



Enquiries: Mr Mark Goodlet on 9273 3500
Our Reference: Petition No. 109

13 May 2019

Hon Matthew Swinbourn MLC
Parliament House
4 Harvest Terrace
WEST PERTH WA 6005

Dear Mr Swinbourn,

RE: Petition No. 109 – Nedlands Draft Local Planning Scheme No. 3

I refer to your letter dated 9 May 2019. To assist in your inquiries into the petition and the submissions of the principal petitioner I can offer the following comments.

A key request of the petitioner is that the Nedlands Local Planning Scheme No. 3 (LPS3) is rejected however as you may be aware the Nedlands LPS3 was gazetted on 16 April 2019.

The other submissions raised by the petitioner cover various Planning Scheme matters along with other matters not capable of being addressed through a local planning scheme. To assist I have attached a copy of a letter to the Nedlands community from the Mayor of Nedlands which represents the Council's view of the draft LPS3 (prior to gazettal) and addresses many of the issues raised by the petitioner.

I trust this information assists with your enquiry.

Yours sincerely

Mark Goodlet
Chief Executive Officer

Local Planning Scheme 3 Modifications Directed by Minister

Mayor's message

Dear Residents and Ratepayers

I write to you about the new planning scheme for the City of Nedlands (Local Planning Scheme 3) now finalised in accordance with the directions of the State Minister for Planning, the Hon Rita Saffioti, MLA.

Background

The City of Nedlands' current Town Planning Scheme No. 2 (TPS2) was gazetted in 1985. This scheme was amended as required to keep pace with changing needs.

The *Planning and Development Act 2005* requires the review of local planning schemes after five years of operation. Review of TPS2 occurred several times over the years and draft new schemes were prepared on more than one occasion. However, for various reasons, these schemes did not proceed.

Preparation of the new planning scheme in its present form began in 2014, commencing with data collection for the Local Planning Strategy. The starting point was *Directions 2031*, released by the WA Government in 2010, which specified the City of Nedlands had to accommodate an additional 2,540 dwelling units by 2031. The target was subsequently extended to 4,400 units by 2050, which the City accepted as its contribution to accommodate higher density.

The completed Strategy was advertised early in 2016, attracting 122 written submissions, which were generally supportive. It was adopted by Council in September 2016 although not accepted by the Western Australian Planning Commission (WAPC) until September 2017. In the meantime the City prepared a draft Local Planning Scheme No. 3 (LPS3), which was adopted by Council in December 2016 and forwarded to the WAPC for approval to advertise.

The WAPC gave consent for the scheme to be advertised in October 2017, after designating additional areas for higher density development. This allowed for around 9,000 extra dwelling units in the City of Nedlands, more than currently existed and double that specified in the Local Planning Strategy. The advertising resulted in over 1,000 submissions, mostly objections. Following analysis of submissions, Council staff proposed a compromise draft LPS3, providing for an extra 6,500 dwellings.

At a Special Meeting in July 2018 Council resolved not to support the compromise draft and to seek negotiations with the WAPC. However when the Chairman of the WAPC met with the Council in August 2018, he made it clear that LPS3 would be finalised without further reference to Council, in accordance with the *Planning and Development Act 2005*.

Minister's Directions

The Mayor and staff were invited to the Minister's office on 29 January 2019, where they were presented with directions from the Minister to amend the advertised Scheme Maps of LPS3. Notice had been taken of some submissions as the modifications reduced the areas affected by density increases adjacent to Stirling Highway and elsewhere. However in most areas the density increases that were advertised were retained and in some cases, further increased. It was stated that minor changes to the Minister's directions were not possible and the modified scheme would not be further advertised for public submissions. When the Minister's directions were formally received by the City it was found that there were also significant changes to the Scheme Text, contained in an 18-page Schedule of Modifications. The City had 42 days to make the specified modifications and respond to the Minister.

Within a week of the City receiving the Minister's directions, the map illustrating densities was up-dated and alterations to the schedule to correct errors were foreshadowed by City staff. There was also confusion over whether the Minister's directions were confidential. At the Ordinary Council Meeting of 26 February 2019 the Council approved a motion querying with the Minister the time limit for responding to the directions and stating that the City will make public all documents relating to LPS3.

It took the City's administration time to resolve queries and finalise changes related to the directions. Elected Members had two working days to digest the revised scheme documents prior to the Special Council Meeting on 12 March 2019, where the staff recommendation was to sign off the documents. It was not necessary for Council to endorse the changes but a Special Council meeting was considered desirable to provide an opportunity for discussion.

Legal advice was that the Minister's directions had to be followed. However, there were still issues with the documents and the Special Council meeting of 12 March 2019 approved a motion that the documents be forwarded to the Minister without endorsement. Under the circumstances, I was reluctant to sign. The documents were subsequently signed off by the City's Chief Executive Officer and Deputy Mayor under protest in order to meet the deadline set by the Minister.

Analysis of the Minister's directions revealed that in comparison with the target of additional dwelling units in the strategy of 4,400 and in the advertised plan of 9,000, the Minister's modified plan, although it reduced densities somewhat, would still accommodate 7,500 additional units. The WAPC has said the modified plan assumes 4,500 additional dwellings if 30% of lots were developed by 2050, but the potential if all were developed is 15,000 additional units.

There remain many unresolved issues in the Minister's directions. There are inconsistencies between the Scheme Text and the Scheme Map. Small lots are unsuitable for higher density and there will be inevitable conflicts of scale in areas of single family homes on the fringe of R-AC1 zoning adjacent to Stirling Highway, where height limits do not apply. There will also be conflicts of use in mixed residential and commercial zones and a serious exacerbation of traffic problems on Stirling Highway according to Main Roads WA. Unless there are restrictions on non-residential uses along Stirling Highway, Hampden Road and Broadway, the City is also unlikely to meet its population target.

Despite these and other issues, gazettal of the new scheme is expected in the next few months and it will become law. Details are available at:

<https://yourvoice.nedlands.wa.gov.au/local-planning-scheme-No-3>

The Minister's scheme is not based on the needs and aspirations of residents and ratepayers of the City of Nedlands. Instead, it is focused on achieving higher density with scant consideration of the issues and options raised in the many responses to the original LPS3 consultation. Sadly, many residents and ratepayers will be worse off as a result of the Minister's directions, an outcome that the Council was seeking to avoid.

What next?

To address some of the issues identified above the Minister has announced that the Government will undertake integrated land use and transport planning for the full length of Stirling Highway. City staff have been working to prepare supplementary plans and policies to support the new scheme. The Chairman of the WAPC has said that any deficiencies in LPS3 can be rectified later by way of amendments to the gazetted scheme. It is possible that some concerns can be mitigated through this process.

The City has prepared a communications programme to inform all residents and ratepayers of what is in the new WA government-directed planning scheme. This programme of information will commence once the new planning scheme has been gazetted.

Max Hipkins
Mayor, City of Nedlands
30 March 2019