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**Minutes**

**Council Committee Meeting**

**7 December 2021**

**Attention**

**These Minutes are subject to confirmation.**

Prior to acting on any resolution of the Council contained in these minutes, a check should be made of the Ordinary Meeting of Council following this meeting to ensure that there has not been a correction made to any resolution.

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**City of Nedlands**

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

# Declaration of Opening

The Presiding Member declared the meeting open at 7 pm and drew attention to the disclaimer below.

# 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 R Senathirajah 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 A W Mangano (online from 7.02pm) Dalkeith Ward

Councillor N R Youngman Dalkeith Ward

Councillor O Combes Hollywood Ward

Councillor B G Hodsdon Hollywood Ward

Councillor J D Wetherall Hollywood Ward

**Staff** Mr W R Parker Chief Executive Officer

Mr E K Herne Director Corporate & Strategy

Mr T G Free Director Planning & Development

Mr A D Melville Acting Technical Services

Mrs N M Ceric Executive Officer

**Public** There were 20 members of the public present and 0 online.

**Press** The Post Newspaper Representative.

**Leave of Absence** Nil.

**(Previously Approved)**

**Apologies** Ms M E Granich, Executive Manager Community

**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.

Moved – Councillor Hodsdon

Seconded – Councillor Bennett

**Council:**

1. **as per the Local Government (Administration) Regulations 1996 regulation 14A (1)(a) approves for Councillor Mangano to attend this meeting online via teams; and**
2. **as per the Local Government (Administration) Regulations 1996 regulation 14A(4)(b)(ii) approves a private room at the Collie Ridge Motel, 185-195 Throssell Street, Collie, Western Australia as a suitable place.**

**CARRIED UNANIMOUSLY 12/-**

Councillor Mangano joined the meeting at 7.02pm.

# 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.

Nil.

# 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.

Dr Graham Thom, Bruce Street, Nedlands PD43.21

(spoke in opposition of the recommendation)

Mrs Stella Fatouros, Watkins Road, Dalkeith PD45.21

(spoke in support of the recommendation)

Mr Daniel Hollingworth, King Street, Perth PD45.21

(spoke in opposition of the recommendation)

Ms Dervla McCarey, Adams Road, Dalkeith PD45.21

(spoke in opposition of the recommendation)

Mr Adam Kapinkoff, Walpole Street, Swanbourne PD46.21

(spoke in support of the recommendation)

Moved – Councillor Bennett

Seconded – Councillor Coghlan

**That under Standing Order 3.4(5) Council resolve to extend the time for addresses by members of the public.**

**CARRIED UNANIMOUSLY 13/-**

Mr Leon Daamen, Greenville Street, Swanbourne PD47.21

(Statement read by Mayor Argyle on behalf of Mr Daamen

in opposition to the recommendation)

Mrs Emily Dickson, Strickland Street, Mt Claremont CPS20.21

(spoke in support of the recommendation)

Mrs Kathy Sanders, Loch Street, Claremont CPS20.21

(spoke in support of the recommendation)

Ms Tracy McLaren, Reeve Street, Swanbourne TS14.21

(spoke in opposition to the recommendation)

Mrs Denise Murray, Sayer Street, Swanbourne TS14.21

(spoke in opposition to the recommendation)

Mr Robert Walker, St Georges Terrace, Perth Item 9.1

(spoke in support of the recommendation)

# Disclosures of Financial and/or Proximity Interest

The Presiding Member reminded 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.

## Councillor Smyth – TS13.21 - Hamilton Park Enviro-Scape Master Plan

Councillor Smyth disclosed a proximity interest in Item TS13.21 – Hamilton Park Enviro-Scape Master Plan, her interest being that that she owns and resides at 7 Norfolk Rise which is opposite Hamilton Park. Councillor Smyth declared that she would leave the room during discussion on this item.

# Disclosures of Interests Affecting Impartiality

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

## Councillor Bennett – 9.1 - Consideration of Responsible Authority Report for 14 Multiple Dwellings, 7 Holiday Accommodation (Short Stay) and Café at 99 Broadway, Nedlands

Councillor Bennett disclosed an impartiality interest in Item 9.1 - Consideration of Responsible Authority Report for 14 Multiple Dwellings, 7 Holiday Accommodation (Short Stay) and Café at 99 Broadway, Nedlands. Councillor Bennett disclosed that he is a Ministerial appointee and paid member of the MINJDAP that will be considering this item at a meeting scheduled for 17th December 2021. As a consequence, there may be a perception that her impartiality on the matter may be affected. In accordance with recent legal advice from McLeods released to the local government sector in relation to a recent Supreme Court ruling, Councillor Bennett advised he will not stay in the room and debate the item or vote on the matter.

Please note that although not participating in the debate Councillor Bennett intended to listen to Public Questions and Addresses as he believed this is a neutral position and does not predispose a bias for the JDAP.

A similar declaration will be sent to the DAP administration prior to the scheduled MINJAP meeting.

## Councillor Smyth – 9.1 - Consideration of Responsible Authority Report for 14 Multiple Dwellings, 7 Holiday Accommodation (Short Stay) and Café at 99 Broadway, Nedlands

Councillor Smyth disclosed an impartiality interest in Item 9.1 - Consideration of Responsible Authority Report for 14 Multiple Dwellings, 7 Holiday Accommodation (Short Stay) and Café at 99 Broadway, Nedlands. Councillor Smyth disclosed that she is a Ministerial appointee and paid member of the MINJDAP that will be considering this item at a meeting scheduled for 17th December 2021. As a consequence, there may be a perception that her impartiality on the matter may be affected. In accordance with recent legal advice from McLeods released to the local government sector in relation to a recent Supreme Court ruling, Councillor Smyth advised she will not stay in the room and debate the item or vote on the matter.

Please note that although not participating in the debate Councillor Smyth intended to listen to Public Questions and Addresses as she believed this is a neutral position and does not predispose a bias for the JDAP.

A similar declaration will be sent to the DAP administration prior to the scheduled MINJAP meeting.

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

Nil.

# Confirmation of Minutes

## Committee Meeting 9 November 2021

Moved – Councillor Hodsdon

Seconded – Councillor Amiry

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

**CARRIED UNANIMOUSLY 13/-**

# 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.

Nil.

**Please note the following item was brought forward from page 55.**

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

|  |  |
| --- | --- |
| **Committee** | 7 December 2021 |
| **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 |

**Councillor Bennett – Impartiality Interest**

Councillor Bennett disclosed that he is a Ministerial appointee and paid member of the MINJDAP that will be considering this item at a meeting scheduled for 17th December 2021. As a consequence, there may be a perception that her impartiality on the matter may be affected. In accordance with recent legal advice from McLeods released to the local government sector in relation to a recent Supreme Court ruling, Councillor Bennett advised he will not stay in the room and debate the item or vote on the matter.

Please note that although not participating in the debate Councillor Bennett intended to listen to Public Questions and Addresses as he believed this is a neutral position and does not predispose a bias for the JDAP.

A similar declaration will be sent to the DAP administration prior to the scheduled MINJAP meeting.

**Councillor Smyth – Impartiality Interest**

Councillor Smyth disclosed that she is a Ministerial appointee and paid member of the MINJDAP that will be considering this item at a meeting scheduled for 17th December 2021. As a consequence, there may be a perception that her impartiality on the matter may be affected. In accordance with recent legal advice from McLeods released to the local government sector in relation to a recent Supreme Court ruling, Councillor Smyth advised she will not stay in the room and debate the item or vote on the matter.

Please note that although not participating in the debate Councillor Smyth intended to listen to Public Questions and Addresses as she believed this is a neutral position and does not predispose a bias for the JDAP.

A similar declaration will be sent to the DAP administration prior to the scheduled MINJAP meeting.

Councillor Smyth & Councillor Bennett left the meeting at 7.53pm.

Moved – Councillor Brackenridge

Seconded – Councillor Coghlan

1. **Refuse 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, for the following reasons:**

1. **The plot ratio is inconsistent with Element Objective O2.5.1 of Volume 2 of the Residential Design Codes by virtue of having a bulk inconsistent with the future character of the area and inappropriate for its setting.**
2. **The side setbacks are inconsistent with Element Objectives O2.4.1, O2.4.3, O2.7.3 and O2.7.4 of Volume 2 of the Residential Design Codes by virtue of being insufficient to provide appropriate separation to provide for visual privacy, overshadowing, deep soil areas, and setbacks for amenity of adjoining properties.**
3. **The landscaping is inconsistent with Element Objective O3.3.2 and O 3.3.3 by virtue of having insufficient landscaping and tree growth to offset reduction of tree canopy and requiring an over-reliance of planting on structure.**

1. **appoints Councillor Brackenridge to coordinate Council’s submission and presentation to the Metro Inner-North JDAP for the proposed 14 Multiple Dwellings, 7 Holiday Accommodation (Short Stay) and Café at 99 Broadway, Nedlands; and**

**Rationale**

**The RAR notes three main elements that contribute to building bulk and a detrimental impact to the amenity of adjoining properties and the streetscape. The three main elements are:**

* **Building separation (side setbacks);**
* **Plot ratio; and**
* **Tree canopy and deep soil areas.**

**The additional plot ratio results in reduced separation and articulation to the north and south elevations and present undue building bulk to adjoining properties. As a result, the street setback is reduced, there is an over-reliance on highlight windows and screening to restrict views and has there is no deep soil area.**

**The side setbacks do not appropriately respond to the site context of the existing single house to the south and the heritage building to the north. The building is not sited to reduce overshadowing to the private open space and major openings of the houses to the south, including those lots that front Elizabeth Street. Nor does the development provide setbacks that would mitigate the impact of the building bulk when viewed from the existing southern house or cater sufficiently to future development. Overlooking to side properties has also not been fully addressed. Overall, the development will detrimentally impact the amenity of the existing houses to the south.**

**The setbacks of the development to the north will have a detrimental impact on the streetscape view of the heritage building. The development would adversely affect the utility of the heritage building’s windows in terms of sunlight and ventilation.**

**The increase in plot ratio and reduction in the side setbacks reduce opportunities for landscaping and true deep soil areas. The proposal does not adequately offset the loss of canopy from existing onsite vegetation, nor does it provide sufficient landscaping to soften the appearance of building bulk. The landscaping provided, particularly to the front and side elevations, is insufficient to sustain healthy plant growth.**

**A reduction in plot ratio and an increase in the side setbacks would reduce the impact of building bulk to adjoining sites. The reduction in plot ratio would give the development room to respond better to the context and character of existing adjoining developments. Greater setback distances would also provide opportunities for more sufficient landscaping that would assist in softening the appearance of the building as viewed from the street.**

Amendment

Moved - Councillor Youngman

Seconded - Councillor Coghlan

**That a clause 3 be added as follows:**

1. **In the event the JDAP wishes 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, Council requests that the following condition be incorporated:**

**10b. Prior to the issue of a building permit, the western-facing balustrades of the balconies on all units shall be solid material or obscure glazed to provide visual screening of the balcony areas when viewed from adjoining properties to the satisfaction of the City of Nedlands.**

**The AMENDMENT was PUT and was**

**CARRIED UNANIMOUSLY 11/-**

The Substantive Motion was PUT and was

Lost 6/5

(Against: Crs. Senathirajah Amiry McManus Combes Hodsdon Wetherall)

**Regulation 11(da) - The Committee considered that an additional condition should be included to provide further protection to the properties to the west from a privacy perspective.**

Moved – Councillor McManus

Seconded – Councillor Youngman

**Council Resolution**

**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.**
3. **In the event the JDAP wishes 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, Council requests that the following condition be incorporated:**

**10b. Prior to the issue of a building permit, the western-facing balustrades of the balconies on all units shall be solid material or obscure glazed to provide visual screening of the balcony areas when viewed from adjoining properties to the satisfaction of the City of Nedlands.**

**CARRIED 6/5**

**(Against: Mayor Argyle Crs. Brackenridge Coghlan Youngman Mangano)**

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.

**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.

**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* | | |
|  | | Original  8 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.

Councillor Smyth & Councillor Bennett returned to the meeting at 8.22pm.

# 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** |

|  |  |
| --- | --- |
| Committee | 7 December 2021 |
| Council | 14 December 2021 |
| Applicant | City of Nedlands |
| Employee Disclosure under section 5.70 of the Local Government Act 1995 | Nil. |
| Director | Tony Free – Director Planning and Development |
| Attachments | 1. Detail and justification for the proposed scheme amendment and local planning policy 2. Maps of properties subject to proposed scheme amendment. |

**Regulation 11(da) - The Committee considered that it was appropriate that community consultation occur prior to Council considers initiating an Amendment to the Local Planning Scheme in relation to tree protection on private property.**

Moved – Mayor Argyle

Seconded – Councillor Amiry

**Council:**

1. **instructs the Chief Executive Officer to:**
2. **revise the City of Nedlands Urban Forest Strategy 2018 – 2023 to include trees on private land, in order to provide the overarching strategic framework for the proposed Scheme Amendment and Local Planning Policy;**
3. **provide a report to Council for the purpose of preparing an amendment to Local Planning Scheme No. 3 to require development approval for the removal of trees which have a height of at least 8 metres or a canopy diameter of at least 5 metres on lots of a coding of R20 or less;**
4. **provide a report to Council for the purpose of preparing a local planning policy that outlines the application process and the afforded discretion in support of the proposed amendment to Local Planning Scheme No. 3.**

Amendment

Moved - Councillor McManus

Seconded - Councillor Youngman

**That the word “significant” be added before the word “trees” in clause a. and an additional clause d be added as follows:**

1. **public consultation is to be undertaken before a proposed scheme amendment is presented to Council.**

**The AMENDMENT was PUT and was**

**CARRIED 10/3**

**(Against: Mayor Argyle Crs. Brackenridge & Bennett)**

Amendment

Moved - Councillor Senathirajah

Seconded - Councillor Youngman

**That in clause b. the words “have a height of at least 8 metres or a canopy diameter of at least 5 metres” be replaced with the words “meet the prescribed criteria”**

**The AMENDMENT was PUT and was**

**CARRIED 9/4**

**(Against: Mayor Argyle Crs. Brackenridge Amiry & Bennett)**

**The Substantive was PUT and was**

**CARRIED 11/2**

**(Against: Crs. Mangano & Wetherall)**

**Committee Recommendation**

**Council:**

1. **instructs the Chief Executive Officer to:**
2. **revise the City of Nedlands Urban Forest Strategy 2018 – 2023 to include significant trees on private land, in order to provide the overarching strategic framework for the proposed Scheme Amendment and Local Planning Policy;**
3. **provide a report to Council for the purpose of preparing an amendment to Local Planning Scheme No. 3 to require development approval for the removal of trees that meet certain criteria;**
4. **provide a report to Council for the purpose of preparing a local planning policy that outlines the application process and the afforded discretion in support of the proposed amendment to Local Planning Scheme No. 3; and**
5. **public consultation is to be undertaken before a proposed scheme amendment is presented to Council.**

Recommendation to Committee

Council:

1. instructs the Chief Executive Officer to:
2. revise the City of Nedlands Urban Forest Strategy 2018 – 2023 to include trees on private land, in order to provide the overarching strategic framework for the proposed Scheme Amendment and Local Planning Policy;
3. provide a report to Council for the purpose of preparing an amendment to Local Planning Scheme No. 3 to require development approval for the removal of trees which have a height of at least 8 metres or a canopy diameter of at least 5 metres on lots of a coding of R20 or less;
4. provide a report to Council for the purpose of preparing a local planning policy that outlines the application process and the afforded discretion in support of the proposed amendment to Local Planning Scheme No. 3.

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

|  |  |
| --- | --- |
| **Committee** | 7 December 2021 |
| **Council** | 14 December 2021 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 of the 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 and Development |
| **Attachments** | 1. Draft Local Planning Policy – Existing Laneway Requirements  2. Community Engagement - Schedule of Submissions  3. Community Engagement - Outcomes Report |

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

Moved – Councillor McManus

Seconded – Councillor Youngman

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

(Printed below for ease of reference)

**CARRIED UNANIMOUSLY 13/-**

**Committee Recommendation / Recommendation to Committee**

**Council:**

**1. notes the submissions received and the outcomes from the community engagement activities conducted in relation to the draft Local Planning Policy – Existing Laneway Requirements;**

**2. does not proceed with draft Local Planning Policy – Existing Laneway Requirements, as set out in Attachment 2, in accordance with the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* Schedule 2, Part 2, Clause 4(3)(b)(iii); and**

**3. does not pursue the ceding of land and widening of existing laneways as a policy position at this time.**

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| **PD42.21** | **Consideration of Development Application – Two Grouped Dwellings at 31 and 31A Robinson Street, Nedlands** |
|  | |
| **Committee** | 7 December 2021 |
| **Council** | 14 December 2021 |
| **Applicant** | BGC Housing |
| **Landowner** | F Kit Fong Ng |
| **Director** | Tony Free – Director Planning & Development |
| **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. |
| **Report Type**  Quasi-Judicial | When Council determines an application/matter that directly affects a person’s right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications and other decisions that may be appealable to the State Administrative Tribunal. |
| **Reference** | DA21/67432 |
| **Previous Item** | Nil |
| **Delegation** | In accordance with the City’s Instrument of Delegation, Council is required to determine the application as an objection has been received. |
| **Attachments** | 1. Aerial Image and Zoning Map 2. Development Plans |
| **Confidential Attachments** | 1. Submission |

Councillor McManus left the meeting at 9.17pm.

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

Moved – Councillor Combes

Seconded – Councillor Youngman

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

(Printed below for ease of reference)

Councillor McManus returned to the meeting at 9.19pm.

Councillor Youngman left the meeting at 9.20pm.

**CARRIED 9/3**

**(Against: Crs. Coghlan Bennett & Mangano)**

**Committee Recommendation / Recommendation to Committee**

**In accordance with Clause 68(2)(b) of the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015,* Council approves the development application received on 17 August 2021 in accordance with the plans date stamped 30 August 2021 for two grouped dwellings at 31 and 31A Robinson Street, Nedlands and subject to the following conditions:**

1. **The development shall at all times comply with the application and the approved plans, subject to any modifications required as a consequence of any condition(s) of this approval.**
2. **All stormwater from the development, which includes permeable and non-permeable areas shall be contained onsite.**
3. **Prior to occupation of the development the parapet walls are to be finished externally to the same standard as the rest of the development or in:**
4. **Face brick;**
5. **Painted render;**
6. **Painted brickwork; or**
7. **Other clean material as specified on the approved plans;**

**and maintained thereafter to the satisfaction of the City of Nedlands.**

1. **Prior to the lodgement of Building Permit, a revised Landscaping Plan shall be submitted and approved by the City of Nedlands.**
2. **Landscaping shall be installed and maintained in accordance with the approved Landscaping Plan for the lifetime of the development thereafter, to the satisfaction of the City.**
3. **A Construction Management Plan shall be submitted and approved to the satisfaction of the City. The approved Construction Management Plan shall be observed at all times throughout the construction process to the satisfaction of the City.**
4. **All building works to be carried out under this development approval are required to be contained within the boundaries of the subject lot.**

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| **PD43.21** | **Consideration of Street Tree Removal at 96 Webster Street, Nedlands** |
|  | |
| **Committee** | 7 December 2021 |
| **Council** | 14 December 2021 |
| **Applicant** | D Robinson |
| **Landowner** | G Thom & M Plunkett |
| **Director** | Tony Free – Director Planning & Development |
| **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. |
| **Report Type**  Quasi Judicial | When Council determines an application/matter that directly affects a person’s right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications and other decisions that may be appealable to the State Administrative Tribunal. |
| **Reference** | DA21/69231 |
| **Previous Item** | Nil |
| **Delegation** | The application may require a recommendation for refusal where discretion exists for Council to approve the variations under the City’s Local Planning Scheme No. 3, policies and/or the Residential Design Codes. |
| **Attachments** | 1. Aerial Image 2. Streetscape Images 3. Existing Site Plan 4. Proposed Site Plan 5. Applicant Justification 6. Alternate Crossover Location |
| **Confidential Attachments** | Nil |

**Regulation 11(da) - The Committee considered it appropriate to ensure that trees 3 and 4 as shown on the plan be protected during construction.**

Moved – Councillor Senathirajah

Seconded – Councillor Brackenridge

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

(Printed below for ease of reference)

Councillor Youngman returned to the meeting at 9.22pm.

Amendment

Moved - Councillor Wetherall

Seconded - Councillor Combes

That in clause 2 “500L” be reduced to “100L “.

The AMENDMENT was PUT and was

Lost 4/9

(Against: Crs. Brackenridge Coghlan Senathirajah Amiry

Smyth Bennett Mangano Youngman & Hodsdon)

Councillor Wetherall retired from the meeting at 9.35pm.

Amendment

Moved - Councillor Bennett

Seconded - Councillor Youngman

**That in clause 2 replace the words “prior to occupation” with the words “prior to the completion of the crossover”; and**

**Adds a clause 3 as follows:**

1. **during construction of the crossover trees 3 and 4 as shown on the plans are to be protected to the satisfaction of the City of Nedlands;**

**The AMENDMENT was PUT and was**

**CARRIED 8/4**

**(Against: Crs. Senathirajah Mangano Combes & Hodsdon)**

**The Substantive was PUT and was**

**CARRIED 9/3**

**(Against: Crs. Mangano Combes & Hodsdon)**

**Committee Recommendation**

**Council:**

1. **grants approval for the alternate location of the crossover (as annotated on Attachment 6);**
2. **requires prior to the completion of the crossover, the owner shall plant a minimum two (2) 500L trees located on the verge, in front of 96 Webster Street, Nedlands at the expense of the applicant and to the satisfaction of the City of Nedlands; and**
3. **during construction of the crossover trees 3 and 4 as shown on the plans are to be protected to the satisfaction of the City of Nedlands.**

Recommendation to Committee

Council:

1. grants approval for the alternate location of the crossover (as annotated on Attachment 6); and
2. requires prior to occupation, the owner shall plant a minimum two (2) 500L trees located on the verge, in front of 96 Webster Street, Nedlands at the expense of the applicant and to the satisfaction of the City of Nedlands.

**Please note this item was brought forward from page 46.**

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

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| --- | --- |
| **Committee** | 7 December 2021 |
| **Council** | 14 December 2021 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under *section 5.70 Local Government Act 1995*** | Nil. |
| **Director** | Ed Herne – Director Corporate & Strategy |
| **Attachments** | 1. Floreat Community Pre-Kindy Inc. - Proposal |
| **Confidential Attachments** | Nil. |

**Regulation 11(da) – Not Applicable – The Committee agreed to fund the installation of the temporary fence for additional child safety.**

Moved – Councillor McManus

Seconded – Councillor Hodsdon

**That the Recommendation to Committee be adopted subject to an additional clause 3 be added as follows:**

**3. installs the temporary fence required for additional child safety to a maximum of $2,500.**

**The AMENDMENT was PUT and was**

**CARRIED UNANIMOUSLY 12/-**

**Committee Recommendation**

**Council:**

1. **approves an exclusive use lease for portion of the 25 Strickland Street, Mount Claremont site between the City of Nedlands and Floreat Community Pre-Kindy Inc. consistent with the key terms as noted within this report;**
2. **authorises the CEO and Mayor to execute the lease agreement and apply the City’s Common Seal; and**
3. **installs the temporary fence required for additional child safety to a maximum of $2,500.**

Recommendation to Committee

Council:

1. approves an exclusive use lease for portion of the 25 Strickland Street, Mount Claremont site between the City of Nedlands and Floreat Community Pre-Kindy Inc. consistent with the key terms as noted within this report. and;
2. authorises the CEO and Mayor to execute the lease agreement and apply the City’s Common Seal.

|  |  |
| --- | --- |
| **PD44.21** | **Consideration of Development Application (Digital Roof Sign) at 178 Stirling Highway, Nedlands** |
|  | |
| **Committee** | 7 December 2021 |
| **Council** | 14 December 2021 |
| **Applicant** | Kang Leading Group |
| **Landowner** | Western Australian Planning Commission (WAPC) |
| **Director** | Tony Free – Director Planning & Development |
| **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. |
| **Report Type**  Quasi-Judicial | When Council determines an application/matter that directly affects a person’s right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications and other decisions that may be appealable to the State Administrative Tribunal. |
| **Reference** | DA21/61628 |
| **Previous Item** | Nil |
| **Delegation** | In accordance with the City’s Instrument of Delegation, Council is required to determine the application due to objections being received and the recommendation for refusal. |
| **Attachments** | 1. Aerial Image and Zoning Map 2. Development Plans |
| **Confidential Attachments** | 1. Submissions |

**Regulation 11(da) - The Committee considered it appropriate to reduce the times that the sign would be light to protect the residential amenity and to limit the words on the sign to ensure drivers aren’t distracted.**

Moved – Councillor Youngman

Seconded – Councillor Combes

**Committee Recommendation**

1. **In accordance with Clause 13 of the Metropolitan Region Scheme, Council recommends that the Western Australian Planning Commission refuse the development application received on 19 March 2021 for a digital roof sign at 178 Stirling Highway, Nedlands, for the following reasons:**

**a. The sign is inconsistent with the objectives of the City’s Local Planning Policy – Signs in that it contributes to the proliferation of advertising signs, and is detrimental to the amenity and character of the nearby residential neighbourhood; and**

**b. The land use of third party advertising and the placement of the digital sign introduces a commercial intrusion into the nearby residential area. The sign is incompatible with its setting and the desired future character of the area, in accordance with clause 67(1)(m) of the Deemed provisions.**

1. **In the event that the Western Australian Planning Commission approves the digital roof sign, Council recommends the following conditions, without prejudice:**
2. **Prior to the lodgement of a Building Permit, an Operation and Content Management Plan for the sign shall be submitted to and approved by the City of Nedlands. The plan shall be adhered to for the life of the development and include the following:**

**i. The sign is not to contain discriminatory or offensive content;**

**ii. The sign shall be turned off between the hours of 8pm and 7am;**

**iii. The sign shall be in accordance with Main Roads conditions and the Main Roads Guide to Roadside advertising, including a lighting assessment, and annual lighting audit (at the applicant’s cost); and**

**iv. Specifying the terms of not-for-profit messages, including a minimum 20% of advertising time be donated to not-for-profit and/or community benefit organisations.**

**v. The sign shall contain no more that 4 words.**

**CARRIED UNANIMOUSLY 12/-**

Recommendation to Committee

1. In accordance with Clause 13 of the Metropolitan Region Scheme*,* Council recommends that the Western Australian Planning Commission refuse the development application received on 19 March 2021 for a digital roof sign at 178 Stirling Highway, Nedlands, for the following reasons:
   1. The sign is inconsistent with the objectives of the City’s Local Planning Policy – Signs in that it contributes to the proliferation of advertising signs, and is detrimental to the amenity and character of the nearby residential neighbourhood; and
   2. The land use of third party advertising and the placement of the digital sign introduces a commercial intrusion into the nearby residential area. The sign is incompatible with its setting and the desired future character of the area, in accordance with clause 67(1)(m) of the *Deemed provisions.*
2. In the event that the Western Australian Planning Commission approves the digital roof sign, Council recommends the following conditions, without prejudice:
3. Prior to the lodgement of a Building Permit, an Operation and Content Management Plan for the sign shall be submitted to and approved by the City of Nedlands. The plan shall be adhered to for the life of the development and include the following:
   1. The sign is not to contain discriminatory or offensive content;
   2. The sign shall be turned off between the hours of 10pm and 6am;
   3. The sign shall be in accordance with Main Roads conditions and the Main Roads Guide to Roadside advertising, including a lighting assessment, and annual lighting audit (at the applicant’s cost); and
   4. Specifying the terms of not-for-profit messages, including a minimum 20% of advertising time be donated to not-for-profit and/or community benefit organisations.

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| --- | --- |
| **PD45.21** | **Consideration of Development Application – Additions to Single House at 86 Watkins Road, Dalkeith** |
|  | |
| **Committee** | 7 December 2021 |
| **Council** | 14 December 2021 |
| **Applicant** | Ashley Richards & Associates |
| **Landowner** | C & S Fatouros |
| **Director** | Tony Free – Director Planning & Development |
| **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. |
| **Report Type**    Quasi-Judicial | When Council determines an application/matter that directly affects a person’s right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications and other decisions that may be appealable to the State Administrative Tribunal. |
| **Reference** | DA21/66858 |
| **Previous Item** | Nil |
| **Delegation** | In accordance with the City’s Instrument of Delegation, Council is required to determine the application due to objections being received. |
| **Attachments** | 1. Aerial Image and Zoning Map 2. Development Plans |
| **Confidential Attachments** | * + - 1. Submission |

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

Moved – Councillor Youngman

Seconded – Councillor McManus

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

(Printed below for ease of reference)

Councillor Coghlan retired from the meeting at 9.50pm.

**CARRIED 9/2**

**(Against: Crs. Senathirajah & Mangano)**

**Committee Recommendation / Recommendation to Committee**

**In accordance with Clause 68(2)(b) of the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015,* Council approves the development application received on 29 July 2021 in accordance with the plans date stamped 5 November 2021 for additions to a single house at 86 Watkins Road, Dalkeith and subject to the following conditions:**

1. **The development shall at all times comply with the application and the approved plans, subject to any modifications required as a consequence of any condition(s) of this approval.**
2. **All building works to be carried out under this development approval are required to be contained within the boundaries of the subject lot.**
3. **All stormwater from the development, which includes permeable and non-permeable areas shall be contained onsite.**
4. **Prior to occupation of the development the finish of the parapet walls is to be completed externally to the same standard as the rest of the development or in:**
5. **Face brick;**
6. **Painted render;**
7. **Painted brickwork; or**
8. **Other clean material as specified on the approved plans;**

**and maintained thereafter to the satisfaction of the City of Nedlands.**

1. **Prior to occupation of the development, all visual privacy screens and obscure glass panels to major openings and unenclosed active habitable areas, as annotated on the approved plans, shall be screened in accordance with the Residential Design Codes by either:**
2. **Fixed obscure or translucent glass to a height of 1.6 metres above finished floor level;**
3. **Timber screens, external blinds, window hoods and shutters to a height of 1.6m above finished floor level that are at least 75% obscure;**
4. **A minimum sill height of 1.6 metres as determined from the internal floor level; or**
5. **An alternative method of screening approved by the City.**

**The required screening shall be thereafter maintained to the satisfaction of the City of Nedlands.**

1. **A Construction Management Plan shall be submitted and approved to the satisfaction of the City. The approved Construction Management Plan shall be observed at all times throughout the construction process to the satisfaction of the City.**

|  |  |
| --- | --- |
| **PD46.21** | **Consideration of Development Application – Additions and Alterations to an Existing Single House at 6 Walpole Street, Swanbourne** |
|  | |
| **Committee** | 7 December 2021 |
| **Council** | 14 December 2021 |
| **Applicant** | D4 Designs |
| **Landowner** | C Kapinkoff |
| **Director** | Tony Free – Director Planning & Development |
| **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. |
| **Report Type**  Quasi-Judicial | When Council determines an application/matter that directly affects a person’s right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications and other decisions that may be appealable to the State Administrative Tribunal. |
| **Reference** | DA21-66822 |
| **Previous Item** | Nil |
| **Delegation** | In accordance with the City’s Instrument of Delegation, Council is required to determine the application due to an objection being received. |
| **Attachments** | 1. Aerial image and zoning map  2. Site photos  3. Development plans |
| **Confidential Attachments** | 1. Submission |

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

Moved – Councillor Amiry

Seconded – Councillor Combes

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

(Printed below for ease of reference)

**CARRIED 9/2**

**(Against: Crs. Bennett & Mangano)**

**Committee Recommendation / Recommendation to Committee**

**In accordance with Clause 68(2)(b) of the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015,* Council approves the development application in accordance with the plans date stamped 4 November 2021 for additions and alterations to an existing single house at 6 Walpole Street, Swanbourne, subject to the following conditions:**

1. **The development shall at all times comply with the application and the approved plans, subject to any modifications required as a consequence of any condition(s) of this approval.**
2. **All building works to be carried out under this development approval are required to be contained within the boundaries of the subject lot.**
3. **Prior to occupation of the development, the walls on or near the boundary are to be finished externally to the same standard as the rest of the development in:**
4. **Face brick;**
5. **Painted render;**
6. **Painted brickwork; or**
7. **Other clean finish as specified on the approved plans.**

**and maintained thereafter to the satisfaction of the City of Nedlands.**

1. **Prior to occupation of the development, fences within the primary street setback area shall be visually permeable above 1.2m in height from natural ground level, in accordance with the Residential Design Codes and to the satisfaction of the City of Nedlands.**
2. **Prior to occupation or use of the development, the existing vehicular crossover is to be upgraded to the City’s specifications. Any redundant portions of the existing vehicular crossover(s) are to be removed and the kerbing, verge, and footpath (where relevant) reinstated to the specification and satisfaction of the City of Nedlands.**

**Please note this item was brought forward from page 53.**

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

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| **Committee** | 7 December 2021 |
| **Council** | 14 December 2021 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under *section 5.70 Local Government Act 1995*** | Nil. |
| **Director** | Andrew Melville – Acting Director Technical Services |
| **Attachments** | 1. Letter of offer from Perth Children’s Hospital Foundation |
| **Confidential Attachments** | Nil. |

Moved – Councillor McManus

Seconded – Councillor Amiry

That the Recommendation to Committee be adopted.

(Printed below for ease of reference)

Lost 4/7

(Against: Mayor Argyle Crs. Brackenridge Amiry

Smyth Bennett Mangano & Youngman)

**Regulation 11(da) – The Committee agree it was premature to commit to a concept of a playground prior to undertaking items listed in clause 4.**

Moved – Councillor Smyth

Seconded – Councillor Youngman

**Committee Recommendation**

**Council instructs the CEO to inform the Perth Children’s Hospital Foundation (PCHF) that Council is not prepared to accept at this time, their offer (dated 15 July 2021) to provide funding to design and develop a community park adjacent to the new WA Children’s Hospice site in Allen Park, Swanbourne for the following reasons:**

1. **The resourcing implication of the project management and procurement within the citywide resourcing priorities has not been assessed.**
2. **The financial implication of the ongoing maintenance within the citywide funding priorities has not been established.**
3. **The risk management profile within the Allen Park precinct and the adjoining bushfire risk zone has not been adequately assessed in terms of risk to life and property assets.**
4. **The City requires more time to:**
5. **assess the impact of the proposed community park, adjacent to the new WA Children’s Hospice in Allen Park, Swanbourne, in terms of the Allen Park Master Plan 2017;**
6. **undertake a community engagement process prior to the design of the community park; and**
7. **develop a draft Memorandum of Understanding for Council’s consideration, between the City and the Perth Children’s Hospital Foundation that reflects the offer to fund the design and development of a community park.**

**CARRIED 10/1**

**(Against: Cr. McManus)**

Recommendation to Committee

Council:

1. endorse the concept of a community park adjacent to the new WA Children’s Hospice in Allen Park, Swanbourne.
2. endorses the requirement for the Allen Park Master Plan 2017 to be considered when developing a concept plan for the proposed community park;
3. instructs the CEO to undertake a community engagement process prior to the design of the community park; and
4. instructs the CEO to develop a draft Memorandum of Understanding for Council’s consideration, between the City and the Perth Children’s Hospital Foundation that reflects the offer to fund the design and development of a community park.

Councillor McManus left the meeting at 10.23pm.

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| **PD47.21** | **Consideration of Development Application - Single House at 15 Greenville Street, Swanbourne** |
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| **Committee** | 7 December 2021 |
| **Council** | 14 December 2021 |
| **Applicant** | Zazen Building & Design |
| **Landowner** | T Falkner |
| **Director** | Tony Free – Director Planning & Development |
| **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. |
| **Report Type**  Quasi-Judicial | When Council determines an application/matter that directly affects a person’s right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications and other decisions that may be appealable to the State Administrative Tribunal. |
| **Reference** | DA21-66989 |
| **Previous Item** | Nil |
| **Delegation** | In accordance with the City’s Instrument of Delegation, Council is required to determine the application due to an objection being received. |
| **Attachments** | 1. Aerial Image and Zoning Map  2. Development Plans |
| **Confidential Attachments** | * 1. Submission |

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

Moved – Councillor Youngman

Seconded – Councillor Combes

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

(Printed below for ease of reference)

**CARRIED 7/3**

**(Against: Crs. Amiry Bennett & Mangano)**

**Committee Recommendation / Recommendation to Committee**

**In accordance with Clause 68(2)(b) of the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015,* Council approves the development application received on 2 August 2021 in accordance with amended plans date stamped 4 November 2021 for a single house at 15 Greenville Street, Swanbourne, subject to the following conditions:**

1. **The development shall at all times comply with the application and the approved plans, subject to any modifications required as a consequence of any condition(s) of this approval.**
2. **Prior to occupation of the development, landscaping is to be planted and maintained in accordance with the approved plans, or any modifications approved thereto, for the lifetime of the development thereafter, to the satisfaction of the City of Nedlands**
3. **All building works to be carried out under this development approval are to be contained within the boundaries of the subject lot.**
4. **Prior to occupation of the development the external finish of the parapet walls is to be the same standard as the rest of the development or in:**
5. **Face brick;**
6. **Painted render;**
7. **Painted brickwork; or**
8. **Other clean material as specified on the approved plans**

**and maintained thereafter to the satisfaction of the City of Nedlands.**

1. **All stormwater from the development, which includes permeable and non-permeable areas shall be contained onsite.**
2. **Prior to occupation of the development, all privacy screens and obscured windows as shown on the approved plans shall be provided to prevent overlooking in accordance with the Residential Design Codes by either:**
3. **Fixed obscured or translucent glass to a height of 1.60 metres above finished floor level; or**
4. **Timber screens, external blinds, window hoods and shutters to a height of 1.6m above finished floor level that are at least 75% obscure;**
5. **A minimum sill height of 1.60 metres as determined from the internal floor level; or**
6. **An alternative method of screening approved by the City of Nedlands.**

**The required screening shall be thereafter maintained to the satisfaction of the City of Nedlands.**

## 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).

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

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| **Committee** | 7 December 2021 |
| **Council** | 14 December 2021 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under *section 5.70 Local Government Act 1995*** | Nil. |
| **Director** | Ed Herne – Director Corporate & Strategy |
| **Attachments** | 1. Floreat Community Pre-Kindy Inc. - Proposal |
| **Confidential Attachments** | Nil. |

**Please note this item was brought forward see page 32.**

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| **CPS21.21 Non-Exclusive Licence to Jeavons Pty Ltd** |

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| **Committee** | 7 December 2021 |
| **Council** | 14 December 2021 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under *section 5.70 Local Government Act 1995*** | Nil. |
| **Director** | Ed Herne – Director Corporate & Strategy |
| **Attachments** | 1. Futuro Proposal |
| **Confidential Attachments** | Nil. |

Councillor Bennett left the meeting at 10.24pm.

Councillor McManus returned to the meeting at 10.24pm.

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

Moved – Councillor Youngman

Seconded – Councillor Senathirajah

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

(Printed below for ease of reference)

Councillor Bennett returned to the meeting at 10.26pm.

**CARRIED 10/1**

**(Against: Cr. Mangano)**

**Committee Recommendation / Recommendation to Committee**

**Council:**

1. **approves a non-exclusive use licence for portion of Reserve 53485 between the City of Nedlands and Jeavons Pty Ltd consistent with the key terms as noted within this report. and;**
2. **subject to the Minister for Lands’ Consent, authorises the CEO and Mayor to execute the non-exclusive licence agreement and apply the City’s Common Seal.**

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| **CPS22.21 List of Accounts Paid – November 2021** |

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| **Committee** | 7 December 2021 |
| **Council** | 14 December 2021 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under *section 5.70 Local Government Act 1995*** | Nil. |
| **Director** | Ed Herne - Director Corporate & Strategy |
| **Attachments** | 1. Creditor Payment Listing – November 2021; and 2. Credit Card and Purchasing Card Payments November 2021 |
| **Confidential Attachments** | Nil. |

Councillor Hodsdon left the meeting at 10.26pm.

Moved – Councillor McManus

Seconded – Councillor Youngman

**Committee Recommendation**

**That the item be adjourned to the Council Meeting of 14 December 2021.**

**CARRIED UNANIMOUSLY 10/-**

Recommendation to Committee

Council receives the List of Accounts Paid for the month of November 2021 as per attachments.

## 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).

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| TS12.21 Introduction of Food Organic Green Organic (FOGO) Bin Service for Residential Properties |

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| **Committee** | 7 December 2021 |
| **Council** | 14 December 2021 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under *section 5.70 Local Government Act 1995*** | Nil. |
| **Director** | Andrew Melville – A/Director Technical Services |
| **Attachments** | 1. Adopted City of Nedlands Waste Plan 2. Endorsement Letter from Department of Water and Environmental Regulation dated 9 March 2021 |
| **Confidential Attachments** | Nil. |

Councillor Hodsdon returned to the meeting at 10.28pm.

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

Moved – Councillor McManus

Seconded – Councillor Bennett

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

(Printed below for ease of reference)

**CARRIED 9/2**

**(Against: Crs. Smyth & Youngman)**

**Committee Recommendation / Recommendation to Committee**

**Council:**

1. **approves the change to a weekly FOGO bin service and alternate fortnightly waste and recycling bin collection service from 7 November 2022;**
2. **approves the bin lid changeover for residential waste bins to comply with the State Government’s Better Bins Plus funding grant conditions; and**
3. **agrees to include funding for bin stock replacement or any other related infrastructure/service changes relating to the FOGO bin service implementation within the upcoming 2022/23 Annual Budget.**

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| TS13.21 Hamilton Park Enviro-Scape Master Plan |

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| **Committee** | 7 December 2021 |
| **Council** | 14 December 2021 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under *section 5.70 Local Government Act 1995*** | Nil. |
| **Director** | Andrew Melville – Acting Director Technical Services |
| **Attachments** | 1. Hamilton Park Enviro-scape Master Plan |
| **Confidential Attachments** | Nil. |

**Councillor Smyth – Proximity Interest**

Councillor Smyth disclosed a proximity interest, her interest being that that she owns and resides at 7 Norfolk Rise which is opposite Hamilton Park. Councillor Smyth declared that she would leave the room during discussion on this item.

Councillor Smyth left the meeting at 10.43pm.

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

Moved – Councillor McManus

Seconded – Councillor Youngman

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

(Printed below for ease of reference)

**CARRIED UNANIMOUSLY 10/-**

**Committee Recommendation / Recommendation to Committee**

**Council endorses the Hamilton Park Enviro-scape Master Plan concept plan.**

Councillor Smyth returned to the meeting at 10.44pm.

**Please note this item was brought forward from page 54.**

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| TS15.21 Project Deferral |

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| **Committee** | 7 December 2021 |
| **Council** | 14 December 2021 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under *section 5.70 Local Government Act 1995*** | Nil. |
| **Director** | Andrew Melville – Acting Director Technical Services |
| **Attachments** | Nil. |
| **Confidential Attachments** | Nil. |

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

Moved – Councillor McManus

Seconded – Councillor Senathirajah

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

(Printed below for ease of reference)

**CARRIED 8/3**

**(Against: Crs. Bennett Mangano & Youngman)**

**Committee Recommendation / Recommendation to Committee**

**That Council:**

1. **advises Main Roads Western Australia that in the 2021/22 financial year the City of Nedlands will not proceed with:**
2. **Project 817 - The Avenue; and**
3. **Project 2001 - Railway Road; and**
4. **agrees to reduce the scope of works for Project 817 – The Avenue to crack sealing to prevent moisture penetration.**

**Please note this item was brought forward see page 41.**

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

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| --- | --- |
| **Committee** | 7 December 2021 |
| **Council** | 14 December 2021 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under *section 5.70 Local Government Act 1995*** | Nil. |
| **Director** | Andrew Melville – Acting Director Technical Services |
| **Attachments** | 1. Letter of offer from Perth Children’s Hospital Foundation |
| **Confidential Attachments** | Nil. |

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| TS15.21 Project Deferral |

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| --- | --- |
| **Committee** | 7 December 2021 |
| **Council** | 14 December 2021 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under *section 5.70 Local Government Act 1995*** | Nil. |
| **Director** | Andrew Melville – Acting Director Technical Services |
| **Attachments** | Nil. |
| **Confidential Attachments** | Nil. |

**Please note this item was brought forward see page 52.**

# 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

**Please note the following item was brought forward see page 9.**

# Urgent Business Approved By the Presiding Member or By Decision

Any urgent business to be considered at this point.

Nil.

# Confidential Items

Any confidential items to be considered at this point.

Nil.

# Declaration of Closure

There being no further business, the Presiding Member declared the meeting closed at 10.51pm.