Impact Assessments:
   1. Broadway Precinct Transport Impact Assessment 2023
   2. Hampden Hollywood Precinct Transport Impact Assessment 2023
   3. Hospital Precinct Transport Impact Assessment 2023
   4. Stirling Highway Precinct Transport Impact Assessment 2023
   5. Waratah Precinct Transport Impact 2023
3. That Council, in line with objective 7 of the Integrated Transport Strategy, seek support and feedback for an east-west mid-tier transport route from major venue destinations in the region, including east-west route connecting: UWA, Kings Park, QE2, Aberdare Rd, Karrakatta Cemetery, Bus Bridge, Shenton Station (airport connection), Shenton College, Lemnos Rd, Brockway Rd, JTC, CCGS, McGillvray Oval, Venue West, HBF Stadium UWA Sports Stadiums, Bold Park.
4. Requests that the Integrated Transport Strategy prioritises retention of mature trees.

**5. Requests that all proposed design solutions for the intersection of Aberdare Road and Railway Road retain the significant mature trees bordering the cemetery and to approach the Cemeteries Board for alternate pedestrian access.**

**6. Requests that the Safe Active Street is designated the east west cycle route servicing south of the highway to reduce the need to modify other streets, with an appropriate crossing point on Broadway to access UWA.**

**7. Requests that Department of Transport refurbishment of the Nedlands jetty and installation of a boat dock near the City owned jetty licence to service ferries and small watercraft be considered as alternate transport options to be integrated into the long-term strategy.**

**CARRIED UNANIMOUSLY 9/-**

**Purpose**

The City has completed the Integrated Transport Strategy and is presenting the Strategy to the Council for adoption.

Revised Officer Recommendation

That Council:

1. adopts the Integrated Transport Strategy 2024; and
2. receives the following Transport Impact Assessments:
   1. Broadway Precinct Transport Impact Assessment 2023
   2. Hampden Hollywood Precinct Transport Impact Assessment 2023
   3. Hospital Precinct Transport Impact Assessment 2023
   4. Stirling Highway Precinct Transport Impact Assessment 2023
   5. Waratah Precinct Transport Impact 2023
3. That Council, in line with objective 7 of the Integrated Transport Strategy, seek support and feedback for an east-west mid-tier transport route from major venue destinations in the region, including east-west route connecting: UWA, Kings Park, QE2, Aberdare Rd, Karrakatta Cemetery, Bus Bridge, Shenton Station (airport connection), Shenton College, Lemnos Rd, Brockway Rd, JTC, CCGS, McGillvray Oval, Venue West, HBF Stadium UWA Sports Stadiums, Bold Park.

**Voting Requirement**

Simple Majority.

**Background**

The City of Nedlands 2023-2033 Council Plan clearly articulates the community's vision, outcomes, and strategic priorities for the next 10 years. It demonstrates the City's bold vision to perform a critical economic, social, and cultural role within Perth Metropolitan Area. To support expected future growth, the City has developed an Integrated Transport Strategy (ITS) to address transport challenges by developing a clear framework for the future planning and upgrade of the City’s transport system. The ITS will guide future works as the City seeks to make it safe, easy, environmentally friendly, and enjoyable to get around Nedlands.

In addition to the Council Plan, the City's Local Planning Scheme No. 3 (LPS3) was gazetted in 2019 and provides the basis for a significant increase in the City's population through changes to zoning, land use permissions, density codes and development standards.

It is essential that the City's transport network effectively accommodates the transport needs of this increase in population. This planned growth will generate significant travel demand, placing greater stress on transport infrastructure and services. The City is seeking to have an integrated and holistic approach to transport initiatives and advocacy, by developing a transport strategy to manage the community's existing and future sustainable transportation needs.

Further to this, the State Government is responsible for planning and delivering public transport and major road infrastructure. The City needs to have formal Council position to inform advocacy and collaboration with relevant State Government agencies on these matters.

At the Ordinary Council Meeting in February of 2021, the Council unanimously resolved to:

1. instruct the CEO to commence the development of the Integrated Transport Strategy (ITS) and Transport Impact Assessment (TIA) for Broadway, Waratah Avenue, and Town Centre Precinct Plans.
2. Approves budget allocation of $145,000 in the 2020/21 and $50,000 in the 2121/22 financial year to engage a consultant to deliver the Integrated Transport Strategy and the Transport Impact Assessments for the Broadway, Waratah Avenue and Town Centre Precinct Plans.

In July 2022, the Council established a Steering Committee for the ITS project with the following scope.

1. Provide guidance to the Consultant on the Community Consultation Plan and process.
2. Approve the Community Consultation Plan.
3. Provide guidance to the Consultant on the Community Consultation results.
4. Provide guidance and input to each iteration of the draft Integrated Transport Strategy; and
5. Consider the draft Integrated Transport Strategy and make a recommendation to Council on the adoption of the Integrated Transport Strategy.

Following the 2023 Local Government Elections, the Steering Committee was re-established with the same Terms of Reference at the OCM on 28th November 2023. The Steering Committee was presented with the draft Final ITS and Draft TIA’s at a steering committee meeting on the 26th of February 2024.

The committee voted and resolved:

That the Integrated Transport Strategy Steering Committee endorses the Integrated

Transport Strategy and recommends to Council for adoption.

There was also a request to provide the slide deck material presented to the Committee as an attachment to the report presented to endorse the draft Final ITS and TIA’s by full Council for at the April OCM. This presentation is found as attachment 8.

**Discussion**

Developing the Integrated Transport Strategy for the City of Nedlands has involved extensive communication with technical stakeholders including Main Roads WA, the Department of Transport, the Public Transport Authority, the University of Western Australia, and QEII followed by community engagement in the form of surveys.

The resulting Strategy provides a guiding document for staff and Councillors to consider the transport priorities and community focus for the City of Nedlands looking for a period of up to 20 years into the future.

The Strategy is a sensible and flexible approach to managing the transport network across the City of Nedlands in the coming years as the City continues to adapt and respond to external pressures such as increased residential density, the shift away from car-dominated modes of transport and climate change. Most importantly, adopting the strategy does not lock the City into any one specific infrastructure project, instead, it acts as a guide allowing City Staff and Councillors to respond to the community needs in a considered and consistent manner.

Having the Integrated Transport Strategy in place also opens additional funding opportunities for the City through the Metropolitan Regional Road Group Road Improvement funding stream. A key requirement of this funding is that the road submitted for consideration must be considered in a strategic-level transport planning document. It also provides a solid basis for the Council when considering whether to support projects by external agencies.

The kinds of projects the Council may need to consider in future include:

* Duplication of West Coast Highway between Alfred Road and Rochdale Road
* Metronet Mid-Tier Transit
* Upgrades / Modifications to Stirling Highway

Without an Integrated Transport Strategy, it is nearly impossible to make informed, justified decisions on where to invest the City’s limited resources across the transport network. This can result in disjointed project planning, misguided project funding and focus on areas of improvement that are different from the wants and needs of the local community.

**Consultation**

Information about the ITS project and opportunities to get involved with the project was communicated to the community using a variety of methods including:

* Project information on the City’s YourVoice engagement page
* Notices on the City’s Facebook page
* Notice in the February 2023 ‘Nedlands News’ online newsletter.
* Notice published in the Post newspaper on 21 January 2023 and in the ‘Nedlands News’ section of the Post on 1 July 2023.

Between January and July 2023, the City’s YourVoice page has been used to share project information. Project participation through the page is outlined below:

* Aware participants: 693
* Informed participants: 240
* Engaged participants: 75

There were two groups of focus for the consultation: the technical working group and the broader community.

The technical working group consisted of State Government Agencies, adjacent local governments, schools, and significant landholders such as UWA, QEII and Hollywood Hospital. The list of organisations invited to attend and contribute to the workshops were:

* Main Roads WA
* Public Transport Authority
* Department of Transport
* Town of Claremont
* City of Subiaco
* City of Perth
* QEII Trust
* Dalkeith Primary School
* Hollywood Primary School
* Nedlands Primary School
* Mount Claremont Primary School
* Swanbourne Primary School
* John XXIII College
* Shenton College
* UWA

Community engagement for the project was undertaken in two phases. The purpose of the first phase was to seek input from the community to understand how they move around the City now and how they want to move around in the future. The community were able to provide feedback via a survey and online interactive map between 21st January and 17th March 2023.

Two community information sessions were scheduled for February but were cancelled due to low registrations the sessions.

To ensure there was sufficient time to provide feedback, the online engagement was extended for approximately three weeks. The purpose of the second phase of engagement was to seek feedback on the draft strategies that will inform the final ITS.

**Strategic Implications**

This item is strategically aligned to the City of Nedlands Council Plan 2022-23 vision and desired outcomes as follows:

**Vision** Sustainable and responsible for a bright future

**Pillar** **People**

**Outcome** 2. A healthy, active and safe community.

**Pillar** **Place**

**Outcome** 8. A city that is easy to get around safely and sustainably.

**Pillar** **Performance**

**Outcome** 12. A happy, well-informed and engaged community.

**Budget/Financial Implications**

The action and implementation plan developed in conjunction with this Integrated Transport Strategy has a range of items costing little to no money and items that will require significant capital investment from the City.

The Strategy allows for flexibility in how the outcomes are met by the City, this could be through the City advocating for a specific project to the State or Federal Government or allows the City to put its own plans on the table when discussions occur for State led projects in the vicinity of City of Nedlands. Ultimately the exact type of actions the City can achieve and the timeframe within which these actions are completed will be dependent upon decisions of Council in future financial years.

**Legislative and Policy Implications**

Adoption of the Integrated Transport Strategy would likely require a review and updates to a few existing Council policies, including:

* [Crossover Construction & Maintenance](https://www.nedlands.wa.gov.au/documents/268/crossover-construction-and-maintenance)
* [Laneways](https://www.nedlands.wa.gov.au/documents/286/laneways)
* [Natural Area Path Network](https://www.nedlands.wa.gov.au/documents/217/natural-area-path-network)

There are also new draft policies that the ITS would support being adopted:

* Road Safety Management Plan
* Road Safety Audit

**Decision Implications**

Should the Council endorse this recommendation Staff can begin to plan and work through the Action and Implementation Plan as budgets and resourcing allow.

Should the Council request the ITS be further reviewed and revised it may require an additional budget allocation and time to prepare a version of the document that the Council is prepared to endorse.

The Council may choose to not proceed with endorsing the ITS. This will result in the City being ineligible for additional funding streams as discussed earlier in this report, it will also mean that the City will continue to work without a unified and agreed strategic direction for Transport items and residents will not be able to easily understand and see Councils priorities for transport planning in the City of Nedlands. Staff will continue to develop work programs and weighting criteria for projects, however, without an endorsed strategy from Council, the priority for competing projects will be based on the Administration's professional judgement at the time.

**Conclusion**

The Integrated Transport Strategy is an important strategic document needed to guide the investment of limited time and resources in the City of Nedlands Transport Network. Consultation has been undertaken with industry professionals, the Community and Councillors during the course of developing this document. The Administration recommends that the Council Endorse the Integrated Transport Strategy for use by the City of Nedlands and receive the attached Transport Impact Assessments

**Further Information**

**Question / Request**

Councillor Bennett - Aberdare Rd and Railway Parade - What has been proposed for the retention of these mature trees?

**Officer Response**

Officer’s preference is to retain healthy, safe, and appropriate trees wherever possible. Any proposed works by the City or other stakeholders will be considered when they arise in line with this approach. Currently, no known changes are proposed for this location which may impact the retention of the trees.

**Question / Request**

Deputy Mayor Smyth - Siting Admin Report - Budget & Decision Implications

The ITS 2024 if endorsed “Staff can begin to plan and work through the Action and Implementation Plan as budgets and resourcing allow.”

I notice that the Attachment 1 ITS Table showing - Outcomes, Objectives, Actions Implementation Plan, has ‘unfunded’ repeated against every Action.

Can you please provide a budget estimate against each proposed action and an indication of where a funding source is available?

**Officer Response**

The City is currently not in a position to provide a budget estimate against the items in the Action and Implementation Plan. The ITS serves as an overarching guiding document that sets the strategic direction for focus and decision-making related to the transport within the City of Nedlands. Attachment 1 which Deputy Mayor Smyth is referring to is Arup's final summary report for the ITS work. City officers have taken this information and together with our Communications and Governance teams compiled it into a strategy document that’s consistent with the City of Nedlands Integrated Planning and Reporting Framework in Attachment 2. The final version of the ITS Submitted to the Council for endorsement does not contain a funding column. The funding of various items related to the strategy will be captured during the budget planning process, in service planning and development of capital works programs as they are developed alongside staff and budget constraints.

**Question / Request**

Deputy Mayor Smyth - Mid Tier Public Transport (Off-rail electric tram autonomous vehicles)

Siting ITS Objective 7

“Objective 7 - Advocate for a public transport system that is fully accessible and integrated with key land uses and development.

Action 7.1 - Advocate for improved public transport connections to the Fremantle line and attractions within the City of Nedlands Community suggestions for consideration: QEII, UWA, HBF Stadium, Nedlands Foreshore, UWA Sports Park.”

Can you please advise on an additional clause that would prioritize leadership and advocacy in the creation of an environmentally friendly cross City transport service?

**Officer Response**

The action and implementation plan that has been proposed is a result of consultation with the community and external stakeholders such as Main Roads WA, PTA, Department of Transport, QEII, UWA, John XXIII College, Department of Planning, Lands and Heritage. An east-west mid-tier transit route connecting the locations as proposed was not highlighted as wanted or needed by either the community or stakeholder groups during this round of engagement.

The State Government through Metronet is continuing their detailed investigation into feasible routes for mid-tier transit and Action 3.1.3 – “Advocate for further stages of the MTTPP to be delivered within the City of Nedlands” allows for an advocacy position by Council that provides feedback to the State Government of the importance of the destinations listed by Deputy Mayor Smyth.

While Council can and may decide to insert an additional and specific clause as part of the adoption, it may not be prudent to add additional actions or objectives that haven’t been subject to the same level of community engagement or discussion. As mentioned previously, there has been no desire or demand for this from key stakeholders during the development of the strategy, Council risks being a lone voice in advocating for a specific route.

A revised officer recommendation has included the following:

1. That Council, in line with objective 7 of the Integrated Transport Strategy, seek support and feedback for an east-west mid-tier transport route from major venue destinations in the region, including east-west route connecting: UWA, Kings Park, QE2, Aberdare Rd, Karrakatta Cemetery, Bus Bridge, Shenton Station (airport connection), Shenton College, Lemnos Rd, Brockway Rd, JTC, CCGS, McGillvray Oval, Venue West, HBF Stadium UWA Sports Stadiums, Bold Park.

## TS13.04.24 RFQ 2023-24.10 Electric Vehicle Charges

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting – 23rd April 2024 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil. |
| **Report Author** | Daniel Kennedy-Stiff, Manager City Projects and Programs |
| **Director/CEO** | Matthew MacPherson, Director Technical Services |
| **Attachments** | 1. RFQ 2023-24.10 Grant Application for Electric Vehicles Charges - Evaluation Report (CONFIDENTIAL) |

Moved - Councillor Cr Youngman

Seconded – Councillor Cr Coghlan

**That the Recommendation be adopted.**

(Printed below for ease of reference)

**Council Resolution**

**That Council:**

1. pending confirmation of successful grant funding, approves the award of the contract for the supply and installation of Electric Vehicle Chargers to EVSE Australia Pty Ltd, in accordance with the City’s Request for quote number RFQ 2023-24.10, the City’s Conditions of Contract and the EVSE Australia Pty Ltd submission; and
2. instructs the CEO to arrange for a Letter of Acceptance and a Contract document be sent to EVSE Australia Pty Ltd for execution.
3. approves a budget adjustment of $62,455 to the account ‘EV Charger installation’ consisting of:
   1. $31,227.50 from the Charge Up grant stream.
   2. $31,227.50 to be journalled from the 2023-24 Building Maintenance contract services account (5120-15044-6008).
4. requests the CEO to identify and investigate additional Electric Vehicle charging locations to be considered for inclusion in the next grant scheme opportunity.  These additional locations should service public and community amenity areas such as recreation and education locations. These could include, but not limited to:
   1. Nedlands Foreshore,
   2. Swanbourne Beach,
   3. McGilvray Oval precinct, and
   4. Shenton College Lemnos Bushland

**CARRIED EN BLOC 8/1**

**(Against Cr. Bennett)**

**Purpose**

The purpose of this report is to seek Council approval to enter, into a contract with EVSE Australia Pty Ltd to supply and install dual electric vehicle chargers at the Administration Building, the Depot and each of the City’s Library buildings.

In accordance with Council’s amended purchasing policy, Council approval is required where the minimum number of quotes was not received during the procurement process.

The Request for Quotation (RFQ) for the supply and installation of Electric Vehicle (EV) charges received one (1) submission in the procurement band between $50,001 and up to $250,000.

**Voting Requirement**

Absolute Majority.

**Background**

The City has been investigating the potential for a transition of vehicles within our light fleet to EVs for a period time. To facilitate this change over, there is a requirement for suitable EV chargers to be located at various staffed buildings across the City.

The four buildings with the largest staff presence and fleet vehicles were identified as priority sites for chargers as they would service the City’s fleet and can provide opportunity for use by members of the public during their visits to the City’s Library’s and Administration building. These buildings are:

* Administration
* The Depot
* Mt Claremont Library
* Nedlands Library

An additional benefit of selecting these buildings is that the electrical supply for these buildings is currently 100% renewable under the WALGA Sustainable Energy Project.

In December 2023, the State Government announced the second phase of the *Charge up Workplace EV Charging Grant*, which proposes to fund up to 50% of the costs of EV chargers for successful submissions. The City has made grant submissions for all four sites with a potential fifth site currently being investigated. As of 2 April 2024, the City was successful in receiving 50% funding for the 4 nominated charging locations.

Installation of these chargers will support the transition to EVs, with the first pool car planned to be replaced with an EV later this financial year.

The City of Nedlands Procurement of Goods and Services Policy was amended by Council at the Ordinary Council Meeting on 24 May 2022. This amendment requires procurement items to be brought to Council where the minimum number of responses has not been received prior to the RFQ closing.

Since the procurement policy was amended with this additional administrative step the had resulted in Seven Procurement Requests not meeting the minimum number of responses and had to be taken before Council for award. Of these:

* Five have been passed en-bloc with no debate.
* The remaining Two were passed unanimously.

Administration sought three (3) written quotations Installation of EV Chargers. The procurement band ($50,001 to $250,000) requires that a minimum of three responses to be obtained, however, at the close of the RFQ advertisement period, one response was submitted for consideration.

The Contract for the supply installation of EV Chargers is required to allow the City to provide charging infrastructure for its upcoming EV and Plug in Hybrid fleet vehicles and to facilitate increased public EV charging within the City. The City does not have the in-house capability to deliver these works. The preferred contractor, will supply and install a dual EV charger in four locations across the City at the following facilities:

1. Administration Building
2. The Depot
3. Nedlands Library
4. Mt Claremont Library

**Discussion**

**The Award of the Contract**

At the closure of the RFQ advertisement period, the evaluation panel completed analysis and evaluation of the single submission received. At the conclusion of this process EVSE Australia Pty Ltd was nominated as the preferred supplier for this package of works. The submissions were rated against the following criteria:

* Price (50%)
* Specification (25%)
* Company experience and work methodology (25%)

EVSE Australia Pty Ltd provided information on similar works that they have recently undertaken, successfully demonstrating an ability to complete the requirements of this request. The provide additional information involves:

* Specifications of the charges to be installed and the proposed works methodology.
* Understanding of the project’s requirements, including an analysis of the works required to complete the request.

Following the due diligence processes that the City has undertaken, the City is confident that EVSE Australia Pty Ltd can complete the scope of work to the required standards, and that their offer represents good value for money to the City within the current market.

**Consultation**

No consultation was undertaken during this procurement process.

**Strategic Implications**

This item is strategically aligned to the City of Nedlands Council Plan 2022-23 vision and desired outcomes as follows:

**Vision** Sustainable and responsible for a bright future

**Pillar** **Planet**

**Outcome** 4. Healthy and sustainable ecosystems.

5. Climate resilience.

**Pillar**  **Place**

**Outcome** 6. Sustainable population growth with responsible urban planning.

8. A city that is easy to get around safely and sustainably.

**Budget/Financial Implications**

The City has applied for and was successful with the *Charge up Workplace EV Charging Grant* program, which proposes to fund up to 50% of the costs of EV chargers for successful submissions. The project is proposed to be funded as per the following tables:

**Funding**

|  |  |
| --- | --- |
| Item | Amount |
| Municipal Funding | $31,227.50 |
| Grant Funding | $31,227.50 |
| Total Budget | **$62,455** |

**Costs**

|  |  |
| --- | --- |
| Item | Amount |
| Administration Building | $11,975 |
| The Depot | $12,605 |
| Mt Claremont Library | $14,240 |
| Nedlands Library | $23,635 |
| Tendered supply and install cost | **$62,455** |

Annual operational costs are detailed in the table below and will be included in the 24/25 Annual Budget submission.

|  |  |
| --- | --- |
| Item | Annual Cost |
| Routine Maintenance | $2,200 |
| Software license | $2,030 |
| Total | **$4,230** |

The installation of a charger at the Depot is expected to lead to a reduction in overall vehicle operational costs, and savings are expected to increase as additional electric vehicles are added to the fleet. The exact savings have not been calculated at this stage.

It is proposed that public charging will be charged at a fee for service (including an administration fee) so ongoingly, it is expected that there will be minimal costs incurred to the City for public use. The grant application requires a charging method that encourages sustainable grid operations and the use of solar.

The charging model and costs are still being developed and will be advertised as part of a new Fee and Charge prior to the charging stations becoming operational.

The municipal component of the budget for this project is proposed to be transferred from the Building Maintenance budget. Due to recent staff resignations, levels of service have been temporarily reduced in this area, leading to an anticipated underspend on Building Maintenance activities for this financial year. The impact on the budget is shown in the table below:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Account** | **Budget** | **Actuals + commitments** | **Proposed reallocation** | **Revised budget** |
| 5120-15044-6008 | $514,950 | $398,863 | ($31,277.50) | $483,672.50 |

**Legislative and Policy Implications**

[City of Nedlands Procurement of Goods and Services Policy](https://www.nedlands.wa.gov.au/documents/608/procurement-of-good-and-services-council-policy)

[*Local Government (Functions & General) Regulation 1996*](https://www.austlii.edu.au/cgi-bin/viewdb/au/legis/wa/consol_reg/lgagr1996474/)

**Decision Implications**

If Council endorses the recommendation City staff can progress the procurement to carry out supply and installation of EV chargers in accordance with the grant conditions before the end of the 23/24 financial year.

If Council does not endorse the recommendation, then the planned installation of EV chargers will not occur this 23/24 financial year, and the City will lose out on grant funding opportunity to assist with project costs.

**Conclusion**

EVSE Australia Pty Ltd have completed similar supply and installation works and have the required skills and experience necessary to complete the requested works.

The price schedule provided by EVSE Australia Pty Ltd was assessed as providing fair value for money. The submission demonstrated a suitable specification and methodology and demonstrated similar work backed up by references and an understanding of the requirements of the contract. Assessment officers agreed that EVSE Australia Pty Ltd offered the overall value for money.

It is recommended that Council accepts supply and installation of EV chargers from EVSE Australia Pty Ltd.

**Further Information**

**Question / Request**

Councillor Youngman - Will this mean there are two less carparks at each of the four sites?

**Officer Response**

Administration are currently working on a management plan which will govern how the new chargers operate. It is likely that Administration will adopt the position that the bays are used for charging purposes only. If this is the case 2 bays at each location will be lost for parking.

**Question / Request**

Deputy Mayor Smyth - Will the energy be renewable energy? Clause to be added to instruct the CEO to develop options for a second lot of chargers to be used more broadly by the public.

**Officer Response**

The electrical supply for each building which is proposed for new charging infrastructure is currently provided under the WALGA Sustainable Energy Project which sees these buildings supplied with 100% renewable electricity currently.

**Question / Request**

1. Deputy Mayor Smyth - Are all 4 EV Charging locations open to use by public?
2. Will there be charges and limits to the period of parking at the station?
3. Will there be limits associated with staff charging private vehicles alongside charging City fleet vehicles?
4. Will there be FBT implications?
5. Can Councillors use the corporate facility?

**Officer Response**

The management plan for the new charging infrastructure is currently under development however preliminary answers to the questions above are as follows:

1. The proposed charger at the Depot will not be available for public use. Whilst the management plan for operation of the chargers is still under development it is anticipated that the remaining 3 locations will be accessible 24/7 for use by the public. As per the grant agreements variable fees will be imposed for the use of the chargers.
2. Yes – it is anticipated that the time allowed for electric vehicles to occupy the new bays, either to park or charge will be restricted. Administration is investigating how such time restrictions can be effectively enforced by City Rangers.
3. The chargers will be available for public use at a fee. It is anticipated that staff with electric vehicles will be able to use the charges in line with the approved fee for use of the charger. City fleet vehicles will be able to charge at all stations, and the costs for charging will be associated back to the operational costs of each vehicle.
4. Administration is currently investigating the FBT implications for staff usage of electric vehicle chargers and will provide information as it becomes available.
5. The proposed charger at the Depot will not be available for Councillor use in line with the operational management plan for the Depot site. Whilst the management plan for operation of the chargers is still under development it is anticipated that the remaining 3 locations will be accessible 24/7 for use by the public, including Councillors. As per the grant agreements variable fees will be imposed for the use of the chargers.

**Question / Request**

Deputy Mayor Smyth - Will the power use for the Electric Vehicle Charging be totally renewable energy sourced?

**Officer Response**

The electrical supply for each building which is proposed for new charging infrastructure is currently provided under the WALGA Sustainable Energy Project which sees these buildings supplied with 100% renewable electricity currently.

**Question / Request**

Deputy Mayor Smyth - What City buildings could be used to harness solar energy for additional EVC?

**Officer Response**

Currently, the City does not have the staff resources to undertake such analysis without shifting priority from other tasks already underway or scheduled to occur to deliver future outcomes. It is recommended that any analysis into increasing renewable energy use occur after additional sites are for Electrical Chargers are chosen as there may be other options to ensure future chargers utilise renewable energy.

Moreover, it will be important to monitor this project to better inform future efforts with lessons and learnings.

**Updated Officer Recommendation:**

The following has been added to a revised officer recommendation to include investigation of additional sites for charging infrastructure to be installed:

4. Requests the CEO to identify additional Electric Vehicle charging locations to be considered for inclusion in the next grant scheme opportunity.  These additional locations should service public and community amenity areas such as recreation and education locations. These could include, but not limited to:

1. Nedlands Foreshore,
2. Swanbourne Beach,
3. McGilvray Oval precinct, and
4. Shenton College Lemnos Bushland

## TS14.04.24 Street Tree Policy 2024 Minor Amendments

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting – 23rd April 2024 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil |
| **Report Author** | Jac Scott, Manager Urban Landscapes & Conservations |
| **Director** | Matthew MacPherson, Director Technical Services |
| **Attachments** | 1. Draft Mark-up - Proposed Street Tree Policy Changes 2. Proposed Street Tree Policy for endorsement |

**Regulation 11(da) - The right tree for the right space will reduce opposition to tree plantings and maximise opportunities.**

Moved - Councillor Youngman

Seconded - Councillor Cr Bennett

**Council Resolution/Recommendation**

**That Council**

* + - 1. Adopts the amended Street Tree Policy as contained in Attachment 2; and
      2. acknowledges that a major review of the Policy will be presented to Council prior to the 2025 planting season.
      3. request the CEO ensure that pedestrian and cyclist safety be considered when selecting appropriate species and sites for planting and;
      4. request the CEO consider as part of a Major Street Tree Policy review a mechanism that takes into account residents who desire to retain streetscapes which already display a clear theme or consistency of species and;
      5. request the CEO include as part of the Urban Forest Strategy review options for greater stakeholder involvement, such as volunteering, adopt a tree, and sponsorship and the costs and benefits of implementation.
      6. requests that the City's preferred street tree species list is modified before the 2025 planting season such that;

1. tree sizes are categorised according to state planning policy definitions for tree size with suitable deep soil areas defined to create options for small, medium and large trees for residents to choose from.
2. suitable small trees can be placed in remnant nature strip areas such as between crossovers and sparsely spaced existing trees where physically practical.
3. consultation with nurseries to identify readily available endemic species.
4. deciduous tree options for each size category where overshadowing of properties is a concern.
5. low height, wide canopy tree options appropriate where significant views may be impeded by tall tree growth.

**f. trees that provide a food source to black cockatoos are encouraged.**

**CARRIED UNANIMOUSLY 9/-**

**Purpose**

To confirm an update to the Street Tree Policy (Attachment 1) for two reasons:

1. A review in accordance with a Notice of Motion from the Ordinary Council Meeting on 26th September 2023, to review and make recommendations to support the 2024 winter planting season.
2. An update for a Notice of Motion from the Ordinary Council Meeting on 28th November 2023, requiring all tree removals above 5m to be submitted to Council for approval, except where a tree is dead or dying.

Revised Officer Recommendation

That Council

1. Adopts the amended Street Tree Policy as contained in Attachment 2; and
2. acknowledges that a major review of the Policy will be presented to Council prior to the 2025 planting season.

**Voting Requirement**

Simple Majority.

**Background**

At the Ordinary Council Meeting of 26th September 2023, the following Notice of Motion was passed (Item 22.8) being that;

“Council requests the CEO to:

1. Review the current Street Tree Policy (Reference: 22 February 2022 - Report TS01.02.22) with recommended improvements which are able to be implemented during the 2024 winter planting season and to be presented to Council at the April 2024 Council Meeting;
2. Provides details of the overall budget implications of this measure;
3. Review the Street Tree Policy (Reference: 22 February 2022 - Report TS01.02.22) again as part of the upcoming review of the City's Urban Forest Strategy; and
4. Suspend further planting of street trees on the verges of Masons Gardens, pending the finalisation of an enviroscape plan to holistically define the future planting intent for Masons Gardens.”

At the Ordinary Council Meeting of 28th November 2023, the following Notice of Motion was passed (Item 21.7) being that;

“Council requests that the Chief Executive Officer present any verge tree above 5 metres in height which is not dead, diseased or dying come before Council for approval to remove.”

The current Street Tree Policy requires tree removals to be notified to Councillors two weeks in advance of the proposed removal, except where the tree presents a clear and present hazard.

This had been undertaken via the CEO Weekly Update or monthly via Technical Services’ Departmental update and did not require a formal decision of council. Councillors could raise an objection or query within the two-week period and administration then responded accordingly. This was known to happen from time to time, particularly when Polyphagous shot-hole borer (PSHB) became problematic and resulted in a number of mature trees requiring removal and there was some interest in the reasons for removals of certain trees.

**Discussion**

In response to the Notice of Motion passed on the 26th of September Council Meeting, officers have reviewed the proposals for the 2024 planting season and identified three changes that would ease the delivery of the 2024 planting program.

These are:

1. Formalising a one-year deferral option for those adjoining landowners that consider their request to opt out of planting to be an exceptional circumstance.
2. Confirm that, where having a choice of selecting, adjoining landowners can select from the entire Approved Tree Species list.
3. Confirm that the Aggregate tree canopy area provision applies to development removal replacements only.
4. A further update is proposed to formalise into policy the requirements for all trees above 5m in height to be submitted to Council for approval to remove.

**One-Year Deferral**

In August 2023, Officers issued letters to 610 properties notifying of the intent to plant on the adjoining verges in the 2024 and 2025 planting season. The letters equated to approximately 1200 individual tree planting opportunities.

There were several responses requesting deferral or opt out for a variety of reasons. Examples were:

* Shading of adjacent property (e.g. garden, solar panels).
* Impact on architectural aspect of house.
* Obstruction of views.
* Parking opportunity required on verge.
* Previous deferral granted with costs for planting in different location met by landowner.

Current Policy allows for objections to street tree planting under “exceptional circumstance” providing no definition for exceptional circumstances. Officers were therefore unable to determine absolutely, whether the reasons given met with Council intent for exceptional circumstances.

Given there were sufficient planting opportunities remaining for 2024, officers deferred these requests to the 2025 planting season. This decision was informed by the September 2023 Notice of Motion, and the proposed major update to the Street Tree Policy under the forthcoming update of the Urban Forest Strategy.

This decision removed any contentious planting proposals from the 2024 to the 2025 planting season. It is proposed that the one-year deferral option will allow the 2024 planting to continue and subsequently endorse officers’ deferral of disputed plantings pending the major review.

The update to the Street Tree Policy under the Urban Forest Strategy Update, will consider circumstances that may (or may not) be considered exceptional, to provide further clarification to adjoining landowners and providing context for officer interpretation. Retention of a one-year deferral provides sufficient time for adjoining landowners to seek review of a planting proposal and limits the deferral by a single season. It is expected that the forthcoming major review of the Street Tree Policy will provide sufficient clarity to officers that resultant deferrals are not significant in number.

**Approved Species List Selection and 150% Aggregate Tree Canopy Target**

Current Policy is not clear on the precedence of various requirements under policy.

Officers had interpreted current Policy to permit species selection from the entire approved list, where the right for input to species selection is exercised by the adjoining landowner.

This is informed by the Policy noting the importance of working cooperatively with the community in the selection, establishment, and preservation of street trees, as well as the important role of diversity of species in managing a variety of risks to the urban forest. Officers do restrict selections for development replacements, where Policy is explicit on compliance with the aggregate tree canopy area being required.

The 150% aggregate tree canopy target requirement has a significant impact on available species for selection. In a significant number of instances, there is no practicable species available from the list that meets the aggregate tree canopy target. For verges wider than 6.55m, only seven (7) species remain, and wider than 4.2m, only 11 remain. Of these remaining species none can be planted in a verge carrying a water main without specific Water Corporation approval as selections are restricted by the *Water Services Act 2012*.

Given a significant number of the approved species do not have sufficient size to achieve the 150% aggregate tree canopy area target, where smaller spread species have been selected by an adjoining landowner, multiple tree plantings will occur such that the available canopy for the selected species is maximised. The 2024 planting season selections have been ordered and confirmed with adjoining landowners in line with Officer interpretation. This allows for selection from the entire approved species list, except for development replacements.

The Nedlands Tree Canopy Advocates (NTCA) has advised on its interpretation that choice of species should be restricted by the 150% Aggregate tree canopy area requirement in all circumstances. This difference in interpretation leads the NTCA to form the perception that officers are wilfully ignoring policy, harming reputation and relationships. The clarification proposed will clarify Council intent and resolve an area of current disagreement with an active community group that can distract limited City resources from positive initiatives to support the Public realm urban forest.

The forthcoming major update of the Street Tree Policy will consider the variety of species to be offered, and the scenarios in which they can be selected. This will ensure that selections maximise available canopy, whilst also addressing the need for diversity in species to mitigate the risks presented by pests and diseases. These and other hazards, can target specific species, genus or families with an example being the loss of significant numbers of key species to the current PSHB outbreak.

It is proposed that the use of default trees and aggregate tree canopy area requirements be reviewed in this major policy update to ensure that policy is practicable to implement whilst still meeting the governing objectives to protect maintain and enhance the public realm urban forest.

As stated previously, due to timing and preparation for planting season occurring as a rolling schedule, ordering has occurred for 2024 in line with the previous interpretation, and as such should Council significantly decide to alter its position through policy as part of the Urban Forest Strategy, 2025 planting season will be able to be arranged in line with the Strategy while 2024 forms a transitional year.

**Removal of Trees Greater than 5m in height**

The Notice of Motion passed at the 28th November 2023 Ordinary Council Meeting has introduced additional requirements for all trees above 5m in height. Accordingly, it is best practice for the governing policy, Street Tree Policy, to be updated to formalise this requirement into the City’s policies and procedures.

Staff enacting decisions will refer to Policy, and where a Notice of Motion is not reflected in subsequent updates of policy, there is a risk of unintentional non-compliance due to lack of awareness as staff turnover occurs. Further, where policy and other Council decisions do not align, there is a lack of clarity over which document would take the higher order of precedence when there are conflicting requirements. The proposed modifications, on page 7 of the Street Tree Policy document (Attachment 1), seek to clarify the requirements and expectations of Council, regarding, current reporting methods related to the removal of street trees, considering the November Notice of Motion, the previous policy, and previous practice for trees removed by other statutory authorities.

An additional provision for the removal of street trees by statutory authorities where City approval is not first sought, has been included. These have been common during the Polyphagous Shot Hole Borer outbreak, with trees having been removed by a statutory directive, and the City accordingly did not have any statutory opportunity to prevent removal. The reporting for these has now been explicitly specified in the revised policy.

**Minor Changes**

Further minor changes have been included:

* Update of “resident” to “property owner” in order, to clarify that the rights under this policy are intended to be exercised by the owner - not a tenant for rental property owners.
* Addition of Water Services Act 2012 in the Related Legislation

**Further Review**

A more detailed and major review of verge and tree policy will be undertaken via the update to the Urban Forest Strategy that has now commenced with the support of the City’s consultant, ArborCarbon.

Undertaking more thorough review as part of the Urban Forest Strategy update will ensure that the ongoing strategic alignment of policy is maintained, and that the required level of consideration is given to more significant strategic changes.

This current update is therefore restricted in scope, being minor and procedural. A more detailed review will be undertaken in the coming months to address the more significant updates required. It is expected that the 2025 Planting Season will be planned in accordance with that major revision.

**Consultation**

The proposed changes were presented to Councillors at a Concept Briefing Forum on 7th March 2024.

**Strategic Implications**

This item is strategically aligned to the City of Nedlands Council Plan 2022-23 vision and desired outcomes as follows:

**Vision** Sustainable and responsible for a bright future

**Pillar**  **Performance**

**Outcome** 11. Effective leadership and governance.

**Budget/Financial Implications**

There is no financial impact for the change, that can be completed with minimal operational resources.

**Legislative and Policy Implications**

[Street Trees Council Policy](https://www.nedlands.wa.gov.au/documents/238/street-trees-policy-and-approved-street-tree-species) – as endorsed on 22nd February 2022.

**Decision Implications**

Should the update not be approved, it could impact on the implementation of the 2024 planting season and the risk of unintentional non-compliance with the Notice of Motion regarding the removal of trees greater than 5m in height will be increased.

Any modifications would be considered in the detailed update of policy aligned with the Urban Forest Strategy and submitted for Council review and approval.

**Conclusion**

It is recommended that Council endorse the proposed updates to the Street Tree Policy, in order, to support the coming 2024 planting season, noting that a major review of the policy will be undertaken in the coming months.

**Further Information**

**Question / Request**

Deputy Mayor Smyth - Could a Glossary of Terms be added to the Policy please?

This Policy should be able to stand alone without the reader requiring “insider knowledge” of the terms and other documents not referenced.

For example:

* schedule of tree species considered unsuitable for nature strips
* register of individual street trees considered to pose a height problem
* an Aggregate Tree Canopy Area of at least one and half times the Nature Strip Area and preferably two times,
  + what does this mean, is there a diagram, are footpaths and driveways included in the total verge calculation, where is the 150% canopy overhang?
* Native species.

**Officer Response**

Many of the points raised in the question are points of debate internally at the City and with external stakeholders; given the openness to interpretation. For instance, does ‘Native’ refer to local, state, or Australian natives? While there may be an initial preference, it will be important to discuss the practical implications of the positions proposed.

The City conducted a planting program review in light of staff turnover and to take lessons from the last planting season under the current Urban Forest Strategy, and finding 3.14 indicated that interpretation of policy was a significant issue which will need time and engagement to properly define both in articulation but also in translation to action.

A revised officer recommendation has been provided which includes that Council:

2. acknowledges that a major review of the Policy will be presented to Council prior to the 2025 planting season

**Question / Request**

Deputy Mayor Smyth - Can this default statement be reviewed please, with the addition of other options? Planting para 4 “Where the available nature strip area makes planting of the above species impracticable, the default street species are *Modong (Melaleuca preissiana) or WA Willow Peppermint (Agonis flexuosa)*.”

**Officer Response**

Other options can be considered as part of the major policy review which will affect the tree stock ordering for the 2025 planting season. This has been noted for inclusion in the major policy review.

A revised officer recommendation has been provided which includes that Council:

2. acknowledges that a major review of the Policy will be presented to Council prior to the 2025 planting season

**Question / Request**

Councillor Youngman - page 604 reference to significant street tree register. Do we have one? Can an amendment be provided to have consideration be given to these to be existing street scapes preserved?

**Officer Response**

The City has a list of nominated, potentially significant trees which was electronically created in 2022. Due to high staff turnover, lack of supporting systems and a dedicated role to manage the urban forest, the validity of the list, or its upkeep cannot be determined. The City does not have a significant tree policy, and neither the Urban Forest Strategy nor the Street Tree policy give definition of what in the eyes of the City should be considered a significant tree. Consideration will be given to this as part of the Urban Forest Strategy review and major Policy review.

A revised officer recommendation has been provided which includes that Council:

2. acknowledges that a major review of the Policy will be presented to Council prior to the 2025 planting season

**Question / Request**

Councillor Bennett – Provide copy of the street tree list the city is working on. Can the ranges of the width of the verges throughout the City to be provided? Can the document include categories of small, medium and large trees and the selection of tree that fit into the verge according to size.

**Officer Response**

This will be circulated separately in a printable format.

**Question / Request**

Councillor Coghlan – Can a session with Elected Member be organised before the Council meeting to ensure that the Council fully understands the Policy?

**Officer Response**

Time constraints and staff availability will limit a concept forum being held prior to this minor review of the policy to bring greater alignment between the planned 2024 planting season and the policy.

While a concept forum which dedicated considerable time toward the Urban Forest Strategy and proposed policy updates proposed did occur 7 March 2024; the importance of the Urban Forest to the City and Community warrants further dedicated discussion and sessions will be planned as part of the Urban Forest Strategy review and the associated policy reviews.

If Council wishes to defer consideration of this matter to allow for further discussion at a future Concept Forum, this can be arranged, and the matter would be represented to the May Council meeting.

## TS15.04.24 Tree Removal for Development – 18 Betty Street Nedlands

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting – 23rd April 2024 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil. |
| **Report Author** | Mark Williams, Acting Manager Urban Landscapes & Conservations |
| **Director** | Matthew MacPherson, Director Technical Services |
| **Attachments** | Nil. |

Moved - Councillor Cr Youngman

Seconded – Councillor Cr Coghlan

**That the Recommendation be adopted.**

(Printed below for ease of reference)

**Council Resolution**

**That Council approves the removal and subsequent stump grinding of a mature Sapium sebiferum (Chinese Tallow) from the verge of 18 Betty Street, Nedlands to facilitate the construction of an emergency services parking bay that is a condition of the development approval.**

**CARRIED EN BLOC 8/1**

**(Against Cr. Bennett)**

**Purpose**

A verge tree at 18 Betty Street, Nedlands is located within a required parking area for emergency services required by the Department of Fire and Emergency Services (DFES) that is a condition of the development. The development has an approved Development Approval. Actioning of the tree removal has now been requested by the developer. The City does not have reasonable grounds to object to the removal.

Approval of a tree of this size for removal is no longer an administrative decision following a Notice of Motion passed at the Ordinary Council Meeting held on 28th November 2023.

**Voting Requirement**

Simple Majority.

**Background**

At the Ordinary Council Meeting of 28th November 2023, the following Notice of Motion was passed.

That Council requests that the Chief Executive Officer present

1. Any verge tree above 5 metres in height which is not dead, diseased or dying come before Council for approval to remove.

A Development Approval for 18 Betty Street, State Development Assessment Unit (SDAU) Application SDAU-004-20 and accompanying plans, was approved on 27th July 2023 by the West Australian Planning Commission. The Department of Fire and Emergency Services (DFES) fire appliance hardstand within the Development Approval required the removal of a verge tree, in order, to construct it. The removal was indicated on the plans and is a condition of development.

**Discussion**

The development has a valid Development Approval. The Developer has paid the fee for the tree removal.

Where a developer has already received Development and Building Approval the City cannot reasonably refuse the removal of a tree where this is allowed for on the plans and a condition of the development.

The City does not propose removing the tree until required for the development to progress. The removal is proposed for late April pending scheduling advice.

**Consultation**

Nil.

**Strategic Implications**

This item is strategically aligned to the City of Nedlands Council Plan 2022-23 vision and desired outcomes as follows:

**Vision** Sustainable and responsible for a bright future

**Pillar Place**

**Outcome** 6. Sustainable population growth with responsible urban planning.

**Pillar Performance**

**Outcome** 11. Effective leadership and governance.

**Budget/Financial Implications**

Removal – Nil - The developer will be invoiced for the cost of the removal and subsequent replacements.

Internal staff labour was spent on the formalisation of this report.

**Legislative and Policy Implications**

The development has an approved Development Application approved by the State Development Assessment Unit (SDAU) under the Planning and Development Act 2005. The development already has an approved [Building Permit under the Building Act 2011](https://www.legislation.wa.gov.au/legislation/prod/filestore.nsf/FileURL/mrdoc_42733.pdf/$FILE/Building%20Act%202011%20-%20%5B01-g0-01%5D.pdf?OpenElement).

The removal aligns with the [Street Tree Policy](https://www.nedlands.wa.gov.au/documents/238/street-trees-policy-and-approved-street-tree-species) given no suitable design alternative exists.

**Decision Implications**

Should Council not endorse the removal, it is expected that the developer would refer the decision to the State Administrative Tribunal where it is unlikely the decision would be upheld. Administration would at that stage seek further legal advice and representation for the City’s defence with respect to any challenge.

**Conclusion**

Where a developer has already received Development and Building Approval the City cannot reasonably refuse the removal of a tree where this is allowed for on the plans and a condition of the development. The tree removal should therefore be endorsed by Council.

**Further Information**

Nil.

## TS16.04.24 Western Metropolitan Regional Council (WMRC) – Agreement Extension

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting – 23rd April 2024 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil. |
| **Report Author** | Chaminda Mendis, Waste Minimisation Coordinator |
| **Director** | Matthew MacPherson, Director Technical Services |
| **Attachments** | 1. West Metro Recycling Services Memorandum of Understanding Between Parties 2023-24 2. WMRC Residents of the City of Nedlands report |

Moved - Councillor Cr Youngman

Seconded – Councillor Cr Coghlan

**That the Recommendation be adopted.**

(Printed below for ease of reference)

**Council Resolution**

**That Council:**

1. authorise the CEO to negotiate with the Western Metropolitan Regional Council to extend the current MOU for one (1) year offering the service throughout the 2024-25 financial year, subject to a modification to the MOU for additional data to be provided by the Western Metropolitan Regional Council to allow for a value analysis to be completed on the service;
2. review the Waste Service Charge for the 2024-25 budget to include a provision for an increase in line with expected inflation as part of the Western Metropolitan Regional Councils Participating Council fee; and
3. request the CEO present a report to Council prior to the expiry of the extension with an analysis of the cost and benefit of the service.

**CARRIED EN BLOC 8/1**

**(Against Cr. Bennett)**

**Purpose**

The City entered into a one-year Memorandum of Understanding (MOU) with the Western Metropolitan Regional Council (WMRC) on 29th May 2023, to contribute to Waste Management Services provided to City residents. This agreement aimed to streamline service delivery and improve waste management outcomes. The MOU expires on 30 June 2024.

As this agreement is approaching expiry, Council will be required to decide on future service provision.

Voting Requirement

Simple Majority.

**Background**

The City of Nedlands is not a member of the WMRC or any other Regional Council, with the City managing its own waste services including collection, disposal and community education.

The WMRC has previously approached the City in 2016, 2018 and 2019, seeking to enter into an agreement for the City to join in varying capacities. In early 2023, the WMRC approached the City’s elected members which led to a notice of motion and the below resolution at the 23rd May 2023 Ordinary Council Meeting.

That Council:

1. agree to join the Western Metropolitan Regional Council (WMRC) community recycling waste treatment service as an affiliate member for the 2023/2024 period.
2. agree to add the $8 annual charge to the waste management component of the 2023/2024 rates, fees, and charges, and
3. agree to review the City’s waste management strategy with the commitment and plan to reduce and divert 91% of waste out of landfill by 30 November 2023.

Following this resolution, the City entered into a one-year Memorandum of Understanding (MOU) with the Western Metropolitan Regional Council (WMRC) on Monday, 29th of May 2023. The primary objective of the MOU was to support the City's efforts in achieving the UN Sustainable Development Goals and the State Waste Avoidance and Recovery Strategy 2030 targets. This was intended to be achieved by facilitating access for City residents to a range of waste reduction and recycling services offered at the West Metro Recycling Centre.

A copy of the signed MOU between the City and WMRC is attached – refer to Attachment 1.

As the MOU is due to expire and a new financial year approaches, a decision must be made on whether the existing MOU is extended, renegotiated, or terminated.

**Discussion**

Since the MOU was implemented, the City has received statistical reports from WMRC. Data from these reports (covering July 1, 2023, to February 18, 2024) states the City of Nedlands' participation has resulted in the following:

|  |  |  |  |
| --- | --- | --- | --- |
| **Visit Type** | **Nedlands participation** | **All Residents** | **Nedlands %** |
| Free Visits (as per MOU) | 1278 | 11731 | 10.89% |
| Paid Visits | 1078 | 12328 | 8.74% |
| **Total Visits** | **2356** | **24059** | **9.79%** |

|  |  |  |  |
| --- | --- | --- | --- |
|  | **Tonnage from Nedlands Residents** | **Tonnage from All Residents** | **Nedlands %** |
| Total tonnage (free and paid items) | 201 | 2526 | 7.96% |

Overall, the participation of Nedlands residents is lower than expected, with Nedland’s residents making up 22% of the population with free access to the West Metro Recycling Centre, but only accounting for 8%-11% of the usage of the site by tonnage and visit metrics in the report covering the period from July 2023 to February 2024.

**Data and Statistical Quality**

WMRC had previously stated that Nedland’s residents made up 20 - 22% of all residents and is referenced in the background of the Memorandum of Understanding, however, WMRC were not able to provide information on whether the visitors were repeat visitors or what items the visitors were bringing to the centre. It was to be expected that a portion of the free visits are visitors dropping off Household Hazardous Waste (HHW) which would be free without the MOU and fee paid by the city, as the disposal of the HHW program is funded by the State Government.

The level of data provided to the City is not at a sufficient level to make a fully informed assessment of the performance of the service. For staff to make a complete and fair assessment on the value of the current MOU to the City’s residents, data and statistics which can be interrogated is required on such information like the frequency of repeat visitors and the specific services accessed on each visit. The City has requested this data but WMRC is unable to provide more detailed statistics to date. The large fluctuation from the initial, historic claim of 20 - 22% of visits being from Nedland’s residents to the first update of 14% patronage for free services to the more recent 10 -11% adds further questions to the data collection and provision by the WMRC. For instance, it is hard to determine whether the initial figure is a ‘honeymoon’ figure whereby patrons ‘try’ the newer service and the latter figure is more representative of an ongoing rate of patronage.

The level of data also raises difficulties regarding the recovery statistics provided by WMRC which both the City and the WMRC must report to The Department of Water and Environmental Regulation. As the WRMC records the total tonnages, and not the types of waste that each Nedland’s resident brings to the centre, reporting of types of waste and recovery rates becomes a function of the percentage by weight of material brought to the West Metro Recycling Centre.

For example, through the use of aggerate figures as opposed to weighing each load, it is difficult to determine if the City’s residents drop off large volumes of one waste stream, or more frequent but less voluminous drop-offs of another. The effect of this, is that the diversion rates assigned to the City of Nedlands are the average of all users of the West Metro Recycling Centre, and not based on the actual materials brought to the centre by Nedland’s residents.

**Importance of Data Quality**

The option to access the WMRC more freely does not result in existing residents generating more waste – merely presents a different means to dispose of their current waste. The need for informative data is paramount as it allows the City to understand the change of behaviour and determine how residents behaviour affects costs and recovery. This helps compare differing waste streams on both a price per use and price per tonnage basis as well as recovery per tonnage basis – to ensure the community is getting the most cost effective and environmentally beneficial offering.

To do this, the City is looking to equate a reduction in tonnage going to historic waste services with a proportional tonnage increase in drop-off at the WMRC, in both material provided and recovery.

Moreover, it is important to remember that membership as a participating Council does not cover the disposal costs of the materials, only the entry fee and a discount.

As such a price comparison has been undertaken based on the information provided.

**Consultation**

Nil.

**Strategic Implications**

This item is strategically aligned to the City of Nedlands Council Plan 2022-23 vision and desired outcomes as follows:

**Vision** Sustainable and responsible for a bright future

**Pillar**  **People**

**Outcome** 2. A healthy, active and safe community.

**Budget/Financial Implications**

Originally, the proposal was to total a commitment of $72,964.24 per annum. However, the agreement signed was only applicable for three (3) months before the first increase was incurred. The first increase was to the value of 5.75%.

The current Memorandum of Understanding (MOU) with WMRC represents an ongoing commitment of $77,159.24 (plus an annual CPI increase due in September) to the City's waste budget per annum.

This represents an additional cost of $9.19 per rateable property and is passed through to ratepayers via their waste service charge, regardless of whether they utilise West Metro Recycling Centre. Currently, the annual standard waste service charge is $328, which is significantly below the true cost of all waste services to the community.

The City’s waste service is currently operating at a loss and drawing upon the limited reserves to fund the operations. As such, the City’s Waste Service Charge is expected to increase further in 2024/25 as material values for the material recovered from the City’s kerbside recycling continues to decline along with increasing labour and fuel costs.

For comparative purposes, an assessment has been made in pricing per tonnage for disposal based on the information provided by the WMRC, being annual costs over projected annual tonnage. This has been tabled against the City’s other waste streams as below:

|  |  |  |
| --- | --- | --- |
| Waste Stream | Price Per Tonne (collection & disposal) | Notes |
| Kerbside Services | | |
| Kerbside General | $176.00 |  |
| Kerbside FOGO | $318.82 | Includes collection, transportation, processing, and disposal of contamination |
| Kerbside Recycling | $279.57 |
| Bulk Services | | |
| City Bulk Green | $70.00 |  |
| WMRC Bulk Green Disposal | $85.00 | WMRC 2023/24 fees and charges for participating Council – delivered and paid by users |
| City Bulk Mixed | $192.00 |  |
| WMRC Bulk (mixed) Disposal | $245.00 | WMRC 2023/24 fees and charges for participating Council – delivered and paid by users |
| MOU Costs / Tonnage | | |
| WMRC Drop-off | $255.92 | Total cost of participation / all tonnages |

It is worth noting that kerbside services have been included for comparative purposes only and recycling also generates a return through a share of the Containers for Change scheme.

A further comparison can be drawn in relation to the bulk waste services. If two neighbours in the City of Nedlands each had to dispose of one tonne of green waste, and resident A presented it during the scheduled green waste collection, and resident B dropped it off at the WMRC:

* resident A would pay nothing over their annual waste charge, and
* resident B would pay BOTH the annual waste charge and the tonnage fee of $85.00.

It could be reasonably be argued, however, that the convenience of the option to drop off as and when required is worth the additional $85 – a likely situation that may arise between scheduled collection dates by the City. This figure would increase to $245 if the example was for mixed bulk waste.

**Legislative and Policy Implications**

[Waste Avoidance and Resource Recovery Act 2007](https://www.legislation.wa.gov.au/legislation/prod/filestore.nsf/FileURL/mrdoc_46071.pdf/$FILE/Waste%20Avoidance%20and%20Resource%20Recovery%20Act%202007%20-%20%5B01-k0-00%5D.pdf?OpenElement)

**Decision Implications**

If Council endorse the recommendation, the CEO will negotiate with the WMRC to continue the existing participating council arrangement for access to the West Metro Recycling Centre for Nedlands residents, along with a requirement for improved data for statutory reporting and analysis purposes. Alternatively, council may choose to end the arrangement, saving an estimated $80,000 over the next year of the MOU and reducing the impact on the deficit waste budget.

**Conclusion**

Many residents are supportive of access to the West Metro Recycling Centre however:

* Staff are of the view that the West Metro Recycling Centre’s services are supplementary to the City’s waste services and not the primary method of disposal.
* Fair analysis of the value provided to the City based on its residents cannot be suitably completed with the data currently recorded and provided by the WMRC.

As it stands today, the figures to do not present a financially prudent case that participating in the WMRC represents best value for the community. Given the positive community support for participation, it is only reasonable that attempts are made to try and refine reporting data to determine if the value proposition is as significant as it appears to be herein, or whether it can be broken down further so that a more equitable and favourable comparison can be made for participation.

The recommendation for an updated MOU with increased data provision with by WMRC will result in a continuation of service to the City’s residents while also providing the data required for a comprehensive analysis of the current MOU model along with alternate options to be presented to council in the future.

Positive discussion has recently occurred between the City and the WMRC and there is broad but mutual understanding for the need for the data, and what data can be reasonably provided within an acceptable timeframe. Should this be achievable, the officers would be more confident in advising on a longer-term decision if there were sufficient information to assess the return on investment for the service over that period.

**Further Information**

Nil.

# 18. Divisional Reports - Corporate Services



## CPS18.04.24 - Monthly Financial Report - March 2024

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting – 23 April 2024 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil. |
| **Report Author** | Lauren Fitzgerald – Manager Financial Services |
| **Director** | Michael Cole – Director Corporate Services |
| **Attachments** | 1. Statement of Financial Activity – 31 March 2024 2. Statement of Net Current Assets – 31 March 2024 3. Statement of Comprehensive Income – 31 March 2024 4. Statement of Financial Position – 31 March 2024 5. Reserve Movements – 31 March 2024 6. Borrowings – 31 March 2024 7. Capital Works Program – 31 March 2024 |

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

Moved - Councillor Cr Youngman

Seconded – Councillor Cr Coghlan

**That the Recommendation be adopted.**

(Printed below for ease of reference)

**Council Resolution**

**That Council receive the Monthly Financial Report for 31 March 2024.**

**CARRIED EN BLOC 8/1**

**(Against Cr. Bennett)**

**Purpose**

Administration is required to provide Council with a monthly financial report in accordance with regulation 34(1) of the *Local Government (Financial Management) Regulations 1996*. The monthly financial variance from the budget of each business unit is reviewed with the respective manager and the Executive to identify the need for any remedial action. Material variances are highlighted to Council in the attached Monthly Financial Report.

**Voting Requirement**

Simple Majority.

**Background**

Nil.

**Discussion**

The monthly financial management report meets the requirements of regulation 34(1), 34(3), and 34(5) of the *Local Government (Financial Management) Regulations 1996*.

The attached report shows the month end position as at the end of March 2024. Please note that due to the Disclaimer of Opinion issued for the 2022-23 Annual Financial Statements, the opening position is subject to change as restatements of the prior financial year are completed. The municipal closing surplus as of 31 March 2024 is $11,262,789 which is a $13,296,654 favourable variance, compared to a budgeted surplus for the same period of ($2,033,865).

The operating revenue at the end of March 2024 was $9,019,456 which represents a ($183,966) unfavourable variance compared to the year-to-date budget of $9,203,452 primarily in Fees and Charges and Other Revenue.

The operating expense at the end of March 2024 was $30,093,168 which represents a ($808,427) unfavourable variance compared to the year-to-date budget of $29,284,741 primarily in Depreciation.

As depreciation is a non-cash item, it is then removed from the surplus calculation, which results in a favourable variance of $686,570 for total operating activities.

The attached Statement of Financial Activity compares Actuals with Amended Budget by Nature or Type as per regulation 34 (3) of the *Local Government Financial Management Regulations 1996*. Material variances, as defined by a previous decision of Council, from the budget of revenue and expenditure are detailed below.

**Operating Activities**

**Operating grants, subsidies, and contributions**

No variance analysis required as variance to budget is less than 10% and $20,000.

**Fees and charges**

No variance analysis required as variance to budget is less than 10%.

**Service charges**

No variance analysis required as variance to budget is less than 10%.

**Interest earnings**

No variance analysis required as variance to budget is less than 10%.

**Other revenue**

Unfavourable variance of ($147,296) primarily due

**Profit on disposal of assets**

No variance analysis required as variance to budget is less than 10%.

**Employee costs**

No variance analysis required as variance to budget is less than 10%.

**Materials and contracts**

No variance analysis required as variance to budget is less than 10%.

**Utility charges**

Unfavourable variance of $161,339 due to invoice cycle.

**Depreciation and amortisation**

Unfavourable variance of $1,405,767 due to budget being based on asset values prior to the 2022-23 infrastructure asset revaluation being finalised.

**Insurance expenses**

No variance analysis required as variance to budget is less than 10%.

**Interest expenses**

No variance analysis required as variance to budget is less than $20,000.

**Other expenditure**

No variance analysis required as variance to budget is less than 10%.

**Loss on disposal of assets**

No variance analysis required as variance to budget is less than 10% and $20,000.

**Investing Activities**

**Non-operating grants, subsidies, and contributions**

No variance analysis required as variance to budget is less than 10% and $50,000.

**Proceeds from disposal of assets**

No variance analysis required as variance to budget is less than $50,000.

**Purchase of property, plant, and equipment**

No variance analysis required as variance to budget is less than 10% and $50,000.

**Purchase and construction of infrastructure**

No variance analysis required as variance to budget is less than 10%.

**Purchase of right of use assets**

No variance analysis required as variance to budget is less than $50,000.

**Payments for intangible assets**

No variance analysis required as variance to budget is less than 10% and $50,000.

**Financing Activities**

**Repayment of borrowings**

No variance analysis required as variance to budget is less than $20,000 and 10%.

**Recoup from self-supporting loans**

No variance analysis required as variance to budget is less than $20,000 and 10%.

**Payment for principal portion of lease liability**

No variance analysis required as variance to budget is less than $20,000 and 10%.

**Transfer to reserves**

No variance analysis required as variance to budget is less than $20,000 and 10%.

**Transfer from reserves**

No variance analysis required as variance to budget is less than $20,000 and 10%.

**Rates**

No variance analysis required as variance to budget is less than 10%.

Outstanding current rates debtors are $4,583,408 as of 31 March compared to $3,279,498 as of 31 March 2023. Breakdown as follows:

|  |  |  |  |
| --- | --- | --- | --- |
| **Receivable** | **31-Mar-24 ($)** | **31-Mar-23 ($)** | **Variance ($)** |
| Rates & UGP | $3,848,369 | $2,684,033 | $1,164,336 |
| Rubbish & Pool | $119,212 | $87,650 | $31,562 |
| Pensioner Rebates | $427,860 | $434,802 | -$6,942 |
| ESL | $187,967 | $73,013 | $114,954 |
| **Total** | **$4,583,408** | **$3,279,498** | **$1,303,910** |

**Employee Data**

|  |  |
| --- | --- |
| **Description** | **Number** |
| Budgeted FTE (1July 2023) | 165 |
| Budgeted FTE (30 June 2024) | 162 |
| Headcount (Active Employees including FT, PT, & Casual) | 169 |
| Occupied FTE (FT & PT) | 145 |
| Occupied FTE (Casual) | 3 |
| No. of contract employees (Temporary/Agency) | 5 |

The figures reported are as at the end of the calendar month of March 2024.

**Consultation**

N/A

**Strategic Implications**

This item relates to the following elements from the City’s Council Plan.

**Vision** **Sustainable and responsible for a bright future**

**Pillar** **Performance**

**Outcome** 11. Effective leadership and governance

**Budget/Financial Implications**

At the Special Council Meeting on 11 August 2022, item CPS36.08.22, Council adopted the following thresholds for the reporting of material financial variances in the monthly statement of financial activity reports:

a. Operating items – Greater than 10% and a value greater than $20,000

b. Capital items – Greater than 10% and a value greater than $50,000

pursuant to regulation 34(5) of the *Local Government (Financial Management) Regulations 1996*, and *Australian Accountings Standard AASB 1031 Materiality*.

**Legislative and Policy Implications**

[*Local Government Act 1995*, *Local Government (Financial Management) Regulations 1996*](https://www.legislation.wa.gov.au/legislation/prod/filestore.nsf/FileURL/mrdoc_45568.pdf/$FILE/Local%20Government%20(Financial%20Management)%20Regulations%201996%20-%20%5B03-k0-00%5D.pdf?OpenElement)*,* and *Australian Accounting Standards.*

**Decision Implications**

Nil.

**Conclusion**

The municipal surplus as of 31 March 2024 is $11,262,789 which is favourable, compared to a budgeted surplus for the same period of ($2,033,865)

The operating revenue at the end of March 2024 was $9,019,456 which represents a ($183,996) or (2.00%) unfavourable variance compared to the year-to-date budget of $9,203,452 primarily in Fees and Charge and Other Revenue.

The operating expense at the end of March 2024 was $30,093,168 which represents a $808,427 or 2.76% unfavourable variance compared to the year-to-date budget of $29,284,741 primarily in Depreciation.

**Further Information**

Nil.

## CPS19.04.24 - Monthly Investment Report - March 2024

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting – 23 April 2024 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil. |
| **Report Author** | Lauren Fitzgerald – Manager Financial Services |
| **Director** | Michael Cole – Director Corporate Services |
| **Attachments** | 1. Investment Report for the period ended 31 March 2024 |

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

Moved - Councillor Cr Youngman

Seconded – Councillor Cr Coghlan

**That the Recommendation be adopted.**

(Printed below for ease of reference)

**Recommendation**

**That Council receive the Investment Report for the period ended 31 March 2024.**

**CARRIED EN BLOC 8/1**

**(Against Cr. Bennett)**

**Purpose**

In accordance with the Council’s Investment Policy, Administration is required to present a summary of investments to Council monthly.

**Voting Requirement**

Simple Majority.

**Background**

Nil.

**Discussion**

Council’s Investment of Funds report meets the requirements of Section 6.14 of the *Local Government Act 1995.*

The Investment Policy is structured to minimise any risks associated with the City’s cash investments. The officers adhere to this Policy, and continuously monitor market conditions to ensure that the City obtains attractive and optimum yields without compromising on risk management.

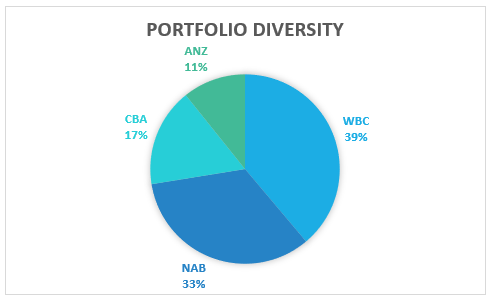
The Investment Summary shows that as of 31 March 2023 and 31 March 2024 the City held the following funds in investments:

|  |  |  |
| --- | --- | --- |
| **Funds** | **31-Mar-24 ($)** | **31-Mar-23 ($)** |
| Municipal | 3,014,953 | 2,128,139 |
| Reserve | 7,885,891 | 8,373,644 |
| **Total Investments** | **10,900,844** | **1,501,783** |

The total interest earned from investments as of 31 March 2024 was $369,501 comprising of $202,391 received at maturity and $167,110 accrued.

The Investment Portfolio comprises holdings in the following institutions:

|  |  |  |
| --- | --- | --- |
| **Financial Institution** | **Funds Invested** | **Proportion of Portfolio** |
| NAB | $3,660,060 | 33% |
| WBC | $4,267,340 | 39% |
| ANZ | $1,145,358 | 11% |
| CBA | $1,828,086 | 17% |
| **Total** | **$10,900,844** | **100.00%** |



**Consultation**

N/A

**Strategic Implications**

This item relates to the following elements from the City’s Council Plan 2023 -33.

|  |  |
| --- | --- |
| **Vision** | **Sustainable and responsible for a bright future** |

|  |  |
| --- | --- |
| **Pillar** | **Performance** |
| **Outcome** | 11. Effective leadership and governance. |
|  |  |

**Budget/Financial Implications**

The March 2024 YTD Actual interest income from investments is $369,501 compared to the March 2024 YTD Budget of $354,037. Favourable variance of $15,463.

**Legislative and Policy Implications**

[City of Nedlands - Investment of Operating Cash Policy](https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww.nedlands.wa.gov.au%2Fdocuments%2F285%2Finvestment-of-council-funds&wdOrigin=BROWSELINK)

**Decision Implications**

N/A

**Conclusion**

The Investment Report is presented to Council.

**Further Information**

N/A

## CPS20.04.24 - List of Accounts Paid - March 2024

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting – 23 April 2024 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil. |
| **Report Author** | Lauren Fitzgerald – Manager Financial Services |
| **Director** | Michael Cole |
| **Attachments** | 1. Creditor Payment Listing – March 2024 2. Credit Card and Purchasing Card Payments – March 2024 |

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

Moved - Councillor Cr Youngman

Seconded – Councillor Cr Coghlan

**That the Recommendation be adopted.**

(Printed below for ease of reference)

**Council Resolution/Recommendation**

**That Council receives the List of Accounts Paid for the month of March 2024.**

**CARRIED EN BLOC 8/1**

**(Against Cr. Bennett)**

**Purpose**

The purpose of this report is to present a list of accounts paid for the month of March 2024.

**Voting Requirement**

Simple Majority.

**Background**

*Regulation 13* of the *Local Government (Financial Management) Regulations 1996* requires a list of accounts paid to be prepared each month, showing each account paid since the last list was prepared. This list is to include the following information:

1. the payee’s name;
2. the amount of the payment:
3. the date of the payment; and
4. sufficient information to identify the transaction.

**Discussion**

The accounts payable procedures ensure that risk is managed, and no fraudulent payments are made by the city, and these procedures are strictly adhered to by the officers. These include the final vetting of approved invoices by the Coordinator Revenue and the Manager Financial Services (or designated alternative officers).

**Consultation**

Nil.

**Strategic Implications**

This item relates to the following elements from the City’s Council Plan 2023-33.

**Vision Sustainable and responsible for a bright future**

**Pillar** Performance

**Outcome** 11. Effective leadership and governance.

**Budget/Financial Implications**

The payments are made in accordance with the approved budget.

**Legislative and Policy Implications**

In accordance with regulation 13 of the [*Local Government (Financial Management) Regulations 1996*](https://www.legislation.wa.gov.au/legislation/prod/filestore.nsf/FileURL/mrdoc_45568.pdf/$FILE/Local%20Government%20(Financial%20Management)%20Regulations%201996%20-%20%5B03-k0-00%5D.pdf?OpenElement) administration is required to present the List of Accounts Paid for the month of March 2024 to Council.

**Decision Implications**

Nil.

**Conclusion**

The List of Accounts Paid for the months of March 2024 complies with the relevant legislation and can be received by Council (see attachments).

**Further Information**

Nil.

## CPS21.04.24 - Appointment of Member to the Audit & Risk Committee

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting – 23 April 2024 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil. |
| **Report Author** | Michael Cole – Director Corporate Services |
| **Acting CEO** | Tony Free |
| **Attachments** | Nil. |

Councillor Youngman left the room at 8.12 pm.

Cr Youngman returned to room 8.14pm

**The Presiding Member allowed an urgent Notice of Motion, 21.6NOM 17.04.24 Audit and Risk Committee disbandment and appointment from Councillor Coghlan to be considered at this time.**

Moved – Councillor Cr Coghlan

Seconded – Councillor Cr Amiry

**Councillor Bennett moved an amendment to the NOM that remove clause 4 be removed.**

Moved – Councillor Bennett

Seconded – Councillor Youngman

**The AMENDMENT was put.**

**Lost 4/5**

**(Against: Mayor Argyle, Crs Amiry, Brackenridge, Smyth, Coghlan)**

**That the meeting was adjourned for 6 minutes for the purposes of a refreshment break.**

The meeting adjourned at 8.34 pm and reconvened at 8.41 pm with the following people in attendance:

**Councillors** Mayor F E M Argyle (Presiding Member)

Councillor B Brackenridge Melvista Ward

Councillor R A Coghlan Melvista Ward

Councillor H Amiry Coastal Districts Ward

Councillor L J McManus Coastal Districts Ward

Councillor K A Smyth Coastal Districts Ward

Councillor F J O Bennett Dalkeith Ward

Councillor N R Youngman Dalkeith Ward

Councillor B G Hodsdon Hollywood Ward

**Staff** Mr M Cole Acting Chief Executive Officer

Mr Roy Windlsow Director Planning

Mr M K MacPherson Director Technical Services

Ms E Bock PA to Director Corporate Servies

Ms L J Kania Coordinator Governance & Risk

**Public** There were 5 members of the public present and 9 online.

**That the Motion be put.**

**That Council:**

**1. Disbands the Audit and Risk Committee under LG Act s.5.11(2)(c) and revokes the Council resolutions 1, 2 and 3 of Item 9.6. CEO26.10.23 Establishment and Appointment of Members to the Audit & Risk Committee made at the 31 October 2023 Special Council Meeting appointing Elected Members, community members and deputy members to the Audit and Risk Committee.**

**2. Appoints all Elected Members of the City of Nedlands to a whole of Council Audit and Risk Committee, subject to any Elected Member indicating they do not wish to be appointed to the Audit and Risk Committee.**

**3. Appoints the CEO as an independent observer for any secret ballots for the Audit and Risk Committee Chair and Deputy Chair.**

**4. Requires the nominees for Presiding Member of the Audit and Risk Committee to have completed tertiary education and a minimum of 3 years finance related work experience.**

**5. Directs the Audit and Risk Committee to review the Audit and Risk Committee Terms of Reference adopted at the 31 October 2023 Special Council Meeting at Item 9.6 resolution 4 and advise Council of any recommended changes to the Terms of Reference.**

**6. Formally thanks Mr G Baws and Mr JK Laurence for their service to the City of Nedlands.**

**Carried 5/4**

**(Against: Crs. Cr Bennett, Cr Hodsdon, Cr McManus, Cr Youngman)**

**Purpose**

The purpose of this report is to appoint a Council Member for the Hollywood Ward to the Audit & Risk Committee.

Recommendation

That Council:

1. appoints Councillor Hodsdon as the Hollywood Ward member/representative to the Audit & Risk Committee effective immediately until the next Local Government elections in 2025; and
2. does not appoint a Deputy Member from the Hollywood Ward to the Audit & Risk Committee.

**Voting Requirement**

Absolute Majority.

**Background**

The Audit & Risk Committee meets quarterly and as required. The terms of reference of the Audit and Risk Committee include provision for the appointment of one councillor from each ward and up to two non-councillor Members, being residents of The City of Nedlands. If a vacancy on the committee occurs for whatever reason, then Council shall appoint a replacement.

**Discussion**

Following the resignation from Councillor McManus at the special council meeting on Monday 11 March 2024 a replacement for the original appointment is required to fill this membership. Councillor Hodsdon is the current deputy member and is therefore the preferred candidate for the appointment.

**Consultation**

N/A

**Strategic Implications**

This item relates to the following elements from the City’s Council Plan 2023-33.

**Vision** **Sustainable and responsible for a bright future**

**Pillar** **Performance**

**Outcome** 11. Effective leadership and governance

**Budget / Financial Implications**

There are no budget or financial implications arising in this report.

**Legislative / Policy Implications**

Members of the ARC are appointed by Council in accordance with section 7.1A of The Local Government Act 1995.

**Decision Implications**

Should Council support this recommendation, the City will be in compliance with The Local Government Act 1995 and the Terms of Reference of the Audit and Risk Committee.

**Conclusion**

Appointing Councillor Hodson as the replacement member to the Audit and Risk Committee ensures that the City continues to uphold the strategic vision, effectiveness and integrity of the Audit and Risk committee.

**Further Information**

Nil.

## CPS22.04.24 – Town of Claremont Lease

|  |  |
| --- | --- |
| **Meeting & Date** | Council – 23 April 2024 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | No employee disclosure. |
| **Report Author** | Aleisha Smit – Land and Property Officer |
| **Director** | Michael Cole – Director Corporate Services |
| **Attachments** | Nil |

Moved – Councillor Cr Smyth

Seconded – Councillor Cr Amiry

**Council Resolution**

**That Council:**

1. does not provide in Principle support to a lease of a portion of the John XXIII Depot to the Town of Claremont;
2. does not endorse proposed key terms; and

**3. instructs the CEO to investigate options for the consolidation of municipal depot sites giving due regard to Local Planning Strategy 5.9.3**

**Lost 4/5**

**(Against: Crs. Cr Coghlan, McManus, Youngman, Bennett)**

**Purpose**

The purpose of this report is to seek in principle support for the lease of a portion of the John XXIII Depot to the Town of Claremont.

This proposal was presented at the March OCM, an alternate motion was moved and was lost. Without a foreshadowed motion, no decision was made, so this item is now presented to Council again.

Recommendation

That Council:

1. provide in Principle support to a lease of a portion of the John XXIII Depot to the Town of Claremont;
2. endorse proposed key terms; and
3. authorise the CEO and Mayor to finalise and endorse a lease should the Town proceed with the lease offer from the City.

**Voting Requirement**

Absolute Majority.

**Background**

The Town of Claremont currently lease a site from Western Power adjacent to the City of Nedlands Mt Claremont Depot on John XXIII Drive Mt Claremont. The Town are on a holding over lease on a month-to-month notice.  While the Town has been advised that Western Power are vacating the site as it is surplus to Western Power’s requirements and is seeking to hand the site back to the State Government. The Town are hoping to deal directly with the State Government to remain on their existing site.

In the event of needing to vacate their current site, the Town of Claremont has approached the City and enquired about the availability of space at the City’s Mt Claremont Depot.  While the Town has expressed an interest in the Western Power site, the Town needs to explore other options.

Should Council endorse this proposal, the lease would involve a defined fenced compound for Town of Claremont but with opportunities to share bulk stores, ie sand, mulch gravel etc as well as combine resources for an inventory of other materials, ie soak wells, drainage pits etc.

**Discussion**

The Town of Claremont are looking to occupy exclusively instead of a holding lease on a month-to-month notice and have identified a section of the City of Nedlands John XXIII Depot as suitable. Preliminary discussions between the City and Town of Claremont indicate that Mt Claremont’s requirements could be accommodated within a section of the City’s John XXIII Depot with some slight modifications to the layout. The proposal would have minimal impact on the City’s operations from the yard.

Town of Claremont are seeking a 10-year term with a further two terms of 5 years each, subject to negotiation.

Proposed key terms are:

1. This proposal relates to Portion of Reserve 45054 (Lot 502 on Deposited Plan 73830).
2. The area to be leased by Town of Claremont (lessee) is 1,000 square metres.
3. The purpose of the Lease is for “The establishment and operation of a local government depot for the storage of plant, equipment and other materials typically stored in such a depot.”
4. The rate of rentals a set at $25,000 per annum + GST, being market rental valuation as per assessment of 25/11/22.
5. Reviews of the rate of rental are to be completed each year on the anniversary of the date of commencement of the Lease. The method of review is CPI annually and replaced by a market review every 5 years throughout the term.
6. Outgoings: Proportionate outgoings payable by Town of Claremont (water and electricity if applicable).
7. The Lease has an initial term of 10 years with two further terms of 5 years each.
8. The Commencement Date will be the date the Deed of Lease is signed by the parties as the Premises are now ready for possession by the lessee.
9. The Operating/Access hours are between 6am and 7pm Monday through Sunday. This meets with the Town’s operational requirements.
10. The lessee is required to maintain public liability insurance in the amount of at least $20,000,000.
11. The Indemnity provision remains. As such the Town of Claremont will indemnify the City of Nedlands against any liability in connection with the lease.
12. All maintenance obligations within the lease area to be undertaken by Town of Claremont.
13. With prior written consent from the City of Nedlands - Operational signs will be required for speed limit and entry conditions.
14. Vehicle movement within the depot site (outside the lease area) will be in accordance with the City of Nedlands conditions.
15. Subject to City of Nedlands Council approval – Lease will require advertising in accordance with s3.58 of the Local Government Act 1995 (2-week submission period).
16. Subject to the Minister for Lands consent.
17. Subject to the construction design being approved by the City of Nedlands Engineering Team.
18. Town of Claremont to arrange for contractors to attend safety induction training before accessing the site.
19. Annexures:
    1. Dust management plan for the lease area to be provided by Health/Technical Services and annexed to the lease.
    2. Section 18 Minister for Lands consent.
    3. Contaminated Site Disclosure.
20. Contributions:
    1. The Town of Claremont has approval for the installation of a septic tank for their toilet facility.  This has not been installed.  The Town would instal that unit as part of this lease agreement.

The following questions arose at the March Agenda Briefing Forum and the responses are repeated below.

**Question / Request Councillor Smyth**

**When will the City construct an access road to the depot and north to McGilvray Oval? What funding has been sort for this road construction and companion drainage?**

Officer Response There are no current investigations to connect the access road through to McGilvray oval. Sealing of the final section of the access road was proposed for this financial year and was deferred due to insufficient funds. It is currently programmed for approx. 2027/28, when ranked against other infrastructure renewal requirements.

**Question / Request Councillor Smyth - What consideration has been given to the Mt Claremont Structure/ Precinct Plan in relation to this activity?**

Officer Response The proposed Mt Claremont Master Plan is a high-level visioning document that does not detail future development of individual lots. The light industrial nature of the existing and surrounding land-uses, which also include a Western Power depot, can be considered as essential public services to nearby local governments and the sub-region generally. The options for relocating these land uses are limited. Based on this fact, the Mt Claremont Master Plan assumes that this part of the Master Plan area will remain in this form for the foreseeable future.

**Question / Request Councillor Smyth**

**To enable a more informed decision could you please provide a summary of**

1. all the Leases and sub-leases that this depot vicinity hosts;
2. the accumulated truck movements (eg Water Truck lease) etc
3. the lessons learned from the previous failed business case to stockpile basic raw materials for other municipalities. (2016);
4. contaminated water, soil, and dust risks known;
5. potential revenue v costs?

**Officer Response**

1. The City has two leases at this depot. One with the City of Subiaco for a term of 10 years commencing 1 September 2019. Rent payable is $25,000 per annum plus GST. The other is with Leo Heney for a term of three 6-month periods and a final period of 5 months expiring on 20 November 2024. The rent payable is $15,000 per annum plus GST.

The City understands that Western Power also has leases in place for its site, one of which is the Town of Claremont, and the other is the City of Subiaco. The details of the leases are not readily available to the City.

1. The City’s truck movements are on average 25 per day with up to an additional 20 per day for loading or disposal of materials. For Leo Heney truck movements are limited to 4 per day. The Town of Claremont and City of Subiaco movements are not readily available.
2. The proposal to share stockpiles of raw materials such as sand, gravel, limestone, and the like with other Councils was not taken up by those councils. The City has capacity to provide this service on a user pays basis and is part of the proposal with the Town of Claremont.
3. The City Environmental Health Team have confirmed that dust issues are to be dealt with by way of a dust management plan. The Technical Services Team have confirmed they monitor dust but there are no known issues at present.

Regarding contaminated water, the City’s Environmental Health Team have also confirmed that the City has not undertaken groundwater sampling in the local area for several years. There is no plan to monitor groundwater regularly at the former Brockway landfill. Developments taking place will be required to assess groundwater quality. Parties may choose to conduct monitoring to change their site’s classification under the Act. DWER does reserve the right to require further groundwater monitoring if the situation changes or if other issues come to light. DWER (Contaminated Sites Branch) should be informed if there are incidents that may have caused or contributed to contamination at the site, but given the classification of the site, any development application, sub-division or amalgamation at the site is required to be referred to the department under s.58 of the Contaminated Sites Act 2003 (CS Act) for their advice. Activities at the site that do not require development approval are not required to be reported to the department.

Residents on the western boundary have memorials on the Certificates of Title under other legislation, that relate to the quality of the groundwater and were placed when the properties were originally subdivided prior to the Contaminated Sites Act commencing. The department advocates full disclosure of information relating to potential contamination and contamination issues.

The groundwater contamination is currently thought to be mainly nutrients which do have aesthetic issues when used for such things as reticulation. It is understood that the groundwater is not to be used as a potable source of water.

1. The City currently receives $40,000 per annum for leases at this depot. The Town of Claremont proposed lease would yield an additional $25,000 per annum, bringing total revenue to $65,000 per annum. The City’s current costs to maintain the depot at Mt Claremont is $5,000 per annum.

**Consultation**

Consultation with the Town of Claremont has occurred.

**Strategic Implications**

This item relates to the following elements from the City’s 2023-2033 Council Plan.

**Vision Sustainable and responsible for a bright future**

**Pillar Performance**

**Outcome** 11. Effective leadership and governance

**Budget/Financial Implications**

If the Town of Claremont enters into a lease agreement with the City additional income is expected to be generated over the period of the lease.

**Legislative and Policy Implications**

The City is bound by specific conditions under the Local Government Act 1995 with regards to the disposal of property. Section 3.58 of the Act enables a local government to dispose of a property to the highest bidder at a public auction, by way of a public tender process or by giving local public notice of the proposed disposition and following the public consultation process as prescribed by sub-section section 3.58 (3) of the Act. In this context, disposing of a property means to ‘sell, lease or otherwise dispose of, whether absolutely or not’.

**Decision Implications**

If Council provide in Principle support to a lease agreement, Administration will work with the Town of Claremont to develop a lease and bring this to Council for approval.

If Council do not provide in Principle support to a lease agreement, Administration will not progress this arrangement any further.

**Conclusion**

As their current lease is in a holding over lease on a month-to-month notice, the Town of Claremont have requested the use of a portion of the City’s John XXIII Depot. In addition, arrangements can be put in place to share bulk stores, ie sand, mulch gravel etc as well as combine resources for an inventory of other materials, ie soak wells, drainage pits etc.

This request can be accommodated with minimal impact on the City’s operations and presents an opportunity to increase revenue generation form this site.

**Further Information**

**Question / Request**

Deputy Mayor Smyth - Could you please provide a summary of all the current and proposed depot lease arrangements in tabulated format? (Have Cities of Perth, Subiaco or Vincent expressed interest?) For example: Lease Holder, Location, Area, Use, Income, Costs, Period, Termination Date.

**Officer Response**

Lease Holder - City of Subiaco

Location - Part of Lot 502, Reserve 45054, City of Nedlands Mt Claremont Depot John XXIII Avenue Mt Claremont

Area - 1,578 m2

Use - Depot Site

Income - $25,000 pa

Costs - Nil

Period – 10 year term commencing 1 September 2019 with the option of 2 further terms of 5 years each

Termination date - expires 31 August 2039

Lease Holder – Leo Heney

Location – Part of Lot 502, Reserve 45054, City of Nedlands Mt Claremont Depot Lot 502 John XXIII Avenue Mt Claremont

Area - 1,578 m2

Use - Gated Storage Yard

Income - $15,000 pa

Costs - Nil

Period - three 6-month period and a final period of 5 months

Termination date – Expires 20 November 2024.

Proposed Lease – Town of Claremont

Location – Part of Lot 502, Reserve 45054, City of Nedlands Mt Claremont Depot Lot 502 John XXIII Avenue Mt Claremont

Area - 1,000 m2

Use - The establishment and operation of a local government depot for the storage of plant, equipment and other materials typically stored in such a depot..

Income - $20,000 pa

Costs - Nil

Period – Proposed initial term of 10 years with two further terms of 5 years each.

There have been no formal expressions of interest from Cities of Perth, Subiaco or Vincent for depots at City controlled land in Nedlands. However, it is understood Vincent are interested in the possible vacated Western Power site adjacent to the City’s depot in Mt Claremont.

**Question / Request**

Deputy Mayor Smyth - Is there a business opportunity for a “Super Depot” in WESROC zone and where would this best be located? Could an alternative motion be advised to explore this option? I am trying to understand the context and broader picture of other Municipalities disposing of their depots at a lucrative gain, only to impose on City of Nedlands amenity.

**Officer Response**

This suggestion can be referred to the Western Suburbs Alliance for consideration. Alternate wording could be:

That Council:

1. Council defers consideration of the proposal to consider the opportunity for a “Super Depot” in the Western Suburbs Alliance zone; and
2. Requests the A/Chief Executive Officer to refer this proposal to the Western Suburbs Alliance for further consideration.

**Question / Request**

Deputy Mayor Smyth – Has consideration been given to amalgamation of Cambridge Depot with Claremont at 21 Lemnos Street? Image below.



**Officer Response**

The City is not aware of any approaches by the Town of Claremont to the Town of Cambridge.

**Question / Request**

Deputy Mayor Smyth - Update on other municipalities interest.

**Officer Response**

The City understands that the City of Vincent may be interested in re-locating from their current location in Osborne Park to the Mt Claremont area.

# 19. Reports by the Chief Executive Officer



## CEO09.04.24 - Council Plan 2023-33 Report to March

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting – 23 April 2024 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil |
| **Report Author** | Gemma Johnstone – Corporate Planning and Performance Coordinator |
| **CEO** | Tony Free – Acting Chief Executive Officer |
| **Attachments** | * + - 1. Council Plan 2023-33 Report – March 2024 (Updated) |

Moved - Councillor Cr Youngman

Seconded – Councillor Cr Coghlan

**That the Recommendation be adopted.**

(Printed below for ease of reference)

**Council Resolution/Recommendation**

**That Council receives the Council Plan 2023-33 Report – March 2024 (Attachment 1).**

**CARRIED EN BLOC 8/1**

**(Against Cr. Bennett)**

**Purpose**

The purpose of this report is for Council to receive the Council Plan 2023-33 Report – March 2024.

**Voting Requirement**

Simple Majority.

**Background**

At its meeting held on 28 November 2023, the Council adopted the City of Nedlands Council Plan 2023-33 (the Council Plan).

The Council Plan is the community’s and City of Nedlands’ ‘Plan for the future’, in accordance with Section 5.56 of the *Local Government Act 1995* (the Act) and Parts 19C and 19DA of the *Local Government (Administration) Regulations 1996* (i.e., requirements for a Strategic Community Plan and Corporate Business Plan).

The Council Plan provides the strategic foundation for the City’s Integrated Planning and Reporting Framework (see Figure 1 below) which:

1. translates the community’s vision and priorities for the local area, into the services and projects provided by the local government,
2. allocates the appropriate resources to deliver these services and projects, and
3. monitors delivery and implementation of these services and projects.

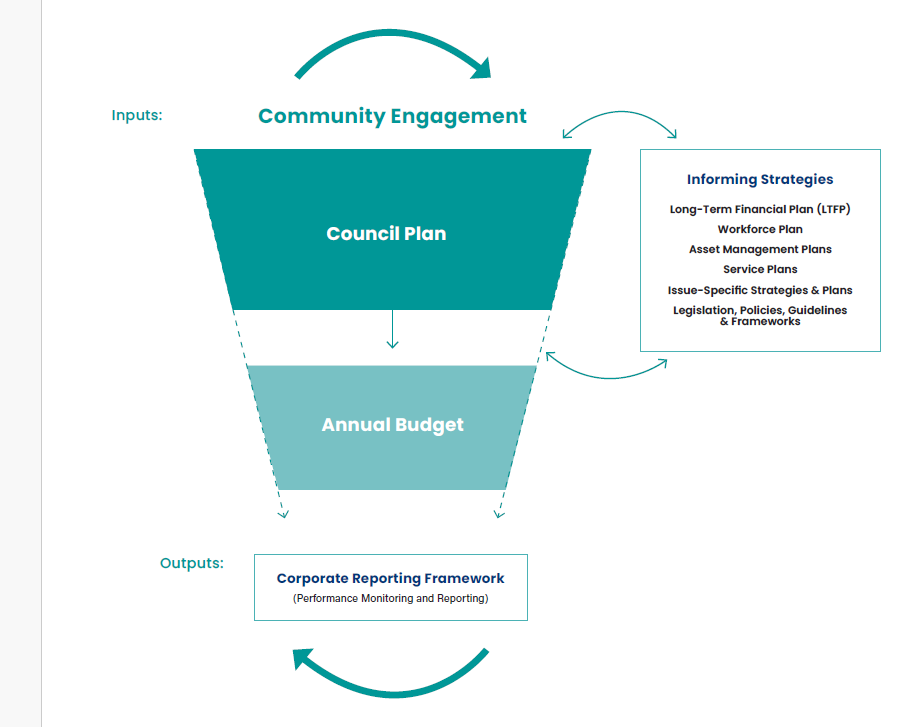


Figure 1. City of Nedlands Integrated Planning and Reporting Framework

**Monitoring Delivery and Implementation of the Council Plan**

In accordance with Section 5.53 of the Act, all local governments are required to prepare an Annual Report each financial year detailing information, but not limited to, the City’s performance at delivering and implementing its ‘Plan for the future’ (the Council Plan).

Local governments may also, in conjunction with the Annual Report, provide periodic reporting throughout the financial year for Council (and the community) to oversee and monitor, the City’s progress delivering and implementing the Council Plan.

**Discussion**

Attachment 1 – Council Plan 2023-33 Report – March 2024 provides an update on how the City is progressing with delivering and implementing the Council Plan.

**Consultation**

The Acting Chief Executive Officer provided an update to Council on key actions contained within Attachment 1 at the Concept Forum held 7 March 2024.

**Strategic Implications**

This item is strategically aligned to the City of Nedlands Council Plan 2023-33 vision and desired outcomes as follows:

**Vision Sustainable and responsible for a bright future**

**Pillar** **Performance**

**Outcome** 11. Effective leadership and governance.

**Budget/Financial Implications**

There are no financial implications related to this report.

**Legislative and Policy Implications**

* Section 5.56 of the [*Local Government Act 1995*](https://www.legislation.wa.gov.au/legislation/prod/filestore.nsf/FileURL/mrdoc_45573.pdf/$FILE/Local%20Government%20Act%201995%20-%20%5B07-ab0-00%5D.pdf?OpenElement) – All local governments must plan for the future of their local government area.
* Regulation 19C and 19DA of the [*Local Government (Administration) Regulations 1996*](https://www.legislation.wa.gov.au/legislation/prod/filestore.nsf/FileURL/mrdoc_45589.pdf/$FILE/Local%20Government%20(Administration)%20Regulations%201996%20-%20%5B03-o0-02%5D.pdf?OpenElement) *–* Prescribes how Section 5.56, through adoption of a Strategic Community Plan and Corporate Business Plan, is achieved.
* Section 68 of the [*Local Government Amendment Act 2023*](https://www.legislation.wa.gov.au/legislation/prod/filestore.nsf/FileURL/mrdoc_46067.pdf/$FILE/Local%20Government%20Amendment%20Act%202023%20-%20%5B00-00-00%5D.pdf?OpenElement) *–* Prescribes amendment of the *Local Government Act 1995* by deleting Section ‘5.56 – Planning for the future’ and replacement with ‘5.56 – Council Plan’.
* Section 5.53 of the [*Local Government Act 1995*](https://www.legislation.wa.gov.au/legislation/prod/filestore.nsf/FileURL/mrdoc_45573.pdf/$FILE/Local%20Government%20Act%201995%20-%20%5B07-ab0-00%5D.pdf?OpenElement) – All Local governments must prepare an Annual Report for each financial year.
* DLGSC’s [Integrated Planning and Reporting Framework and Guidelines](https://www.dlgsc.wa.gov.au/docs/default-source/local-government/integrated-planning-and-reporting/integrated-planning-and-reporting-framework-and-guidelines-september-2016.pdf?sfvrsn=4f3cff8_2) – Provides guidelines on how to develop and maintain Integrated Planning and Reporting Framework.

**Decision Implications**

The information contained in this report is for information and receival preposes only.

**Conclusion**

It is recommended that Council receives the Council Plan 2023-33 Report – March 2024 (Attachment 1), providing oversight and monitoring of the delivery and implementation of the City of Nedlands Council Plan 2023-33.

**Further Information**

**Question / Request**

Deputy Mayor Smyth provided further questions related to Council Plan actions with ‘Not Started’ statuses as follows:

1.3.4 Advocate for heritage and activation works to be completed at the Sunset Precinct, Jutland Parade.

“What is timeline for action to commence?”

**Officer Response**

Advocacy with the State Government (who is in control of the precinct) is proposed. Contact with the agency responsible for the site and the Heritage Council will take place prior to the end of June 2024 and will be ongoing.

**Question / Request**

2.2.6 Collaborate with the State Government and neighbouring councils to investigate suitable sites in Mt Claremont for mountain bike trails.

“What leverage can be applied to commence this action?”

**Officer Response**

The City is currently reviewing suitable potential sites for mountain bike trails. On completion of this scoping activity, the City will commence discussions with the State Government.

As an interim State local west council’s mountain bike trails will be identified as part of the Youth Mapping 15-25 exercise (Council Plan Action 3.2.1) and added to communications planning.

**Question / Request**

7.1.2 Develop a business case for the future operations of the buildings in the Lawler Park precinct with consideration for sport, performing arts and culture, and community meeting space.

“What allocations in the upcoming budget will be required to activate this action?”

**Officer Response**

$30,000 (estimate).

**Question / Request**

7.2.5 Prepare a Concept Plan for the Loreto Primary School site with consideration for the community’s aspirations.

“Is there a timeline or Budget for this action?”

**Officer Response**

The owners are preparing a scheme amendment and supporting design, heritage, traffic and environmental documentation. Given the level of detail, the owners are preparing and the ability for the City and community to provide input into this process, the current process is likely to determine the future planning of the site.

**Question / Request**

8.2.1 Advocate for improvements in public transport services, and initiatives to increase commuter awareness and usage across the City of Nedlands.

“What potential actions are forthcoming from the ITS and what budget allocations are required?”

**Officer Response**

ITS Actions:

1.2.2 Provide a Station Access sub-program within the Active Transport Forward Works Program”. Community suggestions include: Improved connections to Montario Quarter and Shenton College, connections to UWA Sports Park, map connections to all schools to the nearest bus stop/train station.

3.1.1 Advocate for improved public transport connections to the Fremantle line and attractions within the City of Nedlands. Community suggestions for consideration: QEII, UWA, HBF Stadium, Nedlands Foreshore, UWA Sports Park.

3.1.2 Support Metronet in the delivery of Stage One of the Mid-Tier Transport Planning Project (MTTPP).

3.1.3 Advocate for further stages of the MTTPP to be delivered within the City of Nedlands.

4.1.1 Develop/advocate with the DoT on a Green Travel Plan templated to encourage and assist schools/businesses in promoting students, parents and staff to use active/public transport to/from school and work.

4.1.5 Advocate for enhancements to the waiting experience at bus stops and confidence in bus travel, such as the installation of more bus shelters, furniture, raised kerbs, ramps and electronic timetabling signs.

The cost for the above actions will vary. Advocacy can take multiple forms and will likely change depending on the actions in question. For example, ITS Action 3.1.3 may be as simple as putting together a position letter from the Mayor and CEO supporting specific projects in the Nedlands area and listing characteristics of Nedlands that make MTTPP a good investment. The form of advocacy for something like ITS Action 4.1.5 might look like the City obtaining boarding data from the PTA to identify the top 10 bus stops within the City and us preparing concept designs and cost estimates to then present back to the PTA for their funding consideration or even partner funding.

**Question / Request**

11.1.2 Provide standardised Council meeting procedures, in accordance with the Local Government Reform process.

“Not awaiting, as currently have been asked to provide feedback, please clarify?”

**Officer Response**

The Department of Local Government, Sport and Cultural Industries, as part of its commitment to Local Government Reform, circulated in February 2024 a Consultation Paper on Standardised Meeting Procedures. The Administration has provided a copy of the consultation paper to all Elected Members. It is the intention to provide a response from the City to the DLGSC as part of the consultation process. The closing date for submissions is 29 May 2024.

**Question / Request**

12.1.2 Develop a Communications Agreement, in accordance with the Local Government Reform. This agreement must address how council members may seek information and assistance from administration in carrying out their role.

“What action is being taken with EPS to deliver better access for Council, for example “Cr Dashboard”?”

**Officer Response**

If referring to the Enterprise Resource Planning (ERP) OneCouncil system, the OneCouncil system and a custom Elected Member Request can be investigated for development and made available to Elected Members to submit requests for support.   Those requests and outcomes could also be made available to Elected Members as a dashboard in OneCouncil for visibility and information. As this would be a new operating project, it would require prioritisation and resourcing in the Service Planning process.

**Question / Request**

Deputy Mayor Smyth - Can the March report be modified if responses to my questions are substantial?

**Officer Response**

Yes. Attachment 1 has been updated to reflect the officers responses.

## CEO10.04.24 - Register of Outstanding Council Resolutions

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting – 23 April 2024 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | No officer involved in the preparation of this report has a declarable interest. |
| **Report Author** | Libby Kania – Coordinator Governance and Risk |
| **CEO** | Tony Free – Acting Chief Executive Officer |
| **Attachments** | 1. Register of Outstanding Council Resolutions |

Moved - Councillor Cr Youngman

Seconded – Councillor Cr Coghlan

**That the Recommendation be adopted.**

(Printed below for ease of reference)

**Recommendation**

**That Council receives the Register of Outstanding Council Resolutions dated April 2024.**

**CARRIED EN BLOC 8/1**

**(Against: Cr. Bennett)**

**Purpose**

For Council to consider the Register of Outstanding Council Resolutions (OCR) and the actions taken by Administration in progressing these items.

**Voting Requirement**

Simple Majority.

**Background**

Council has requested that all Outstanding Council Resolutions be tabled on a monthly basis at the OCM.

**Discussion**

Attached to the Council report is the register of OCRs for Council’s noting and consideration.

The report has been updated by officers when required.

Information will be periodically provided to Councillors on previous resolutions of Council that:

1. have been completed since the last update and
2. have not yet been fully implemented. Reasons for any delays or unforeseen challenges are included.

Councillors are able to seek an update on any particular project or resolution outside of the reporting period, by contacting the CEO directly for information or by referring to the information on the Councillor portal.

**Consultation**

Nil.

**Strategic Implications**

This item is strategically aligned to the City of Nedlands Council Plan 2023-33 vision and desired outcomes as follows:

**Vision** Sustainable and responsible for a bright future

**Pillar** **Performance**

**Outcome** 11. Effective leadership and governance.

**Budget/Financial Implications**

Nil.

**Legislative and Policy Implications**

*Local Government Act 1995*.

**Decision Implications**

Councillors have oversight of the implementation of previous Council decisions, through access to the Register and the Councillor portal. Information on decisions may be provided through the CEO Weekly update, and direct request to the CEO. The City may include the register on the website to provide transparency to the community, although the community is able to access the document through the Council agenda.

**Conclusion**

That the Council receives the Register of Outstanding Council Resolutions for noting.

**Further Information**

Nil.

# Council Members Notice of Motions of Which Previous Notice Has Been Given



## NOM10.04.24 – Councillor Hodsdon - Proposed Environmental Levy to Fund Significant Tree Retention

In accordance with Clause 3.9 of the City of Nedlands Standing Orders Local Law on the 22 March 2024, Councillor Hodsdon gave notice of his intention to move the following motion.

**The Notice of Motion was withdrawn by Cr Hodsdon**

That Council:

Requests the CEO report to Council on the legal and administrative capacity of the City of Nedlands to:

1. impose a 5% environmental levy on all ratable properties; and
2. refund the 5% to properties with a significant tree on the City’s tree register.

**Justification**

The proposal would:

1. Reward those ratepayers who actively contribute to the collective environment of the City of Nedlands.

2. Would ensure an equal burden over the whole city to protect our trees no matter where they are, private or public.

3. The funds not refunded would be used to improve street trees and future prove them in a period of climate change. Also helping owners of the tree on the register to look after them.

4. Would protect ownership rights of landowners

5. Would achieve more than amendment 12 could or would have achieve by incentivising tree protection.

6. The report would be presented at the May council meeting and considered in budget deliberations.

**Administration Comment**

From a legal perspective, it is not possible to raise an environmental levy on all residential properties.

As with any fee or charge, the ability for a local government to raise an environmental levy is subject to the local government having the necessary head of power. *Division 6 of Part 6 of the Local Government Act 1995* determines how rates are to be calculated and how any discounts or concessions can be applied.

General rates are determined using a combination of the rate in the dollar adopted by Council as part of the annual budget and the gross rental value for that property.

The City can also raise waste charges under the head of power “*Waste Avoidance and Resources Recovery Act 2007.”*

The only avenue to raise a “levy” on the rates notice would be by way of a service charge. However, service charges are limited to:

(a) property surveillance and security;

(b) television and radio rebroadcasting;

(c) underground electricity;

(d) water.

An alternate option would be for Council to determine that a portion of rates was to be allocated to this initiative. For example, Council could resolve to increase rates by a certain % and transfer the increased revenue raised to a reserve to be used for the purpose suggested in this Notice of Motion. Messaging the reasons for this increase can be included in the rates newsletter and on the City’s website. But this can’t be shown as a separate levy on the rates notice.

From an administrative perspective, a refund as suggested would be possible if Council agreed to a concession under Section 6.47 of the Local Government Act as part of the Annual Budget process or by resolution at a later date.

However, the resources required to administer such concessions would need further review. The method by which a ratepayer applies for the concession, how each application is assessed, whether we have a register of significant trees and whether this is required to be reviewed annually will require further investigation.

A report on a similiar tree incentive is being presented to an upcoming Budget Workshop for consideration as part of the draft 2024/25 Annual Budget. This proposal can be explored further at that workshop.

## NOM11.04.24 – Councillor Amiry – Publication of Legal Advice

In accordance with Clause 3.9 of the City of Nedlands Standing Orders Local Law on the 15 April 2024, Councillor Amiry gave notice of her intention to move the following motion:

Moved – Councillor Amiry

Seconded – Councillor Brackenridge

**Council Resolution**

**That Council**

**resolves the brief provided to McLeod Lawyers and subsequent legal advice received on 21 March 2024 be published as part of these minutes of the Council meeting and on the City’s website.  Similarly, the brief provided by LGEMA to Frances Burt Chambers and SC Stephen Wright and subsequent advice received on 25 March be included in these minutes of the Council Meeting and published on the City’s website.**

**CARRIED 5/4**

**(Against: Crs. Youngman, Hodsdon, Bennett, McManus)**

**Justification**

Both legal views are directly related to the Council’s governance obligation to manage risk. They also delineate the relationship between the Council and Local Government in the LG act. In the interest of transparency and good communication publications will reassure residents that Council has acted appropriately in the recent decisions taken to manage the fallout from financial audit findings for the year ending 31 June 2023.

**Administration Comment**

1. Council is unable to request the CEO to publish the advice procured by LGEMA as Council cannot waive the legal professional privilege.  It is the understanding of Administration that LGEMA holds the privilege in the advice and only a resolution of its board would be able to waive this.  Similarly, only a resolution of Council may waive the privilege in the advice obtained from McLeod’s.  Further, as courtesy to the lawyers who have provided the legal advice, they should be advised of the intention of the local government to distribute the advice publicly through the minutes.
2. Further, neither the brief nor the Advice provided as attachments to the NOM were considered by Council at its meeting of 26 March.  The Advice attached to the NOM is not the 16-page Memorandum of Advice dated 26 March 2024 that was circulated to Councillors at the meeting.  It appears to be subsequent advice.  Therefore, neither document may be attached to the minutes as this would not be a true and accurate reflection of the attachments considered at the Council meeting.  *Local Government (Administration) Regulations 1996* reg. 11(g) states the content of minutes of a meeting of Council or a Committee is to include –

(g) each document attached to an agenda relating to a council or committee meeting unless the meeting or that part of the meeting to which the document refers is closed to members of the public.

1. If Council resolves to publish the LGEMA brief and subsequent legal advice that was considered by Council, again the City would require formal advice from LGEMA that privilege has been waived and advice that the solicitors involved have been notified of LGEMA’s decision to ensure that there is no risk to the City in publishing these documents.
2. If Council is to publish the advice from McLeods, the advice dated 14 March should also be included.
3. Incorporating the documents into the minutes is problematic as a outlined above, if Council wishes for the advice to be provided on the City’s website the following wording is recommended:

**Council resolves the brief provided to McLeod Lawyers and subsequent legal advice received on 14 and 21 March 2024 be published on the City’s website (see Confidential Attachments 1 and 2). Similarly, subject to the written approval of the LGEMA Board and advice that their legal representatives are aware, the brief provided by LGEMA to Frances Burt Chambers and SC Stephen Wright and subsequent advice dated be published on the City’s website. (See Confidential Attachments 3 and 4).**

## NOM12.04.24 – Councillor Amiry – Listing of Legal Advice Received

In accordance with Clause 3.9 of the City of Nedlands Standing Orders Local Law on the 15 April 2024, Councillor Amiry gave notice of her intention to move the following motion:

Moved – Councillor Amiry

Seconded – Councillor Cr Coghlan

**Council resolves**

* + - 1. to receive a listing of all legal advice received in the in the last 24 months detailing the date, type of matter, legal firm and the cost incurred.
      2. that the City prepares a request for tenders from legal firm including those both on and off the WALGA approved list of providers to establish a minimum 4-year retainer agreement at advantageous rates.

**3. the final form of the request for tenders and the choice of legal provider for retention be approved by Council by simple majority.**

**Carried 5/4**

**(Against: Crs. Bennett, Hodsdon, McManus, Youngman)**

**Justification**

The City currently has no formal agreement for the provision of legal advice. McLeod lawyers are the City’s default legal providers though the Council Purchasing system of WALGA. Current practice is by way of ad hoc requests from Managers, directors, and the CEO with no formal contract of engagement between the parties resulting in a lack of controls and transparency.

Given the legal complexities of Local Government responsibilities, it is critical that the City of Nedlands is well supported in the provision of legal advice in a cost-effective manner and in accordance with our City procurement procedures.

**Administration Comment**

1. Administration is able to provide a listing of all legal advice to Councillors. This information is able to be provided in the CEO update..

2 It is noted that the motion suggests that the request for tenders be presented to Council, which would not be the normal process and would be an additional step in the process. The proceeding to tender may result in Council receiving less favourable rates than is available via the WALGA panel process, however, it may also attract other firms which are not part of the WALGA panel.

Councillor Youngman left the room at 9.20 pm.

## NOM13.04.24 – Councillor Brackenridge – Local Government Elected Members Association (LGEMA) Reimbursement

In accordance with Clause 3.9 of the City of Nedlands Standing Orders Local Law on the 15 April 2024, Councillor Brackenridge gave notice of his intention to move the following motion:

Moved - Councillor Brackenridge

Seconded - Councillor Cr Coghlan

**Council Resolution**

**That Council:**

**Council approves a donation of $7,449.56 to the Local Government Elected Members Association (WA) INC.**

**Carried 5/3**

**(Against: Crs. Bennett, Hodsdon, McManus)**

Councillor Youngman returned to the room at

Council resolves to make a payment of $7,449.56 to the Local Government Elected Members Association (WA) INC as reimbursement for the legal advice procured on 18 March in accordance with the attached invoices.

**Justification**

Council made a decision to appoint Mr Ross as an independent auditor.

As LGEMA understood it, the Acting CEO did not support that Council resolution, did not implement it as he was required to do by the LG Act, and sought advice from the NCC solicitors (not barristers) about his concerns about implementing the Council decision.

As LGEMA understood it, the solicitor’s advice to the CEO was that Council could appoint an independent expert but that it was required to apply its own Purchasing Policy, that it had not done so and thus the advice was given to the CEO that appointment of Mr Ross was not lawful.

It would have been difficult for Council not to follow the McLeod legal advice, whether or not, it was correct.

In 2005, the Joondalup Inquiry Report recommendations in relation to legal advices included that,

- Elected Members as Council seek second legal opinions when there is Council division

- Prudent Councils will not hesitate to obtain their own alternative legal advice or a second opinion, where EMs are divided or hesitant about advice given

- Elected Members must be given time to consider legal advice

- Council and Committee meeting procedures should preclude provision of written legal advice without adequate time to read and understand the advice before it is acted on.

Council was not in a position to authorise a further expert legal opinion given the timing of the McLeod advice being given to Elected Members and Council believed that Mr Ross’ review was/is urgently needed.

The Council power to appoint an independent agent is in the LG Act including for conflicted CEO circumstances.

It is a widely understood principle of administrative law, that a primary decision maker - in this case, Council - is not bound by its own policies.

The LGEMA committee consented to apply its funds to obtaining an expert legal opinion from the independent bar, about the use of the power; because of the urgency given the upcoming Nedlands Council meeting.

Mr Wright SC settled and signed (and thus endorsed) the opinion. Mr Pontre is a highly regarded junior barrister who wrote the first draft of the opinion. Thus, two highly regarded barristers formed the opinion that the NCC Purchasing Policy does not bind Council, and that the Acting CEO was required to implement Council’s decision.

LGEMA waived the privilege it held over the advice to assist the Council in making its decisions about the appointment of Mr Ross.

**Administration Comment**

Administration understands that an individual member of Council requested a third party to obtain a legal opinion via the LGEMA. The request in this Notice of Motion is for LGEMA to be reimbursed the cost of providing that legal advice.

It is also understood that the LGEMA had sought contributions from its membership to offset this legal cost they had incurred.

Rather than seek a direct payment for the legal advice, Council may consider making a donation to the LGEMA instead. A suggested alternate motion is:

**Council approves a donation of $7,449.56 to the Local Government Elected Members Association (WA) INC.**

## NOM14.04.24 – Councillor Coghlan – Senior Designated Employee Positions

In accordance with Clause 3.9 of the City of Nedlands Standing Orders Local Law on the 15 April 2024, Councillor Coghlan gave notice of her intention to move the following motion:

Moved – Councillor Coghlan

Seconded – Councillor Brackenridge

**That Council**

**DEFERS entire NOM until 25 June OCM 2024**

**CARRIED 7/2**

**(Against: Crs. Youngman, McManus)**

That Council

1. Designates the Governance Support Officer position as a Senior Designated Employee position under the Local Government Act 1995 (WA) (LG Act) s. 5.37.
2. A Designated Senior Employee means Council makes the decisions about any employment, dismissal, reappointment, renewal or extension of the current Governance Support Officer however that position is subsequently described; and to all designated senior employee contracts.

Justification

1. A local government is required to employ a CEO and other necessary persons: LG Act s.5.36
2. **Only Council is authorised to**,
   1. decide the administration structure: LG Act s.5.2.
   2. employ a CEO: LG Act s.5.36(1)(a)
   3. decide, which persons - other than a CEO - are necessary employees: LG Act s.5.36(1)(b)
   4. decide the City of Nedlands Workforce Plan: LG Act s.5.56(2) & Admin Regs Reg 19DA(6) & Admin Regs Reg 19DA(3)(c)
   5. decide which employees are employed as Council decides: LG Act s.5.37.
3. The CEO’s function to employ, re-employ or dismiss employees on behalf of Council under the CEO LG Act s.5.41(g) functions, is subject to any Council decisions made under LG Act s.5.37 see LG Act s.5.41(g)and s.5.37, and the opinion of Greg McIntyre SC attached to this NoM as to the ambit of LG Act s.5.37.
4. The Governance Support Officer role is a crucial role necessary to both collate Agendas and accurately prepare Minutes as is required under the LGA.
5. This key fundamental function of the Nedlands Local Government, and the appointed person needs to work closely with the CEO and the other Directors to receive reports and to efficiently drive the work of the Administration and Council.

It is appropriate for Council to decide who is appointed to this position, as the LG Act authorises and empowers it to do.

**Administration Comment**

1. The following is preliminary comment. The Governance Support Officer is predominantly responsible for the taking of minutes within the Council Chamber and the collation of the agenda. It is an administrative role (Level 4) and reports to the Coordinator Governance and Risk. It is not a direct report to the CEO.

2. Administration is unable to comment on Greg McIntyre SC opinion as it was not attached to the Notice of Motion.

3. All agendas and minutes are reviewed by members of the Executive and the Acting CEO to ensure accuracy of the content. Reports are reviewed by the executive team, and again by senior officers (not the proposed Governance Officer) prior to the Agenda Forum. The Governance Officer is not the individual who signs off on the minutes, it is the CEO, in this instance, the Acting CEO, with input from senior officers.

4. While the term senior employee is not defined in the Act, it generally refers in practice to a member of the executive. Other jurisdictions such as Victoria define a senior employee as -

A Senior Officer is defined by section 3 of the 1989 LG Act as:

• the Chief Executive Officer;

• a member of Council Staff who has management responsibilities and reports directly to the Chief Executive Officer;

• any other member of Council staff whose total remuneration exceeds the threshold set by the relevant minster (currently $151,000).

5. None of those are relevant in this instance. In this instance, the City of Nedlands would be placing rather onerous restriction on an administrative role, treating the position differently to any other administrative role. The officer would be required to complete a primary and annual return, and be subject to legislation outside of the Enterprise Agreement, by nature of the designation.

6. It is the understanding of the Administration that clause 2 of the proposed NOM is incorrect. Councillors should be aware of s. 5.41(g) and the function of the CEO to - be responsible for the employment, management supervision, direction, and dismissal of other employees (subject to section 5.37(2) in relation to senior employees). The subject to s. 5.37(2) refers to –

The CEO is to inform the council of each proposal to employ or dismiss a senior employee, other than a senior employee referred to in section 5.39(1a), and the council may accept or reject the CEO’s recommendation but if the council rejects a recommendation, it is to inform the CEO of the reasons for it doing so.

7. It should be noted that s. 5.37(2) does not prevent the CEO from actually employing or dismissing the senior employee, it only requires the CEO to inform the Council of the intention to do so. Council may accept or reject the CEO’s recommendation, but the section does abrogate the ability for the CEO to actually be responsible for the employment and dismissal of all employees.

8. Reference is made to the DLGSC FAQ on section 5.37(2) –

Section 5.37(2) – Senior Designated Employees

Q: What happens if a council rejects the recommendation of the local government’s CEO for the employment or dismissal of a designated senior employee under s. 5.37 of the Act?

Section 5.37(2) of the Act states that the CEO must inform the council of any proposal to employ or dismiss a designated senior employee. The council can then accept or reject the CEO’s recommendation, but if it rejects the recommendation, it must give reasons. It is then up to the CEO to assess the reasons given and decide what action to take.

Section 5.36(3) requires that the CEO be satisfied that other employees are suitably qualified for their positions, while section 5.41(g) gives authority to the CEO to supervise all other employees, including designated senior employees. It is therefore beyond the power of the council to reject the CEO’s recommendation to employ or dismiss a designated senior employee for the reasons of qualification or performance, as the Act gives these functions to the CEO.

The council is therefore limited to certain principles, which are listed in section 5.40, when giving reasons for rejecting a recommendation of the CEO on these matters.

The requirement to inform the council does not apply to the renewal of a senior employee’s contract, as renewal is not a ‘proposal to employ or dismiss’ referred to in section 5.37(2).

LGA s5.37; s5.36(3); s5.40; s5.41(g).

# Urgent Business Approved By the Presiding Member or By Decision

The following items have been approved by the Presiding Member as urgent business for this meeting.

The Presiding Member brought forward Item 21.4.

## NOM15.04.24 – Staffing in the Interim Period to Commencement of New CEO

Moved – Councillor Amiry

Seconded – Councillor Cr Brackenridge

That council resolves that:

The acting CEO at the City of Nedlands does not recruit new employees, approve extensions or renewals to employee contracts lasting longer than 3 months except related to the Finance team. This resolution is to take effect immediately.

The Proposed Notice of Motion was withdrawn by Councillor Amiry



## ARC06.04.24 – Update from Independent Consultant – Mr Craig Ross

|  |  |
| --- | --- |
| **Meeting & Date** | Audit & Risk Committee Meeting - 8 April 2024  Council Meeting – 23 April 2024 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil. |
| **Report Author** | Craig Ross – Independent Consultant |
| **CEO** | Tony Free – Acting Chief Executive Officer |
| **Attachments** | 1. Progress Report 1 |

**Regulation 11(da) – Council agreed to allow the A/Chief Executive Officer to engage another contract staff member on a similar pro rata remuneration if there is concern that the work required cannot be completed in a timely manner.**

Moved - Councillor Hodsdon

Seconded - Councillor Youngman

That the Recommendation be adopted.

(Printed below for ease of reference)

Amendment

Moved - Councillor Youngman

Seconded - Councillor Bennett

Add a new clause 2, as follows:

**b. allows the A/Chief Executive Officer to engage another contract staff member on a similar pro rata remuneration if there is concern that the work required cannot be completed in a timely manner.**

**The AMENDMENT was PUT and was**

**CARRIED UNANIMOUSLY 9/-**

**The Amended Motion was PUT**

**Committee Recommendation / Council Resolution**

1. receive the report from the Independent Consultant;

**a. recommends that Council allows the A/Chief Executive Officer to engage another contract staff member on a similar pro rata remuneration if there is concern that the work required cannot be completed in a timely manner.**

**b. allows the A/Chief Executive Officer to engage another contract staff member on a similar pro rata remuneration if there is concern that the work required cannot be completed in a timely manner.**

1. notes the additional staff to be funded from anticipated underspend at the end of June 2024;
2. request the CEO to commence compiling the Asset Master File for updating in the OneCouncil fixed asset module; and
3. receives the extract of report from the Independent Consultant, and requests that future reports from the independent consultant be provided to committee members in full as an attachment to the agendas.

**CARRIED UNANIMOUSLY 9/-**

**Purpose**

The Independent Consultant will be able to verbally present a report to the Audit and Risk Committee.

That Council

Adopts the following recommendations from the Audit and Risk Committee

1. receive the report from the Independent Consultant;
2. recommends that Council approve by simple majority the recruitment of a Fixed Assets Finance Officer, being one additional staff initially on a 3 month contract with a remuneration of up to a maximum of $40,000. The role is to support the Manager Financial Services to compile the City’s Asset Register as per audit requirements, including migration to the One Council fixed asset module, preparing monthly fixed asset reconciliations, capitalisation of capital works and posting end of month depreciation values and other duties as defined by the Manager Financial Services;
3. notes the additional staff to be funded from anticipated underspend at the end of June 2024;
4. request the CEO to commence compiling the Asset Master File for updating in the OneCouncil fixed asset module; and
5. receives the extract of report from the Independent Consultant, and requests that future reports from the independent consultant be provided to committee members in full as an attachment to the agendas.

Recommendation

That the Audit and Risk Committee receive the report from the Independent Consultant.

**Voting Requirement**

Simple Majority.

**Background**

The City of Nedlands received a disclaimer of opinion from the Office of the Auditor General (OAG) in relation to the annual financial report for the year ended 30 June 2023.

Following Special Council Meetings on 11 March 2024 and 20 March 2024 it was agreed to appoint an independent consultant to review the findings identified by the OAG for the year ended 30 June 2023, report on actions to address the findings and the remediation responses, assist the City of Nedlands to implement actions to preclude a disclaimer of opinion for the year ending 30 June 2024, and plan to obtain an unqualified opinion in subsequent years.

**Discussion**

**Progress work to date (3 April to 5 April 2024)**

1. Review work commenced 3 April 2024
2. Full cooperation from all executive staff, finance and administrative staff and access provided to OneCouncil and Sharepoint
3. Preliminary information gathering stage including brief overview discussions to assess the remediation status of significant external audit findings identified during the year ended 30 June 2023
4. Preliminary walkthrough of the newly established end-of-month balance sheet reconciliation and review process
5. Preliminary discussions with Technical Services and Financial Services staff on the progress to create an Asset “Master File” from the multiple asset registers currently maintained. Refer to the priority recommendations in item 8 below for immediate Audit & Risk Committee consideration. For further background refer to ARC04.02.23 Internal Audit Asset Management Review presented at the Audit & Risk Committee meeting on 20 February 2023.

**Other matters**

1. Manager Financial Services commenced 25 March 2024 and has introduced a structured monthly balance sheet reconciliation process and enhanced other control processes which will be further formalised in April 2024
2. The audit plan for the year ending 30 June 2024 from the external auditor has not yet been discussed including scheduling of audit fieldwork visit dates and expectations around the restatement of 30 June 2023 balances which will impact the audit opinion. In order to maximise audit readiness and preparation of underlying records it is recommended the scheduling of any audit fieldwork visits and milestone dates be appropriately considered to allow the Manager Financial Services to further embed and strengthen control processes or reallocate a longer audit fieldwork visit subsequent to 30 June 2024.

**Priority recommendation for immediate Audit & Risk Committee consideration**

1. Given the significance of the Property, Plant & Equipment and Infrastructure balances and the associated depreciation expense in the financial report, and the potential impact on the audit opinion for the year ending 30 June 2024 the matter below is noted for the immediate consideration of the Audit & Risk Committee.

|  |  |  |
| --- | --- | --- |
| **External audit findings identified 30 June 2023** | **Summary of findings** | **Recommendations** |
| **Item 1 of 25** Inadequate review of external valuations  **Item 2 of 25**  Lack of controls regarding Property, Plant & Equipment, and Infrastructure process | The City maintains multiple different asset registers, the first for the financial records and the second register is for the operations and maintenance records.  The data in these registers do not match each other in the level of asset component details, location, asset unique ID, asset cost, etc. As a result, the infrastructure valuation as at 30 June 2023 was materially misstated due to these misalignment errors.  Currently reconciliations of the fixed asset register to the general ledger are not being undertaken, additions of fixed assets have not yet been fully processed during the prior year and the current year. Significant variances also exist between the external valuation listing of infrastructure performed at 30 June 2023 and the fixed asset records. | Immediate consideration be given to obtaining an additional dedicated staff resource and formulating a task group including redirection of staff priorities in Technical Services and Financial Services to commence compiling the Asset “Master File” for updating in the OneCouncil fixed asset module.  Commence monthly reconciliations of the asset register to the general ledger including movement summaries and review variances identified in the external valuation reports. |

**Consultation**

Not applicable.

**Strategic Implications**

This item is strategically aligned to the City of Nedlands Council Plan 2023-33 vision and desired outcomes as follows:

**Vision Sustainable and responsible for a bright future**

**Pillar** Performance

**Outcome** 11. Effective leadership and governance

**Budget/Financial Implications**

There are no budget or financial implications in this report.

**Legislative and Policy Implications**

Not applicable.

**Decision Implications**

Council is requested to endorse the Committee’s recommendation. Should Council not support the recommendation, the appointment of an additional Assets Officer will not be progressed.

**Conclusion**

The recommendation of the Committee is presented for Council’s consideration.

**Further Information**

Not Applicable.

## NOM16.04.24 Proposed response to the correspondence received from Executive Director at Department of Local Government

Item 21.5 was approved by Mayor Argyle as Urgent Business

Moved – Councillor Amiry

Seconded – Councillor Coghlan

**to be considered as confidential business**

**CARRIED 6/3**

**(Against: Crs. Amiry, Brackenridge, Coghlan)**

Moved – Councillor Brackenridge

Seconded – Councillor Hodsdon

**To close the meeting**

**CARRIED UNANIMOUSLY 9/-**

The meeting was closed to discuss confidential items at 10.20 pm

## ARC07.04.24 – Consideration of Future Meetings Schedule

|  |  |
| --- | --- |
| **Meeting & Date** | Audit & Risk Committee Meeting - 8 April 2024  Council Meeting – 23 April 2024 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil. |
| **Report Author** | Michael Cole Director Corporate Services |
| **Director** | Michael Cole Director Corporate Services |
| **Attachments** | Nil. |

Moved - Councillor Cr Youngman

Seconded – Councillor Cr Coghlan

**That the Recommendation be adopted.**

(Printed below for ease of reference)

**Council Resolution**

**That the Audit and Risk Committee recommends that Council endorse the following additional meetings of the Audit and Risk Committee for 2024:**

**• Monday 22 April 2024**

**• Monday 6 May 2024**

**• Monday 20 May 2024 (as per original schedule)**

**• Wednesday 5 June 2024**

**• Monday 17 June 2024; and**

**• Monday 1 July 2024**

**CARRIED EN BLOC 8/1**

**(Against Cr. Bennett)**

**Purpose**

The purpose of this report is to consider and agree to meetings of the Audit and Risk Committee over the next three months.

Revised Officer Recommendation

That the Audit and Risk Committee recommends that Council endorse the following additional meetings of the Audit and Risk Committee for 2024:

• Monday 22 April 2024

• Monday 6 May 2024

• Monday 20 May 2024 (as per original schedule)

• Wednesday 5 June 2024

• Monday 17 June 2024; and

• Monday 1 July 2024

Committee Recommendation / Recommendation

That the Audit and Risk Committee recommends that Council endorse the following additional meetings of the Audit and Risk Committee for 2024:

• Monday 22 April 2024

• Monday 6 May 2024

• Monday 20 May 2024 (as per original schedule)

• Monday 3 June 2024

• Monday 17 June 2024; and

• Monday 1 July 2024

**Voting Requirement**

Simple Majority.

**Background**

Meetings of the Audit and Risk Committee for 2024 have been published. The Committee was scheduled to meet on the following dates:

* Monday 19 February 2024
* Monday 20 May 2024
* Monday 19 August 2024 and
* Monday 18 November 2024

Following Council’s decision of 20 March 2024, fortnightly meetings with the Independent Consultant were requested.

**Discussion**

This meeting is the first meeting to allow the Independent Consultant Mr Craig Ross to meet with the Committee and provide an update. The following dates are proposed for the next three months:

* Monday 22 April 2024
* Monday 6 May 2024
* Monday 20 May 2024 (as per original schedule)
* Monday 3 June 2024
* Monday 17 June 2024; and
* Monday 1 July 2024

**Consultation**

Not applicable.

**Strategic Implications**

This item is strategically aligned to the City of Nedlands Council Plan 2023-33 vision and desired outcomes as follows:

**Vision Sustainable and responsible for a bright future**

**Pillar** Performance

**Outcome** 11. Effective leadership and governance.

**Budget/Financial Implications**

The additional meetings will incur a $300 meeting fee for each of the Community Members of the Committee. The additional cost of $3,000 which can be accommodated within the existing Budget.

**Legislative and Policy Implications**

Under Regulation 12(2) of the Local Government (Administration) Regulations 1996 the CEO must publish before the beginning of the year in which the meetings are to be held meeting details for ordinary council meetings and committee meetings that are required under the Local Government Act to be open to the members of the public

Regulation 12(3) requires any change to the meeting details to be published as soon as practicable after the change.

**Decision Implications**

The Council is requested to consider the proposed meeting schedule.

**Conclusion**

Proposed meetings dates of the Audit and Risk Committee for the next three months are submitted for the Committee’s consideration.

**Further Information**

Following the Audit and Risk Committee meeting it was brought to our attention that one of the proposed dates falls on the Western Australia Day public holiday on the 3 June and therefore need to reschedule the date for that meeting. The newly proposed date is Wednesday 5 June 2024. Please see below for revised officer recommendation.

**Revised officer recommendation**

**That the Audit and Risk Committee recommends that Council endorse the following additional meetings of the Audit and Risk Committee for 2024:**

**• Monday 22 April 2024**

**• Monday 6 May 2024**

**• Monday 20 May 2024 (as per original schedule)**

**• Wednesday 5 June 2024**

**• Monday 17 June 2024; and**

**• Monday 1 July 2024**

## PD30.04.24 – 1A (Lot 2) Thomas Street, Nedlands – 29 Multiple Dwellings

|  |  |
| --- | --- |
| **Meeting & Date** | Council Meeting – 23 April 2023 |
| **Applicant** | RAD Architecture |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | The author, reviewers and authoriser of this report declare they have no financial or impartiality interest with this matter. There is no financial or personal relationship between City staff involved in the preparation of this report and the proponents or their consultants. |
| **Report Author** | Nathan Blumenthal – A/Manager Urban Planning |
| **Director** | Roy Winslow – A/Director Planning and Development |
| **Attachments** | 1. Responsible Authority Report and Attachments |

Moved - Councillor Cr Youngman

Seconded – Councillor Cr Coghlan

**That the Recommendation be adopted.**

(Printed below for ease of reference)

**Council Resolution/Recommendation**

**Adopts as the Responsible Authority the Officer Recommendation contained in the Responsible Authority Report for the development of 29 multiple dwellings at 1A (Lot 2) Thomas Street, Nedlands as follows:**

**It is recommended that the Metro Inner DAP resolves to:**

1. **Defer DAP Application reference DAP/24/02627 and accompanying plans (attachment 2) for 120 days in accordance with Clause 68 of Schedule 2 (Deemed Provisions) of the Planning and Development (Local Planning Schemes) Regulations 2015, and the provisions of City of Nedlands Local Planning Scheme No. 3, to address the following matters:**
2. Reduce the building height and plot ratio to make the scale of development more consistent with the desired future scale of the area.
3. Amend the vehicle access ramps to meet AS/NZS 2890.1, thereby reducing vehicle conflicts with cyclists and pedestrians.

**CARRIED EN BLOC 8/1**

**(Against Cr. Bennett)**

**Purpose**

The purpose of this report is for Council to consider the Development Assessment Panel (DAP) application for the development of 29 multiple dwellings at 1A Thomas Street, Nedlands.

Council is requested to make its recommendation to the Metro Inner Development Assessment Panel as the Responsible Authority. Council’s recommendation will be incorporated into the Responsible Authority Report and lodged with the DAP Secretariat on 26 April 2024.

It is recommended that Council adopt the Officer Recommendation to defer the application to allow the proponent to reduce the scale of the development and improve vehicle access safety.

Recommendation

Adopts as the Responsible Authority the Officer Recommendation contained in the Responsible Authority Report for the development of 29 multiple dwellings at 1A (Lot 2) Thomas Street, Nedlands as follows:

It is recommended that the Metro Inner DAP resolves to:

1. Defer DAP Application reference DAP/24/02627 and accompanying plans (attachment 2) for 120 days in accordance with Clause 68 of Schedule 2 (Deemed Provisions) of the Planning and Development (Local Planning Schemes) Regulations 2015, and the provisions of City of Nedlands Local Planning Scheme No. 3, to address the following matters:
2. Reduce the building height and plot ratio to make the scale of development more consistent with the desired future scale of the area.
3. Amend the vehicle access ramps to meet AS/NZS 2890.1, thereby reducing vehicle conflicts with cyclists and pedestrians.

**Voting Requirement**

Simple Majority.

**Background**

**Land Details**

|  |  |
| --- | --- |
| **Metropolitan Region Scheme Zone** | Urban |
| **Local Planning Scheme Zone** | Mixed Use |
| **R-Code** | R-AC1 |
| **Land area** | 1,014m2 |
| **Land Use** | Residential |
| **Use Class** | ‘P’ – Permitted Use |

The application is for 29 multiple dwellings at 1A Thomas Street, Nedlands.

A aerial view of a neighborhood

Description automatically generated

Figure 1: Aerial image

**Discussion**

**Assessment of Statutory Provisions**

The proposal has been assessed against all relevant legislative requirements including Local Planning Scheme No.3 (LPS3), Residential Design Codes Volume 2 – Apartments (R-Codes Volume 2) and Local Planning Policies. The matters below have been identified as key considerations for the determination of this application.

* Building Height
* Street Setback
* Plot Ratio
* Tree Canopy and Deep Soil
* Visual Privacy
* Energy Efficiency

While the majority of the above elements have been successfully addressed (refer to **Attachment 1**), City Officers are not supportive of the proposed building height and plot ratio. The NSHAC Strategy sets out a maximum height of 8 storeys, with the R-Codes setting out an Acceptable Outcome for plot ratio of 3.0. The development proposes 11 storeys and a plot ratio of 3.85. The combination of the height and the plot ratio demonstrates that the building exceeds the bulk and scale desired within the NSHAC Strategy.

City Officers also have concerns that the vehicle access ramp is inadequate and should be redesigned to meet the gradient requirements of AS/NZS 2890.1 to reduce conflicts between vehicles and pedestrians. Such a redesign may require altering some floor levels.

Refer to the Responsible Authority Report (RAR) in **Attachment 1** for a full discussion.

**Design Review Panel**

The development was reviewed by the City’s Design Review Panel (DRP) on two occasions. A summary of the Panel’s evaluation of the proposal at each stage of the review process is provided below.

|  |  |  |
| --- | --- | --- |
| **DRP Design Quality Evaluation** | | |
|  | Supported | |
|  | Further Information / Condition Required | |
|  | Not supported | |
| SPP 7.0 Principles | 22 January 2024 | 8 April 2024 |
| 1. Context and Character |  |  |
| 1. Landscape Quality |  |  |
| 1. Built Form and Scale |  |  |
| 1. Functionality and Built Quality |  |  |
| 1. Sustainability |  |  |
| 1. Amenity |  |  |
| 1. Legibility |  |  |
| 1. Safety |  |  |
| 1. Community |  |  |
| 1. Aesthetics |  |  |

**Consultation**

**Public Consultation**

In accordance with the City’s Local Planning Policy 7.3 Consultation of Planning Proposals (LPP 7.3), the development application was advertised for a period of 28 days, from 19 January 2024 to 16 February 2024.

At the close of the advertising period, the City received 20 submissions, 11 in support and nine objecting to the proposal. Key concerns are summarised as follows:

|  |  |
| --- | --- |
| **Table 1: Public Consultation** | |
| **Issue Raised** | **Officer Comment** |
| Height | Height is not supported by officers as it is inconsistent with the desired future scale of the area. |
| Plot Ratio | Plot ratio is not supported by officers as it is inconsistent with the desired future scale of the area. |
| Traffic | The local road network is considered capable of accommodating the increase in traffic expected as a result of the development proposed without adversely impacting safety. Officers have concerns over the gradient of traffic ramps within the development. |
| Visual Privacy | Visual privacy can be supported subject to conditions of any approval requiring slight modifications. |
| Overshadowing | The proposal is considered to meet the Objectives of *Element 3.2 Orientation* except with regard to overshadowing to properties related to the height of the development*.* The building is sited centrally to the lot with a larger rear setback and areas of landscaping abutting the north, south and west boundaries. The siting and landscaping allow areas of buffer to the existing single houses to the north and south. Notwithstanding that the southern site is also zoned R-AC1 where a ‘nil’ requirement prevails, the building allows sunlight to the front and rear yards during midwinter. |
| Lack of landscaping | Amended landscaping plans have been submitted to increase the amount of landscaping and deep soil on site. The proposal has been supported (green) by the City’s Design Review Panel in relation to Design Principle 2 ‘Landscape Quality’. |
| Concerns with construction management | In the event of approval, a Construction Management Plan will be required to be provided to and approved by the City prior to the issue of a building permit. This will address any construction related issues including but not limited to parking, dust, and noise. |
| Sustainability | The development achieves the R-Codes acceptable outcome by the lowest performing apartment achieving a NaTHERS rating of 6.5 stars and the overall development achieving an average of 7.5 stars. In addition, the development proposes a 25kW Solar PV system, installation of infrastructure to allow for future installation of EV charging stations, water efficient water fixtures, and products for internal finishes with low volatile organic compounds (VOC) and formaldehyde ratings. |

These matters have been addressed within the RAR. All submissions on this proposal have been given due regard in this assessment in accordance with Clause 67(y) of the Planning and Development (Local Planning Schemes Regulations) 2015.

It is acknowledged that the City of Nedlands owns in freehold an adjoining site. Separate to the planning assessment, from a landowners perspective its considered that the proposed development at 1A Thomas Street will have minimal impact on the City’s buildings behind it for the following reasons:

* The building is located centrally to the site and the rear setbacks exceed the acceptable outcomes.
* There is a 6m rear setback to the podium level, which is devoted primarily to deep soil areas and with medium sized trees proposed near the rear boundary.
* Floors above the podium level are set back 9m from the rear boundary.
* Rear setbacks meet or exceed Acceptable Outcomes for visual privacy to the rear in the event future residential development is proposed.

**Strategic Implications**

This item is strategically aligned to the City of Nedlands Council Plan 2023-33 vision and desired outcomes as follows:

**Vision Sustainable and responsible for a bright future**

**Pillar Place**

**Outcome** 6. Sustainable population growth with responsible urban planning.

**Budget/Financial Implications**

Nil

**Legislative and Policy Implications**

Council is requested to make a recommendation to the DAP in accordance with Regulation 12 of the [Planning and Development (Development Assessment Panels) Regulations 2011](https://www.legislation.wa.gov.au/legislation/prod/filestore.nsf/FileURL/mrdoc_46883.pdf/$FILE/Planning%20and%20Development%20(Development%20Assessment%20Panels)%20Regulations%202011%20-%20%5B00-t0-00%5D.pdf?OpenElement). Council may recommend to approve, refuse or defer the application.

**Decision Implications**

Council’s recommendation will be incorporated into the Responsible Authority Report (RAR) and lodged with the DAP Secretariat on or before 26 April 2023. The recommendation noted above is the officer recommendation that is also included in the RAR. In the event that Council does not adopt the officer recommendation, Council’s recommendation will be located at the front of the RAR as the Responsible Authority Recommendation and the officer recommendation will be contained in the rear of the report. In the event that Council does not make a recommendation, the RAR will be forwarded to DAP on 26 April 2024 with the Officer Recommendation only.

**Conclusion**

Council is requested to consider the proposed development as the Responsible Authority. It is requested that Council makes a recommendation to the DAP to either approve, refuse or defer the application.

The application for an 11 storey multiple dwellings development is not consistent with the City’s current planning framework, particularly the NSHAC Strategy, in regard to building height and plot ratio and requires modifications before it can be supported. There are also vehicle access and safety issues relating to the gradient of the vehicle ramps not meeting Australian Standards. All other Element Objectives of the R-Codes have been addressed satisfactorily.

For the above reasons, it is recommended Council adopt the Officer Recommendation contained in the RAR to defer the application to allow the proponent to address bulk, scale, and vehicle access issues.

**Further Information**

Nil

## NOM17.04.24 Audit and Risk Committee

This Item was considered at Item 18.4.

# Confidential Items

Confidential items were discussed at this point.



## CEO11.04.24 - Confidential Final Determination Report (7344/23)

A confidential report was circulated to Council Members separately.

Councillor Youngman requested to remain in the room.

In accordance 5.68 Councillor Youngman was allowed to remain in the room and vote on the item. Council considered the request and voted.

Moved – Councillor Smyth

Seconded – Councillor Bennett

**CARRIED 5/4**

**(Against: Mayor Argyle, Cr Coghlan, Cr Brackenridge, Cr Amity)**

## CEO12.04.24 - Confidential Request for Legal Representation

A confidential report was circulated to Council Members separately.

# Declaration of Closure

There being no further business, the Presiding Member will declare the meeting closed at 11.17pm.