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**Agenda**

**Council Committee Meeting**

**7 December 2021**

Dear Council Member

The next meeting of the Council Committee will be held on Tuesday 7 December 2021 in the Council Chamber at the City of Nedlands located at 71 Stirling Highway, Nedlands and livestreamed commencing at 7.00pm.

Please be aware that any COVID-19 restrictions relevant at the time of meeting will apply. Once the venue is at capacity no further admission into the room will be permitted. Prior to entry, attendees will be required to register using the SafeWA App or by completing the manual contact register prior to entry - as stipulated by Department of Health mandatory requirements.

The public can participate by submitting questions and addresses via the required online submission forms at:

<http://www.nedlands.wa.gov.au/intention-address-council-or-council-committee-form>

<http://www.nedlands.wa.gov.au/public-question-time>



Bill Parker

Chief Executive Officer

2 December 2021

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**City of Nedlands**

**Notice of a meeting of the Council Committee to be held in the Council Chambers, 71 Stirling Highway, Nedlands on Tuesday 7 December 2021 at 7 pm. The meeting will be livestreamed.**

###### Council Committee Agenda

# Declaration of Opening

The Presiding Member will declare the meeting open at 7 pm and will draw attention to the disclaimer below.

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

**Leave of Absence** Nil.

**(Previously Approved)**

**Apologies** None as at distribution of this agenda.

**Disclaimer**

Members of the public who attend Council meetings should not act immediately on anything they hear at the meetings, without first seeking clarification of Council’s position. For example, by reference to the confirmed Minutes of Council meeting. Members of the public are also advised to wait for written advice from the Council prior to taking action on any matter that they may have before Council.

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

# Public Question Time

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

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

# Addresses By Members of the Public (only for items listed on the agenda)

Addresses by members of the public who have completed Public Address Session Forms will be invited to be made as each item relating to their address is discussed by the Committee.

# Disclosures of Financial and/or Proximity Interest

The Presiding Member to remind Council Members and Employees of the requirements of Section 5.65 of the *Local Government Act* to disclose any interest during the meeting when the matter is discussed.

A declaration under this section requires that the nature of the interest must be disclosed. Consequently, a member who has made a declaration must not preside, participate in, or be present during any discussion or decision-making procedure relating to the matter the subject of the declaration.

However, other Council Members may allow participation of the declarant if the Council Member further discloses the extent of the interest. Any such declarant who wishes to participate in the meeting on the matter, shall leave the meeting, after making their declaration and request to participate, while other Council Members consider and decide upon whether the interest is trivial or insignificant or is common to a significant number of electors or ratepayers.

# Disclosures of Interests Affecting Impartiality

The Presiding Member to remind Council Members and Employees of the requirements of Council’s Code of Conduct in accordance with Section 5.103 of the *Local Government Act*.

Council Members and Employees 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.

The following pro forma declaration is provided to assist in making the disclosure.

"With regard to the matter in item x ….. I disclose that I have an association with the applicant (or person seeking a decision). This association is ….. (nature of the interest).

As a consequence, there may be a perception that my impartiality on the matter may be affected. I declare that I will consider this matter on its merits and vote accordingly."

The Council Member or employee is encouraged to disclose the nature of the association.

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

Council Members who have not read the business papers to make declarations at this point.

# Confirmation of Minutes

## Committee Meeting 9 November 2021

The Minutes of the Council Committee held 9 November 2021 are to be confirmed.

# Matters for Which the Meeting May Be Closed

In accordance with Standing Orders and for the convenience of the public, the Committee is to identify any matter which is to be discussed behind closed doors at this meeting and that matter is to be deferred for consideration as the last item of this meeting.

# Divisional Reports

Note: Regulation 11(da) of the *Local Government (Administration) Regulations 1996* requires written reasons for each decision made at the meeting that is significantly different from the relevant written recommendation of a committee or an employee as defined in section 5.70, but not a decision to only note the matter or to return the recommendation for further consideration.

## Planning & Development Report No’s PD40.21 to PD47.21

Planning & Development Report No’s PD40.21 to PD47.21 to be dealt with at this point (copy attached yellow cover sheet).

PD40.21 Tree Retention and Provision on Private Land - Scheme Amendment and Local Planning Policy

PD41.21 Consideration of Submissions on Draft Local Planning Policy – Existing Laneway Requirements

PD42.21 Consideration of Development Application – Two Grouped Dwellings at 31 and 31A Robinson Street, Nedlands

PD43.21 Consideration of Street Tree Removal at 96 Webster Street, Nedlands

PD44.21 Consideration of Development Application (Digital Roof Sign) at 178 Stirling Highway, Nedlands

PD45.21 Consideration of Development Application – Additions to Single House at 86 Watkins Road, Dalkeith

PD46.21 Consideration of Development Application – Additions and Alterations to an Existing Single House at 6 Walpole Street, Swanbourne

PD47.21 Consideration of Development Application - Single House at 15 Greenville Street, Swanbourne

## Corporate Strategy Report No’s CPS20.21 to CPS22.21

Corporate & Strategy Report No’s CPS20.21 to CPS22.21 to be dealt with at this point (copy attached green cover sheet).

CPS20.21 Update and New Lease for Floreat Community Pre-Kindy Inc

CPS21.21 Non-Exclusive Licence to Jeavons Pty Ltd

CPS22.21 List of Accounts Paid – November 2021

## Technical Services Report No’s TS12.21 – TS15.21

Technical Services Report No’s TS12.21 to TS15.21 be dealt with at this point (copy attached green cover sheet).

TS12.21 Introduction of Food Organic Green Organic (FOGO) bin service for Residential Properties

TS13.21 Hamilton Park Enviro-scape Master Plan

TS14.21 Perth Children’s Hospital Foundation Proposal to Fund Development of a Community Park

TS15.21 Project Deferral

# Reports by the Chief Executive Officer

## Consideration of Responsible Authority Report for 14 Multiple Dwellings, 7 Holiday Accommodation (Short Stay) and Café at 99 Broadway, Nedlands

|  |  |
| --- | --- |
| **Committee** | 7 December 2021 – Committee Meeting |
| **Applicant** | Planning Solutions |
| **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 and the proponents or their consultants. Whilst parties may be known to each other professionally, this relationship is consistent with the limitations placed on such relationships by the Codes of Conduct of the City and the Planning Institute of Australia*.* |
| **Director** | Tony Free - Director Planning & Development |
| **Attachments** | 1. Responsible Authority Report and Attachments |

**Executive Summary**

The purpose of this report is for Council to consider the Development Assessment Panel application that proposes 14 Multiple Dwellings, 7 Holiday Accommodation (short-stay dwellings) and a Café at 99 Broadway, Nedlands. Council is requested to make its recommendation to the Metro Inner-North Joint 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 9 December 2021.

Administration recommends Council adopt the Officer Recommendation for approval.

**Recommendation to Council**

**Council:**

1. **adopts as the Responsible Authority the Officer Recommendation contained in the Responsible Authority Report for the development of 14 Multiple Dwellings, 7 Holiday Accommodation, and a Café at 99 Broadway, Nedlands included at Attachment 1; and**
2. **instructs the CEO to incorporate Council’s Responsible Authority recommendation into the Responsible Authority Report for the development of 14 Multiple Dwellings, 7 Holiday Accommodation and a Café at 99 Broadway, Nedlands.**

**Application Details**

The application is for a proposed six storey multiple dwelling development, comprising 14 Multiple Dwellings, 7 Holiday Accommodation (short-stay dwellings) and a Café at Lot 541 (No.99) Broadway, Nedlands.

**Consultation**

In accordance with the deemed provisions and the City’s Local Planning Policy - Consultation of Planning Proposals, the development was advertised for a period of 28 days, from 8 October to 5 November 2021.

Public consultation consisted of:

* Letters sent to all landowners and occupiers within a 200m radius of the subject site;
* A sign on site was installed at the site’s street frontage;
* A notice was published on the City’s website with all documents relevant to the application made available for viewing during the advertising period;
* A notice was placed in *The Post* newspaper; and
* A social media post was made on one of the City’s Social Media platforms.

At the conclusion of the advertising period, the City received a total of 22 submissions, inclusive of 1 statement of support.

Amended plans for the proposal were submitted to the City on 16 November and 23 November 2021 that differ from the advertised plans in the following manner:

* Increased depth of soil zone at the rear to 2.2m in order to provide sufficient root area for small and medium sized trees at the rear of the property.
* Additional articulation provided to northern elevation increasing setback of Bedroom 1 on all levels from 2.1m to 3.1m.
* Re-locating the BBQ facilities within the communal space at the rear to be further away from apartment U3.
* Modifying the bathrooms of 5 units (U2 on levels 1-5) to achieve Silver Level requirements of the Liveable Housing Design Guidelines.
* Removing the bike racks from next to the vehicle entrance and replacing with fire cabinet and building utilities.

The amendments made are not considered to trigger the need for formal re-advertising of the proposal. However, the amended plans were made available for public inspection on the City’s Your Voice website with a summary of changes proposed.

The main concerns raised in the objections included, but are not limited to:

* Height;
* Parking;
* Traffic;
* Noise;
* Setbacks;
* Landscaping;
* Plot Ratio;
* Solar access; and
* Land use.

Each of these issues are discussed in the Responsible Authority Report. All submissions on this proposal have been given due regard in this assessment in accordance with clause 67(y) of *Planning and Development (Local Planning Schemes) Regulations 2015.*

**Design Review**

The development was presented to the City’s Design Review Panel (DRP) twice. A copy of the minutes from the meeting are contained in Attachment 1 – Design Review Panel Minutes. The application was assessed in accordance with State Planning Policy 7.0 – Design of the Built Environment (SPP 7.0). A summary of the two reviews is provided in the table below.

|  |  |
| --- | --- |
| 3 | *Supported* |
| 2 | *Supported with conditions / Further Information required* |
| 1 | *Not supported*  |
|  | Original8 June 2021 | Revised Plans 1 November 2021 |
| Principle 1 – Context & Character |  |  |
| Principle 2 – Landscape Quality  |  |  |
| Principle 3 – Built Form & Scale |  |  |
| Principle 4 – Functionality & Build Quality  |  |  |
| Principle 5 - Sustainability |  |  |
| Principle 6 – Amenity  |  |  |
| Principle 7 - Legibility |  |  |
| Principle 8 – Safety  |  |  |
| Principle 9 – Community  |  |  |
| Principle 10 – Aesthetics  |  |  |

Amended plans and justification were submitted on 16 November and 23 November 2021. This final set of amended plans and information was referred to the chair of the Design Review Panel, who provided the following comments:

“The proponent has responded positively and effectively to the comments and Recommendations of the DRP. In particular, they have redesigned the garage door to be more in keeping with the emerging streetscape and the neighbouring Julius Elischer office building.

Further they have positively engaged with all the other DRP comments and recommendations. For example, they have:

* Improved the privacy of neighbours by increasing window setbacks in bedrooms to meet the R Codes recommended distances
* Improved the relationship to neighbours by articulating the building mass along the north and south sides
* Improved the planning and amenity of the units internally
* Improved the quality of the circulation and communal spaces
* Provided satisfactory detailed written justifications in response to DRP suggestions

Having considered the revised proposal against the DRP Comments and Recommendations the DRP Chair believes the proposal is now supportable”

In relation to Principle 5 (Sustainability), an Environmental Sustainability Report is recommended as a condition of approval. The contents and recommendations of the report is to be implemented as recommended to the satisfaction of the City.

**Recommendation to JDAP**

Council’s recommendation will be incorporated into the Responsible Authority Report (RAR) and lodged with the DAP Secretariat on 9 December 2021. The following is the officer recommendation that is 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. The officer recommendation will be contained in the rear of the report.

**Officer Recommendation**

It is recommended that the Metro Inner-North Joint Development Assessment Panel resolves to:

**Approve** DAP Application reference DAP/21/02084 and accompanying plans date stamped 23 November 2021 (Attachment 1) in accordance with Clause 68 of Schedule 2 (Deemed Provisions) of the *Planning and Development (Local Planning Schemes) Regulations 2015* and the provisions of the City of Nedlands Local Planning Scheme No.3, subject to the following conditions:

**Conditions**

General

1. Pursuant to clause 26 of the Metropolitan Region Scheme, this approval is deemed to be an approval under clause 24(1) of the Metropolitan Region Scheme.
2. This decision constitutes planning approval only and is valid for a period of four (4) years from the date of approval. If the subject development is not substantially commenced within the specified period, the approval shall lapse and be of no further effect.
3. This approval is for a 'Residential (Multiple Dwelling)', ‘Holiday Accommodation’, and ‘Restaurant/Café’ land uses as defined under the City of Nedlands Local Planning Scheme No. 3 and the subject land may not be used for any other use without prior approval of the City of Nedlands.

Noise

1. Prior to the issue of a Building Permit, the applicant is to lodge with the City a revised acoustic report prepared by a suitably qualified and licenced acoustic consultant demonstrating compliance of the development with the requirements of the *Environmental Protection (Noise) Regulations 1997*, with all recommendations within the report to be detailed on the building permit plans to the satisfaction of the City of Nedlands.
2. Prior to the issue of a Building Permit, a Noise Management Plan limiting the hours of operation of the communal area and gym, as recommended in the Lloyd George acoustic report, is to be prepared and approved by the City of Nedlands and thereafter implemented at all times.
3. Prior to occupation of the development, a Short Stay Management Plan including contact information for building management is to be provided and approved by the City of Nedlands and thereafter implemented at all times.

Waste Management

1. Prior to the issue of a Building Permit, an amended Waste Management Plan is to be submitted and approved by the City of Nedlands. The approved Waste Management Plan shall be complied with at all times to the satisfaction of the City of Nedlands.

Design

1. Prior to occupation of the development, all air-conditioning plant, satellite dishes, antennae and any other plant and equipment to the roof of the building shall be located or screened to the satisfaction of the City of Nedlands.
2. Prior to occupation of the development the finish of the parapet walls is to be finished in accordance with the hereby approved plans.
3. All screening and obscure glazing shown on the approved plans to be installed prior to occupation and maintained at all times thereafter.

Building

1. Prior to the issue of a Building Permit, amended plans shall be submitted demonstrating two additional visitor bicycle racks being provided on site in a location deemed suitable by the City of Nedlands.
2. Prior to the issue of a Demolition Permit and/or a Building Permit, a Demolition and/or Construction Management Plan shall be submitted and approved to the satisfaction of the City. The approved Demolition and Construction Management Plans shall be observed at all times throughout the relevant demolition or construction process to the satisfaction of the City.
3. Prior to the issue of a Building Permit, a geotechnical report covering the development area is to be prepared by a suitably qualified practitioner at the applicant’s cost, to the satisfaction of the City of Nedlands. The report will give due consideration to any potential impacts on neighbouring properties including but not limited to: ground water management, excavation or modifications to existing ground levels; vibration or consolidation of material throughout the demolition and construction phase of the project. The geotechnical report will identify any remedial treatments required to mitigate any adverse impacts and will be lodged with the building permit application, together with certification that the design is suitable for the site conditions as outlined in the geotechnical report.
4. Prior to the commencement of excavation works, a dilapidation report shall be submitted to the City of Nedlands for approval, and the owners of the adjoining properties listed below detailing the current condition and status of all buildings (both internal and external together with surrounding paved areas and rights of ways), including ancillary structures located upon these properties:
	1. Lot 513 (No. 28) Kingsway, Nedlands
	2. Lot 512 (No. 30) Kingsway, Nedlands
	3. Lot 1 (No. 97 Broadway, Nedlands
	4. Lot 542 (No. 101) Broadway, Nedlands
	5. Lot 4 (No. 32) Kingsway, Nedlands

In the event that access for undertaking the dilapidation survey is denied by an adjoining owner, the applicant must demonstrate in writing to the satisfaction of the City of Nedlands that all reasonable steps have been taken to obtain access and advise the affected property owner of the reason for the survey and that these steps have failed.

1. External lighting shall comply with the requirements of Australian Standard 4282 – Control of Obtrusive Effects of Outdoor Lighting to the satisfaction of the City of Nedlands.
2. Prior to occupation, all photovoltaic cells shown on the roof plan of the development shall be installed to the satisfaction of the City and maintained for the lifetime of the development.
3. A minimum of 20% (5) units are to be designed at building permit stage to the Silver Level requirements as defined in the Liveable Housing Design Guidelines (Liveable Housing Australia) and implemented prior to occupation.
4. All stormwater generated on site is to be retained on site. An onsite storage/infiltration system is to be provided within the site for a 1 in 100-year storm event. No stormwater will be permitted to enter the City of Nedlands’ stormwater drainage system unless otherwise approved.
5. All building works to be carried out under this development approval are required to be contained within the site boundaries of the subject lot.

Landscaping

1. Landscaping shall be installed and maintained in accordance with the approved Landscaping Plan prepared by TDL, received 23 September 2021. Any modifications to the plans are subject to approval by the City of Nedlands.
2. Prior to the issue of a Building Permit, a Landscaping Management Plan shall be prepared by a suitably qualified consultant and approved by the City of Nedlands. It shall in addition to include a comprehensive maintenance plan for all proposed landscaping on the site and contingencies for replacement of dead and diseased plants.
3. Prior to occupation, the approved Landscaping plan, including any modifications approved by the City of Nedlands, is to be implemented and maintained for the life of the development to the satisfaction of the City of Nedlands.
4. Prior to occupation, all communal and private open space areas shall include a tap connected to an adequate water supply for the purpose of irrigation.
5. Prior to excavation works commencing, the owner shall take reasonable endeavours to obtain agreement from the property owner at 101 Broadway, Nedlands to undertake an arborist report investigating opportunities to minimise adverse health effects to the trees retained within the property boundary of 101 Broadway, Nedlands. If agreement is achieved with the owner of 101 Broadway, Nedlands, a copy of the arborist report shall be provided to the City of Nedlands prior to construction commencement and be included in the appointed contractor’s construction management plan.

Vehicle Access and Parking

1. All car parking dimensions (including associated wheel stops and headroom clearance), manoeuvring areas, crossovers and driveways shall comply with Australian Standard 2890.1-2004 - Off-street car parking and Australian Standard 2890.6:2009 - Off-street parking for people with disabilities (where applicable) to the satisfaction of the City of Nedlands.
2. The vehicle ramp to the basement and circulation areas are to be constructed in accordance with Australian Standard 2890.1-2004 - Off-street car parking to the satisfaction of the City of Nedlands
3. Prior to occupation, all bicycle parking spaces shall be provided and installed to the satisfaction of the City of Nedlands and maintained for the lifetime of the development.
4. Prior to occupation, the traffic light system shall be installed and operational to the satisfaction of the City of Nedlands.
5. Prior to occupation of the development, all car parking bays designated for visitors/staff shall be clearly marked or signage provided and maintained thereafter by the landowner to the satisfaction of the City of Nedlands
6. Prior to occupation of the development, the crossover is to be modified/upgraded and verge and kerb reinstated at the applicant’s cost and to the satisfaction of the City of Nedlands.

Sustainability

1. Prior to the issue of a Building Permit, a Sustainability Report prepared by a suitably qualified consultant shall be submitted and approved to the satisfaction of the City. Recommendations contained within the report are to be carried out and maintained for the lifetime of the development to the satisfaction of the City of Nedlands.

Legal

1. Prior to occupation of any part of the development, the landowner(s) shall enter into a Deed of Indemnity with the City, which indemnifies both the City and its waste collection contractors from claims relating to any damage, injuries or death that may be caused as a result of the on-site waste collection process.
2. Prior to occupation of the approved development, the applicant/owner shall enter into a deed of agreement with the City of Nedlands (“the City”) whereby the owner:
	1. Indemnifies the City against any loss or damage to any road reserve or other property of the City or to any person or property of any person arising out of the installation of the approved awning constructed over the road reserve immediately adjacent the land where the awning will be located or the use of the road reserve in connection with the approved development;
	2. Agrees to take out and maintain a policy of public liability with a reputable insurer in an amount satisfactory to the City to insure the City and the owner against all claims for loss or damage or injury occurring to any road reserve or property of the City or any person or property of any person as a result of the construction of the development or in respect of the use of that portion of the awning constructed over the road reserve immediately adjacent to the land in connection with the development;
	3. Agrees to maintain the development at its cost; and
	4. Agrees that the City can require the awning be removed and for the road reserve to be re-instated within a reasonable time.

The agreement shall be prepared by the City’s solicitors to the satisfaction of the City and enable the City to lodge an absolute caveat over the land. The applicant/owner shall be responsible to pay all costs associated with the City’s solicitor’s costs and incidentals to the preparation of (including all drafts) and stamping of the agreement and the lodgement of the absolute caveat.

**Conclusion**

Council is requested to consider the proposed development as the Responsible Authority. It is requested that Council makes a recommendation to the JDAP to either approve or refuse the application.

The application has been assessed in accordance with the planning framework and in instances where the proposal does not satisfy a provision or statute, a condition has been recommended to address the requirement.

This development has been assessed as generally consistent with the Scheme and the Element Objectives of the R-Codes. The key areas of discussion relate to the setbacks, height, plot ratio, landscaping and solar access proposed. The elements are supported as:

* The building is contained within the building envelope set out in the R-Codes.
* The development provides a rear setback of 9m, which is in excess of the Acceptable Outcomes of the R-Codes.
* The development provides a landscaping area with small and medium trees against the rear boundary to help screen the view to the lower coded property to the west.
* The development is located within the centre of the site, allowing a sunlight corridor to the southern lot to accommodate the backyard of the existing house and any future development.

For the above reasons, it is recommended Council adopt the Officer Recommendation contained in the Responsible Authority Report to approve the development.

# Urgent Business Approved By the Presiding Member or By Decision

Any urgent business to be considered at this point.

# Confidential Items

Any confidential items to be considered at this point.

# Declaration of Closure

There being no further business, the Presiding Member will declare the meeting closed.