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**Minutes**

**Council Committee Meeting**

**9 March 2021**

**ATTENTION**

This is a Committee which has only made recommendations to Council. No action should be taken on any recommendation contained in these Minutes. The Council resolution pertaining to an item will be made at the next Ordinary Meeting of Council following this meeting.

**Table of Contents**

[Declaration of Opening 4](#_Toc67141838)

[Present and Apologies and Leave of Absence (Previously Approved) 4](#_Toc67141839)

[1. Public Question Time 5](#_Toc67141840)

[2. Addresses By Members of the Public (only for items listed on the agenda) 5](#_Toc67141841)

[3. Disclosures of Financial and/or Proximity Interest 6](#_Toc67141842)

[4. Disclosures of Interests Affecting Impartiality 6](#_Toc67141843)

[4.1 Councillor Smyth – Item 9.1 - Responsible Authority Report - Lot 538 and 539 (No. 93 and 95) Broadway, Nedlands - Amendment to Mixed Use Development 6](#_Toc67141844)

[4.2 Councillor Smyth – Item 9.2 - Responsible Authority Report - No. 25 John XXIII Avenue, Mount Claremont – Alterations and Additions to John XXIII College 6](#_Toc67141845)

[4.3 Councillor Smyth – Item 9.3 - Responsible Authority Report - No. 87 and 89 Broadway, Nedlands –36 x Multiple Dwellings and Office – Responsible Authority Report 7](#_Toc67141846)

[4.4 Councillor Bennett – Item 9.1 - Responsible Authority Report - Lot 538 and 539 (No. 93 and 95) Broadway, Nedlands - Amendment to Mixed Use Development 7](#_Toc67141847)

[4.5 Councillor Bennett – Item 9.2 - Responsible Authority Report - No. 25 John XXIII Avenue, Mount Claremont – Alterations and Additions to John XXIII College 8](#_Toc67141848)

[4.6 Councillor Bennett – Item 9.3 - Responsible Authority Report - No. 87 and 89 Broadway, Nedlands –36 x Multiple Dwellings and Office – Responsible Authority Report 8](#_Toc67141849)

[4.7 Deputy Mayor McManus – CSD01.21 - Community Sport and Recreation Facilities Fund Applications – Various Clubs 9](#_Toc67141850)

[4.8 Councillor Smyth – CPS07.21- Swanbourne Nedlands Surf Life Saving Club – Variation to Lease at 282 Marine Parade, Swanbourne 9](#_Toc67141851)

[4.9 Deputy Mayor McManus – CPS07.21- Swanbourne Nedlands Surf Life Saving Club – Variation to Lease at 282 Marine Parade, Swanbourne 9](#_Toc67141852)

[4.10 Councillor Horley – CPS07.21- Swanbourne Nedlands Surf Life Saving Club – Variation to Lease at 282 Marine Parade, Swanbourne 9](#_Toc67141853)

[5. Declarations by Members That They Have Not Given Due Consideration to Papers 9](#_Toc67141854)

[6. Confirmation of Minutes 10](#_Toc67141855)

[6.1 Committee Meeting 9 February 2021 10](#_Toc67141856)

[7. Matters for Which the Meeting May Be Closed 10](#_Toc67141857)

[8. Divisional Reports 10](#_Toc67141858)

[8.3 Corporate & Strategy Report No’s CPS05.21 to CPS08.21 11](#_Toc67141859)

[CPS05.21 List of Accounts Paid – January 2021 11](#_Toc67141860)

[CPS06.21 Future of Nedlands Child Health Clinic – 152 Melvista Avenue, Nedlands 12](#_Toc67141861)

[CPS07.21 Swanbourne Nedlands Surf Life Saving Club – Variation to Lease at 282 Marine Parade, Swanbourne 14](#_Toc67141862)

[CPS08.21 Mid-Year Budget Review – 2020/21 16](#_Toc67141863)

[8.4 Planning & Development Report No’s PD05.21 to PD10.21 18](#_Toc67141864)

[PD05.21](#_Toc67141865) [Reconsideration of Planning Application – No. 37 Strickland Street, Mount Claremont – Holiday House (Short Term Accommodation) 18](#_Toc67141866)

[Present and Apologies and Leave of Absence (Previously Approved) 19](#_Toc67141867)

[PD06.21](#_Toc67141868) [No. 14A Odern Crescent, Swanbourne – Single House 23](#_Toc67141869)

[PD07.21](#_Toc67141870) [No. 26 Louise Street, Nedlands – 5 x Grouped Dwellings 27](#_Toc67141871)

[PD08.21](#_Toc67141872) [Establishment of a Design Review Panel, Final Adoption of the Design Review Panel Local Planning Policy and Appointment of Panel Members 35](#_Toc67141873)

[PD09.21 RFT 2020-21.09 Natural Area Weed Control 2021-2025 39](#_Toc67141874)

[PD10.21](#_Toc67141875) [Response to Proposed Policy Framework – Cumulative Traffic Impact Assessment 40](#_Toc67141876)

[8.5 Community Development No’s CSD01.21 to CSD02.21 41](#_Toc67141877)

[CSD01.21 Community Sport and Recreation Facilities Fund Applications – Various Clubs 41](#_Toc67141878)

[CSD02.21 Future use of Haldane House, 109 Montgomery Avenue, Mt Claremont 44](#_Toc67141879)

[8.6 Corporate & Strategy Report No’s CPS05.21 to CPS08.21 45](#_Toc67141880)

[CPS05.21 List of Accounts Paid – January 2021 45](#_Toc67141881)

[CPS06.21 Future of Nedlands Child Health Clinic – 152 Melvista Avenue, Nedlands 46](#_Toc67141882)

[CPS07.21 Swanbourne Nedlands Surf Life Saving Club – Variation to Lease at 282 Marine Parade, Swanbourne 47](#_Toc67141883)

[CPS08.21 Mid-Year Budget Review – 2020/21 48](#_Toc67141884)

[9. Reports by the Chief Executive Officer 49](#_Toc67141885)

[9.1 Lot 538 and 539 (No. 93 and 95) Broadway, Nedlands - Amendment to Mixed Use Development - Responsible Authority Report 49](#_Toc67141886)

[9.2 No. 25 John XXIII Avenue, Mount Claremont – Alterations and Additions to John XXIII College – Responsible Authority Report 54](#_Toc67141887)

[9.3 No. 87 and 89 Broadway, Nedlands – 36 x Multiple Dwellings and Office – Responsible Authority Report 59](#_Toc67141888)

[10. Urgent Business Approved by the Presiding Member or By Decision 69](#_Toc67141889)

[11. Confidential Items 69](#_Toc67141890)

[Declaration of Closure 69](#_Toc67141891)

**City of Nedlands**

**Minutes of a meeting of the Council Committee held in the Adam Armstrong Pavilion, Beatrice Road, Dalkeith on Tuesday 9 February 2021 at 7 pm.**

# 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** Deputy Mayor L J McManus (Presiding Member)

Councillor F J O Bennett Dalkeith Ward

Councillor A W Mangano Dalkeith Ward

Councillor N R Youngman Dalkeith Ward

Councillor P N Poliwka (from 7.02 pm) Hollywood Ward

Councillor J D Wetherall Hollywood Ward

Councillor R A Coghlan Melvista Ward

Councillor R Senathirajah Melvista Ward

Councillor B Tyson Melvista Ward

Councillor N B J Horley Coastal Districts Ward

Councillor K A Smyth Coastal Districts Ward

**Staff** Mr J Duff Acting Chief Executive Officer

Mr A Melville Acting Director Technical Services

Mr T G Free Director Planning & Development

Mr E K Herne Director Corporate & Strategy

Mrs N M Ceric Executive Officer

Ms P Panayotou Executive Manager Community

**Public** There were 9 members of the public present.

**Press** Nil.

**Leave of Absence** Nil.

**(Previously Approved)**

**Apologies** Councillor B G Hodsdon Hollywood Ward

**Disclaimer**

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

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# 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.

Councillor Poliwka joined the meeting at 7.02 pm.

# 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.

Mr Steven Kerr, 39 Strickland Street, Mt Claremont PD05.21

(spoke in opposition to the recommendation)

Mr Suresh Rajan (David Joseph), 37 Strickland Street, Mt Claremont PD05.21

(spoke in support of the recommendation)

Miss Kate Bainbridge, 18/191 St George’s Terrace, Perth PD06.21

(spoke in support of the recommendation)

Mr Mitchell Palmer, 231 Bulwer Street, Perth PD07.21

(spoke in support of the recommendation)

Mr Luke Bishop, 282 Marine Parade, Swanbourne CPS07.21

(spoke in support of the recommendation)

# Disclosures of Financial and/or Proximity Interest

The Presiding Member reminded Councillors and Staff of the requirements of Section 5.65 of the *Local Government Act* to disclose any interest during the meeting when the matter is discussed.

There were no disclosures of financial interest.

# Disclosures of Interests Affecting Impartiality

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

## Councillor Smyth – Item 9.1 - Responsible Authority Report - Lot 538 and 539 (No. 93 and 95) Broadway, Nedlands - Amendment to Mixed Use Development

Councillor Smyth disclosed an impartiality interest in Item 9.1 - Responsible Authority Report - Lot 538 and 539 (No. 93 and 95) Broadway, Nedlands - Amendment to Mixed Use Development. 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 24th March 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 would 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 – Item 9.2 - Responsible Authority Report - No. 25 John XXIII Avenue, Mount Claremont – Alterations and Additions to John XXIII College

Councillor Smyth disclosed an impartiality interest in Item 9.2 - Responsible Authority Report - No. 25 John XXIII Avenue, Mount Claremont – Alterations and Additions to John XXIII College. 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 19th March 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 would not stay in the room and debate the item or vote on the matter.

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## Councillor Smyth – Item 9.3 - Responsible Authority Report - No. 87 and 89 Broadway, Nedlands –36 x Multiple Dwellings and Office – Responsible Authority Report

Councillor Smyth disclosed an impartiality interest in Item 9.3 - Responsible Authority Report - No. 87 and 89 Broadway, Nedlands –36 x Multiple Dwellings and Office – Responsible Authority Report. 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 24th March 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 would not stay in the room and debate the item or vote on the matter.

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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.

## Deputy Mayor McManus – CSD01.21 - Community Sport and Recreation Facilities Fund Applications – Various Clubs

Deputy Mayor McManus disclosed an impartiality interest in Item CSD01.21- Community Sport and Recreation Facilities Fund Applications – Various Clubs. Deputy Mayor McManus disclosed that he is a life member and current Vice President of the Club, and as a consequence, there may be a perception that his/her impartiality on the matter may be affected. Deputy Mayor McManus declared that he would consider this matter on its merits and vote accordingly.

## Councillor Smyth – CPS07.21- Swanbourne Nedlands Surf Life Saving Club – Variation to Lease at 282 Marine Parade, Swanbourne

Councillor Smyth disclosed an impartiality interest in Item CPS07.21 - Swanbourne Nedlands Surf Life Saving Club – Variation to Lease at 282 Marine Parade, Swanbourne. Councillor Smyth disclosed that she is Vice Patron of the Surf Club, and as a consequence, there may be a perception that her impartiality on the matter may be affected. Councillor Smyth declared that she would consider this matter on its merits and vote accordingly.

## Deputy Mayor McManus – CPS07.21- Swanbourne Nedlands Surf Life Saving Club – Variation to Lease at 282 Marine Parade, Swanbourne

Deputy Mayor McManus disclosed an impartiality interest in Item CPS07.21 - Swanbourne Nedlands Surf Life Saving Club – Variation to Lease at 282 Marine Parade, Swanbourne. Deputy Mayor McManus disclosed that he is a Vice Patron of the Surf Club, and as a consequence, there may be a perception that his impartiality on the matter may be affected. Deputy Mayor McManus declared that he would consider this matter on its merits and vote accordingly.

## Councillor Horley – CPS07.21- Swanbourne Nedlands Surf Life Saving Club – Variation to Lease at 282 Marine Parade, Swanbourne

Councillor Horey disclosed an impartiality interest in Item CPS07.21 - Swanbourne Nedlands Surf Life Saving Club – Variation to Lease at 282 Marine Parade, Swanbourne. Councillor Horley disclosed that she is a Vice Patron of the Surf Club, and as a consequence, there may be a perception that her impartiality on the matter may be affected. Councillor Horley declared that she would consider this matter on its merits and vote accordingly.

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

Nil.

# Confirmation of Minutes

## Committee Meeting 9 February 2021

Moved – Councillor Senathirajah

Seconded – Councillor Youngman

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

**CARRIED 10/1**

**(Against: Cr. Bennett)**

# 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.

# 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.

Please note the Presiding Member brought forward the Corporate & Strategy Reports to this point in the meeting.

## Corporate & Strategy Report No’s CPS05.21 to CPS08.21

Report No’s CPS01.21 to CS04.21 to be dealt with at this point (copy attached green cover sheet).

Please note the following item was brought forward from page 45.

|  |
| --- |
| **CPS05.21 List of Accounts Paid – January 2021** |

|  |  |
| --- | --- |
| **Committee** | 9 March 2021 |
| **Council** | 23 March 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 – January 2021; and 2. Credit Card and Purchasing Card Payments – January 2021 (29 December 2020 – 27 January 2021). |
| **Confidential Attachments** | Nil. |

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

Moved – Councillor Youngman

Seconded – Councillor Tyson

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

(Printed below for ease of reference)

**CARRIED UNANIMOUSLY 11/-**

**Committee Recommendation / Recommendation to Committee**

**Council receives the List of Accounts Paid for the months of January 2021 as per attachments.**

Please note the following item was brought forward from page 46.

|  |
| --- |
| **CPS06.21 Future of Nedlands Child Health Clinic – 152 Melvista Avenue, Nedlands** |

|  |  |
| --- | --- |
| **Committee** | 9 March 2021 |
| **Council** | 23 March 2021 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under *section 5.70 Local Government Act 1995*** | Nil. |
| **Director** | Ed Herne – Director Corporate & Strategy |
| **Attachments** | 1. Building Maintenance Inspection – May 2020; and 2. Asset Management Inspection – May 2020. |
| **Confidential Attachments** | Nil. |

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

Moved – Councillor Coghlan

Seconded – Councillor Mangano

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

(Printed below for ease of reference)

**CARRIED UNANIMOUSLY 11/-**

**Committee Recommendation / Recommendation to Committee**

**Council:**

1. **accepts the variances to the Management Licence requested by the Department of Health, with the exclusion of the request to reduce the Licence Fee to $5,000 per annum;**
2. **instructs the CEO to advise the Department of Health that the City’s final offer for a Licence Fee will remain at $10,000 per annum; and**
3. **should the Department of Health accept the City’s terms, and subject to the Minister for Lands Consent, approves the Mayor and CEO to execute the agreement and apply the City’s common seal; and**
4. **should the Department of Health decline to accept the City’s terms, instruct the CEO to request the Department vacate the premises, giving 3 months’ notice and request Administration investigate possible cost-neutral or revenue generating options for the facility, including detail and cost implications surrounding demolition of the facility and provide a further report to Council.**

Please note the following item was brought forward from page 47.

|  |
| --- |
| **CPS07.21 Swanbourne Nedlands Surf Life Saving Club – Variation to Lease at 282 Marine Parade, Swanbourne** |

|  |  |
| --- | --- |
| **Committee** | 9 February 2021 |
| **Council** | 23 February 2021 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under *section 5.70 Local Government Act 1995*** | Nil. |
| **Director** | Ed Herne – Director Corporate & Strategy |
| **Attachments** | Nil. |
| **Confidential Attachments** | Nil. |

**Councillor Smyth – Impartiality Interest**

Councillor Smyth disclosed that she is Vice Patron of the Surf Club, and as a consequence, there may be a perception that her impartiality on the matter may be affected. Councillor Smyth declared that she would consider this matter on its merits and vote accordingly.

**Deputy Mayor McManus – Impartiality Interest**

Deputy Mayor McManus disclosed that he is a Vice Patron of the Surf Club, and as a consequence, there may be a perception that his impartiality on the matter may be affected. Deputy Mayor McManus declared that he would consider this matter on its merits and vote accordingly.

**Councillor Horley – Impartiality Interest**

Councillor Horley disclosed that she is a Vice Patron of the Surf Club, and as a consequence, there may be a perception that her impartiality on the matter may be affected. Councillor Horley declared that she would consider this matter on its merits and vote accordingly.

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

Moved – Councillor Smyth

Seconded – Councillor Horley

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

(Printed below for ease of reference)

**CARRIED UNANIMOUSLY 11/-**

**Committee Recommendation / Recommendation to Committee**

**Council:**

1. **instructs the CEO to arrange a Deed of Variation to the Lease with Swanbourne Nedlands Surf Life Saving Club with the agreement to be prepared at the City’s cost; and**
2. **subject to the Minister for Lands Consent, authorises the CEO and Mayor to execute the Deed of Variation agreement and apply the City’s Common Seal.**

Please note this item was brought forward from page 48.

|  |
| --- |
| **CPS08.21 Mid-Year Budget Review – 2020/21** |

|  |  |
| --- | --- |
| **Committee** | 9 February 2021 |
| **Council** | 23 February 2021 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under *section 5.70 Local Government Act 1995*** | Nil. |
| **Director** | Ed Herne – Director Corporate & Strategy |
| **Attachments** | 1. Revised Rate Setting Statement for the year ending 30 June 2021; 2. List of Changes Required to the Revised Operating Budget 2020/21; and 3. List of Changes Required to the Revised Capital Works & Acquisition Program Budget 2020/21. |
| **Confidential Attachments** | Nil. |

**Regulation 11(da) – The Committee agreed that further information was required.**

Moved – Councillor Wetherall

Seconded – Councillor Tyson

That the Recommendation to Committee be adopted.

(Printed below for ease of reference)

Lost 5/6

(Against: Crs. Smyth Bennett Mangano Coghlan Tyson & Senathirajah)

Recommendation to Committee

Council:

1. receives and adopts, in accordance with Regulation 33A of the Local Government (Financial Management) Regulations 1996, the mid-year budget review and the revised Rate Setting Statement for the year ending 30 June 2021;
2. notes the requested changes to the current 2020/21 Annual Budget listed in Attachments 2 and 3, and summarised in this report;
3. approves the net decrease in transfers from reserves of $460,828; and
4. approves the Draft Budget incorporating all the changes listed in Attachments 1, 2 and 3 of this report, providing an estimated net surplus of $620,742 (Attachment 1).

ABSOLUTE MAJORITY REQUIRED

## Planning & Development Report No’s PD05.21 to PD10.21

Planning & Development Report No’s PD05.21 to PD10.21 to be dealt with at this point (copy attached yellow cover sheet).

|  |  |
| --- | --- |
| **PD05.21** | **Reconsideration of Planning Application – No. 37 Strickland Street, Mount Claremont – Holiday House (Short Term Accommodation)** |
|  | |
| **Committee** | 9 March 2021 |
| **Council** | 23 March 2021 |
| **Applicant** | David Joseph |
| **Landowner** | David Joseph and Christine Joseph |
| **Director** | Tony Free – Director Planning & Development |
| **Employee Disclosure under section 5.70 Local Government Act 1995 and section 10 of the City of Nedlands Code of Conduct for Impartiality.** | 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** | DA20-48595 |
| **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. Applicant’s Justification Report 2. Extract of 27 October 2020 OCM – Agenda containing report with recommendation to Council 3. Extract of 27 October 2020 OCM – Minutes |
| **Confidential Attachments** | 1. Plans 2. Management Plan 3. Submissions 4. Assessment 5. Petition |

Moved – Councillor Wetherall

Seconded – Councillor Senathirajah

That the Recommendation to Committee be adopted.

(Printed below for ease of reference)

Amendment

Moved - Councillor Youngman

Seconded - Councillor Tyson

That clause 2 be amended by replacing “12 months” with “6 months” and advice note 8(b) be amended by replacing “(30 June 2022)” to “(31 December 2021)”.

The AMENDMENT was PUT and was

CARRIED 8/3

(Against: Deputy Mayor McManus Crs. Wetherall & Senathirajah)

The Substantive Motion was PUT and was

Lost 7/4

(Against: Crs. Horley Smyth Bennett Mangano Youngman Coghlan & Tyson)

**The Deputy Mayor granted a recess for the purposes of a refreshment break.**

The meeting adjourned at 8.20 pm and reconvened at 8.25 pm with the following people in attendance:

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

**Councillors** Deputy Mayor L J McManus (Presiding Member)

Councillor F J O Bennett Dalkeith Ward

Councillor A W Mangano Dalkeith Ward

Councillor N R Youngman Dalkeith Ward

Councillor B G Hodsdon (from 8.25 pm) Hollywood Ward

Councillor P N Poliwka Hollywood Ward

Councillor J D Wetherall Hollywood Ward

Councillor R A Coghlan Melvista Ward

Councillor R Senathirajah Melvista Ward

Councillor B Tyson Melvista Ward

Councillor N B J Horley Coastal Districts Ward

Councillor K A Smyth Coastal Districts Ward

**Staff** Mr J Duff Acting Chief Executive Officer

Mr A Melville Acting Director Technical Services

Mr T G Free Director Planning & Development

Mr E K Herne Director Corporate & Strategy

Mrs N M Ceric Executive Officer

Ms P Panayotou Executive Manager Community

**Public** There were 7 members of the public present and 7 online.

**Regulation 11(da) – Committee agree to recommend refusal for the reasons listed in the recommendation.**

Moved – Councillor Smyth

Seconded – Councillor Horley

**Committee Recommendation**

**Council in accordance with Clause 68 (2) of the Planning & Development (Local Planning Schemes) Regulations 2015 resolves to refuse the development application dated 27 May 2020 for a Short Term Accommodation at Lot 96 (No. 37) Stricklan Street, Mount Claremont for the following reasons:**

1. **The proposal is not compatible or complimentary with the adjoining residential development and is contrary to an objective of the Residential zone under the Scheme;**
2. **The proposal does not comply with Clause 67(2)(n)(iii) of Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015 as the development is not in keeping with the amenity of the locality, including the social impacts of the development and**
3. **The proposal would have a detrimental impact on the existing residential amenity and character of the immediate low density residential area.**

**CARRIED 7/5**

**(Against: Deputy Mayor McManus Crs. Hodsdon Poliwka Wetherall & Senathirajah)**

Recommendation to Committee

Council approves the retrospective development application dated 27 May 2020 for a Holiday House at Lot 96 (No. 37) Strickland Street, Mount Claremont, subject to the following conditions and advice notes:

1. This approval is for a Holiday House. Development shall be in accordance with the land use as defined within Local Planning Scheme No. 3, the approved plan(s), any other supporting information and conditions of approval. It does not relate to any other development on the lot.
2. The approval period for the Holiday House will expire 12 months from the date of this approval.
3. The Management Plan date stamped 24 June 2020 forms part of this approval and is to be complied with at all times to the City’s satisfaction.
4. 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.
5. The proposed use complying with the Holiday House definition stipulated under the City’s Local Planning Scheme No. 3 (refer to advice note a)).
6. A maximum of six (6) guests are permitted on the reside at the Holiday House at any one time.
7. Each booking for the Holiday House must be for a minimum stay of 2 consecutive nights.
8. A maximum of two (2) guest vehicles for guests of the Holiday House are permitted on the premises at any one time.

Advice Notes specific to this proposal:

1. With regard to condition 1, the applicant and landowner are advised that the use Holiday House is defined as the following in accordance with the City of Nedlands Local Planning Scheme No. 3 and the City of Nedlands Short Term Accommodation Local Planning Policy:

‘Holiday House means a single dwelling on one lot used to provide short-term accommodation but does not include a bed and breakfast’.

1. In relation to Condition 2, the applicant is advised that if the applicant wishes to continue the use of the land for the Holiday House after the expiry period (30 June 2022), an application to renew the approval must be submitted to the City’s Planning Department for assessment prior to the completion of the initial approval period. The applicant is advised to contact the City’s Planning Services closer to the expiry date for assistance in lodging an Amendment Development Application and the required fees for the application.
2. A separate development application is required to be submitted to and approved by the City prior to any increase in the maximum number of guests at the Holiday House.
3. The applicant is advised that any increase to the number of guest vehicles which are parked at the Holiday House will require further Development approval by the City of Nedlands.
4. This is a Planning Approval only and does not remove the responsibility of the applicant/owner to comply with all relevant building, health and engineering requirements of the City, or the requirements of any other external agency.
5. This planning decision is confined to the authority of the *Planning and Development Act 2005*, the City of Nedlands’ Local Planning Scheme No. 3 and all subsidiary legislation. This decision does not remove the obligation of the applicant and/or property owner to ensure that all other required local government approvals are first obtained, all other applicable state and federal legislation is complied with, and any restrictions, easements, or encumbrances are adhered to.
6. Noise levels are to comply with the *Environmental Protection (Noise) Regulations 1997.*
7. All solid waste and refuse and waste to be managed so as to not create a nuisance to neighbours (in accordance with City requirements).
8. No materials and/or equipment being stored externally on the property, which is visible from off site, and/or obstructs vehicle manoeuvring areas, vehicle access ways, pedestrian access ways, parking bays and/or (un)loading bays.
9. Emergency exits and safety of premises to be assessed for adequacy by the Department of Fire and Emergency Services (DFES).
10. Should the occupancy capacity of the proposal exceed 6 persons (exclusive of the property owners) the proposal will requirement reassessment as a “lodging house” under the *Health (Miscellaneous Provisions) Act 1911* and the *City of Nedlands Health Local Laws 2017.*
11. Where applicable the applicant shall upgrade the premises to comply with the relevant provisions applicable for a Class 1b Building, please contact the City’s Building Services for further advice.

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| **PD06.21** | **No. 14A Odern Crescent, Swanbourne – Single House** |
|  | |
| **Committee** | 9 March 2021 |
| **Council** | 23 March 2021 |
| **Applicant** | Humphrey Homes |
| **Landowner** | Tracie Louise Cielak |
| **Director** | Tony Free – Director Planning & Development |
| **Employee Disclosure under section 5.70 Local Government Act 1995 and section 10 of the City of Nedlands Code of Conduct for Impartiality.** | 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** | DA20/53238 |
| **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. Site Photographs 2. Applicant Justification and Response to Submissions 3. Clause 67 (2) Assessment 4. Local Planning Scheme No. 3 Assessment 5. Administration Summary of Submission and Officer Response |
| **Confidential Attachments** | 1. Plans 2. Summer Overshadowing Diagram 3. Submissions 4. Approved Plan of Subdivision 5. Lot Boundary Setback Assessment 6. Visual Privacy Setback Assessment |

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

Moved – Councillor Youngman

Seconded – Councillor Horley

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

(Printed below for ease of reference)

**CARRIED UNANIMOUSLY 12/-**

**Committee Recommendation / Recommendation to Committee**

**Council approves the development application dated 28 August 2020, with amended plans received on 22 February 2021, for a two-storey single house at Lot 102 (No. 14A) Odern Crescent, Swanbourne, subject to the following conditions and advice notes:**

1. **This approval is for a ‘Residential’ land use 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.**
2. **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.**
3. **This decision constitutes planning approval only and is valid for a period four (4) years from the date of approval. If the subject development is not substantially commenced within the four-year period, the approval shall lapse and be of no further effect.**
4. **All footings and structures shall be constructed wholly inside the site boundaries of the property’s Certificate of Title.**
5. **Prior to occupation of the development the finish of the parapet walls is to be finished externally to the same standard as the rest of the development in:**

* **Face brick;**
* **Painted render;**
* **Painted brickwork; or**
* **Other clean material as specified on the approved plans**

**And maintained thereafter to the satisfaction of the City.**

1. **Prior to occupation of the development, the screening as shown on the approved plans to the southern, eastern and western elevations installed in accordance with the Residential Design Codes by either:**

* **Fixed obscured or translucent glass to a height of 1.60 metres above finished floor level; or**
* **Timber screens, external blinds, window hoods and shutters to a height of 1.6m above finished floor level that are at least 75% obscure;**
* **A minimum sill height of 1.60 metres as determined from the internal floor level; or**
* **An alternative method of screening approved by the City.**

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

1. **Prior to occupation of the development, all external fixtures including, but not limited to TV and radio antennae, satellite dishes, plumbing vents and pipes, solar panels, air conditioners and hot water systems shall be integrated into the design of the building and not be visible from the primary street to the satisfaction of the City.**
2. **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 so as not to be highly visible from beyond the boundaries of the development site to the satisfaction of the City.**
3. **Prior to the occupation of the development, all structures within the 1.5m x1.5m visual truncation area abutting vehicle access points shall be truncated or reduced to 0.75m in height to the satisfaction of the City.**
4. **All stormwater from the development, which includes permeable and non-permeable areas shall be contained onsite.**

**Advice Notes:**

1. **This planning decision is confined to the authority of the *Planning and Development Act 2005*, the City of Nedlands’ Local Planning Scheme No. 3 and all subsidiary legislation. This decision does not remove the obligation of the applicant and/or property owner to ensure that all other required local government approvals are first obtained, all other applicable state and federal legislation is complied with, and any restrictions, easements, or encumbrances are adhered to.**
2. **This planning approval has been issued on the basis of the plans hereby approved. It is the responsibility of the applicant to ensure that the approved plans are accurate and are a true representation of all existing and proposed development on the site, and to ensure that development proceeds in accordance with these plans.**
3. **The applicant is advised that variations to the hereby approved development including variations to wall dimensions, setbacks, height, window dimensions and location, floor levels, floor area and alfresco area, may delay the granting of a Building Permit.  Applicants are therefore encouraged to ensure that the Building Permit application is in compliance with this planning approval, including all conditions and approved plans. Where Building Permit applications are not in accordance with the planning approval, a schedule of changes is to be submitted and early liaison with the City’s Planning Department is encouraged prior to lodgement.**
4. **The applicant is advised to liaise with the eastern and western adjoining property owners regarding the possible retention or replacement of the existing dividing fences along the common lot boundaries. Please refer to the *Dividing Fences Act 1961* for the rights and responsibilities of landowners regarding dividing fences. Information is available at the following website:** [**http://www.commerce.wa.gov.au/building-commission/dividing-fences-0**](http://www.commerce.wa.gov.au/building-commission/dividing-fences-0)
5. **All internal water closets and ensuites without fixed or permanent window access to outside air or which open onto a hall, passage, lobby or staircase, shall be serviced by a mechanical ventilation exhaust system which is ducted to outside air, with a minimum rate of air change equal to or greater than 25 litres / second.**
6. **All street tree assets in the nature-strip (verge) shall not be removed or damaged. Any approved street tree removals shall be undertaken by the City and paid for by the owner of the property where the development is proposed, unless otherwise approved by the City.**
7. **All works within verge (i.e., road, kerbs, footpath, verge, crossover) will require separate approval from the City prior to construction commencing.**
8. **Where building works are proposed a building permit shall be applied for prior to works commencing.**
9. **All car parking dimensions, manoeuvring areas, crossovers and driveways shall comply with Australian Standard AS2890.1 (as amended) to the satisfaction of the City of Nedlands unless otherwise approved as part of this determination.**
10. **In relation to condition 9, the applicant is advised that all downpipes from guttering shall be connected so as to discharge into drains, which shall empty into a soak-well; and each soak-well shall be located at least 1.8m from any building, and at least 1.8m from the boundary of the block. Soak-wells of adequate capacity to contain runoff from a 20-year recurrent storm event. Soak-wells shall be a minimum capacity of 1.0m3 for every 80m2 of calculated surface area of the development.**

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| **PD07.21** | **No. 26 Louise Street, Nedlands – 5 x Grouped Dwellings** |
|  | |
| **Committee** | 9 March 2021 |
| **Council** | 23 March 2021 |
| **Applicant** | Urbanista Town Planning |
| **Landowner** | Canute Australia Pty Ltd |
| **Director** | Tony Free – Director Planning & Development |
| **Employee Disclosure under section 5.70 Local Government Act 1995 and section 10 of the City of Nedlands Code of Conduct for Impartiality.** | 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** | DA20-56186 |
| **Previous Item** | Nil |
| **Delegation** | In accordance with the City’s Instrument of Delegation, Council is required to determine the application due to the application proposing five dwellings. |
| **Attachments** | 1. Applicant’s Report 2. Acoustic Report 3. Traffic Impact Statement 4. Landscape Plan 5. Planning and Development (Local Planning Schemes) Regulations 2015 Assessment 6. Aims of the Scheme Assessment 7. Residential Zone Objectives Assessment 8. State Planning Policy 7.0 – Design of the Built Environment Assessment 9. State Planning Policy 7.2 – Precinct Design Assessment |
| **Confidential Attachments** | 1. Plans 2. Assessment |

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

Moved – Councillor Poliwka

Seconded – Councillor Wetherall

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

(Printed below for ease of reference)

**CARRIED ON THE CASTING VOTE 6/6**

**(Against: Crs. Horley Bennett Mangano Youngman Coghlan & Tyson)**

**Committee Recommendation / Recommendation to Committee**

**Council approves the development application dated 10 November 2020, with amended plans received on 16 February 2021 for five (5) Grouped Dwellings at Lot 166 (No. 26) Louise Street, Nedlands, subject to the following conditions and advice notes:**

1. **This approval is for a ‘Residential’ land use 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.**
2. **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.**
3. **This decision constitutes planning approval only and is valid for a period of four years from the date of approval. If the subject development is not substantially commenced within the four-year period, the approval shall lapse and be of no further effect.**
4. **Prior to the issue of a Building Permit, a Waste Management Plan shall be submitted and approved to satisfaction of the City. The Waste Management Plan shall be complied with at all times to the satisfaction of the City.**
5. **The Acoustic Report dated 10 November 2020 (Attachment 2) prepared by Hewshott Acoustics forms part of this development approval and shall be complied with at all times to the satisfaction of the City. Recommendations contained within the acoustic report to achieve compliance with the *Environmental Protection (Noise) Regulations 1997* are to be carried out and maintained for the lifetime of the development to the satisfaction of the City of Nedlands.**
6. **The Landscape Plan (Attachment 4) forms part of this approval. Landscaping shall be installed and maintained in accordance with the approved landscaping plan prepared by Propagule dated 28 October 2020, or any modifications approved thereto, for the lifetime of the development thereafter, to the satisfaction of the City.**
7. **In accordance with the Australian Standard AS2890.1 (as amended), all car parking and vehicle manoeuvring areas are to maintain adequate circulation space, free of intrusions such as doors and storage areas which do not compromise the minimum parking dimensions required under AS2890.1.**
8. **Prior to the issue of a Building Permit, amended plans are to be submitted with the Building Permit Application to show the doors providing access into the garages for Lot 1 and Lot 5 swing in the opposite direction, away from the manoeuvring areas for the vehicles within the garage.**
9. **Prior to construction or demolition works, a Construction Management Plan shall be submitted to the satisfaction of the City. The approved construction shall be observed at all times throughout the construction process to the satisfaction of the City.**
10. **The location of any bin stores shall be located behind the street alignment, screened so as not to be highly visible from the street or public place and constructed to the City’s satisfaction.**
11. **All stormwater from the development, which includes permeable and impermeable areas shall be contained onsite.**
12. **All footings and structures shall be constructed wholly inside the site boundaries of the property’s Certificate of Title.**
13. **Prior to occupation of the development, all major openings and unenclosed outdoor active habitable spaces, which have a floor level of more than 0.5m above natural ground level located behind the street setback area shall satisfy the deemed to comply criteria of element 5.4.1 of the Residential Design Codes Volume 1. Screening referred to in c1.1(ii) of the Residential Design Codes Volume 1 is to be in the form of;**
14. **fixed obscured or translucent glass to a height of 1.60 metres above finished floor level, or**
15. **Timber screens, external blinds, window hoods and shutters to a height of 1.6m above finished floor level that are at least 75% obscure.**
16. **A minimum sill height of 1.60 metres as determined from the internal floor level; or**
17. **an alternative method of screening approved by the City of Nedlands.**

**The required setbacks and/or screening shall be thereafter maintained to the satisfaction of the City of Nedlands.**

1. **Prior to occupation of the development the finish of the parapet walls is to be finished externally to the same standard as the rest of the development in:**
2. **Face brick;**
3. **Painted render**
4. **Painted brickwork; or**
5. **Other clean material as specified on the approved plans.**

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

1. **The parking bays and vehicle access areas shall be drained, paved and constructed in accordance with the approved plans and are to comply with the requirements of AS/NZS 2890.1:2004 prior to the occupation or use of the development.**
2. **Prior to occupation of the development, the proposed visitor car parking bay shall be provided with 1.5m x 1.5m visual truncations in accordance with AS2890.1 on both sides of the bay to the satisfaction of the City of Nedlands.**
3. **Prior to occupation of the development, all external fixtures including, but not limited to, TV and radio antennae, satellite dishes, plumbing vents and pipes, solar panels, air conditioners, hot water systems and utilities shall be integrated into the design of the building and not be visible from the primary street to the satisfaction of the City.**
4. **Prior to the occupation of the development a lighting plan is to be implemented and maintained for the duration of the development to the satisfaction of the City.**
5. **Prior to the occupation of the development, the car parking designated for visitors shall be clearly marked and signage provided to the specification and maintained thereafter by the landowner to the satisfaction of the City of Nedlands.**

**Advice Notes specific to this proposal:**

1. **The applicant is advised that this application is for Planning Approval only and does not remove the responsibility of the applicant/owner to comply with all relevant building, health and engineering requirements of the City, or the requirements of any other external agency. The City encourages the applicant to speak with each department to understand any further requirements.**
2. **The applicant is advised to provide as part of the Building Permit application, a compaction certificate from a structural engineer for the area previously occupied by the swimming pool (Units C & D). The compaction certificate is to demonstrate that the land/foundation can support the proposed development.**
3. **The applicant is advised that the proposed development does not meet the “Deemed-to-Satisfy” provisions of the NCC BCA Vol.2 2019 in following areas Part 3.7.2.2 - External walls of Class 1 buildings, Part 3.7.2.4 - Construction of external walls, Part 3.7.2.7 - Allowable Encroachments and 3.7.3.2 - Separating Walls. The proposed development is required to satisfy the Performance Requirements P2.3.1 (Part 3.7) and be determined in accordance with A2.2(3) and A2.4(3) as applicable. Where proposed works do not satisfy the “Deemed-to-Satisfy” provisions of the NCC BCA the design/proposed works must be documented in a Performance Solution and form part of the relevant Certificate of Design Compliance and Building Permit application.**
4. **The applicant is advised that in relation to Condition 4, the maximum number of bins permitted on the verge is eight (8) bins at any time.**
5. **The applicant is advised that a separate noise management plan will be required to be prepared, submitted to the City and approved by the CEO if it is desired to work outside of normal hrs of operation during construction of the project (i.e., 0700 hrs and 1900 hours on any day that is not a Sunday or Public Holiday). This will be subject to the subject to the Clause (6) of the *Environmental Protection (Noise) Regulations 1997*, that is detailed in section 3.4.1 of the acoustic report.**
6. **The proposal requires compliance with theCity’s *Health Local Laws 2017,* which requires an enclosure for the storage and cleaning of waste receptacles to be provided on the premises, per the following requirements:**
   1. **Constructed of brick, concrete, corrugated compressed fibre cement sheet or other material of suitable thickness approved by the City;**
   2. **Walls not less than 1.8m in height and access of not less than 1.0 metre in width fitted with a self-closing gate;**
   3. **Smooth and impervious floor not less than 75mm thick and evenly graded to an approved liquid refuse disposal system;**
   4. **Easily accessible to allow for the removal of the receptacles;**
   5. **Provided with a ramp into the enclosure having a gradient of no steeper than 1:8 unless otherwise approved by the City; and**
   6. **Provided with a tap connected to an adequate supply of water.**
7. **The applicant is advised outdoor lighting installations are required to comply with Australian Standard AS.4282 – Control of the Obtrusive Effects of Outdoor Lighting, such that they will not cause adverse amenity impacts on the surrounding locality, and the spread of artificial light from installations is restricted to the property.**
8. **The plans indicate the parking level will be constructed beneath the natural ground level. The proposed development is within proximity to the Swan River. In the event that dewatering is required at the site during construction the applicant is to prepare, submit, and have approved a Dewatering Management Plan by the Department of Parks and Wildlife and to the satisfaction of the Department of Water and Environmental Regulation, Swan River Trust and City.**
9. **The applicant is advised to apply dust control measures during construction in accordance with *City of Nedlands Health Local Laws 2017*and DWER requirements.**
10. **The landowner is advised that all mechanical equipment (e.g., air-conditioner, swimming pool or spa) is required to comply with the *Environmental Protection (Noise) Regulations 1997*, in relation to noise.**
11. **The applicant is advised to consult the City’s Acoustic Advisory Information in relation to locating any mechanical equipment (e.g., air-conditioner, swimming pool or spa) such that noise, vibration impacts on neighbours are mitigated. The City does not recommend installing any equipment near a property boundary where it is likely that noise will intrude upon neighbours.**
12. **All street tree assets in the nature-strip (verge) shall not be removed without prior approval from the City of Nedlands.**
13. **The existing crossover is to be removed and the nature-strip / verge reinstated in accordance with the City of Nedlands’ Nature Strip Improvement Guidelines.**
14. **A new crossover, temporary crossover or modification to an existing crossover will require obtaining a separate Vehicle Crossover Permit from the City of Nedlands prior to construction commencing.**
15. **All internal water closets and ensuites without fixed or permanent window access to outside air or which open onto a hall, passage, hobby or staircase, shall be serviced by a mechanical ventilation exhaust system which is ducted to outside air, with a minimum rate of air change equal to or greater than 25 litres / second.**
16. **All downpipes from guttering shall be connected so as to discharge into drains, which shall empty into a soak-well; and each soak-well shall be located at least 1.8m from any building, and at least 1.8m from the boundary of the block. Soak-wells of adequate capacity to contain runoff from a 20-year recurrent storm event. Soak-wells shall be a minimum capacity of 1.0m3 for every 80m2 of calculated surface area of the development.**
17. **The applicant is advised that in relation to Condition 8, the Construction Management Plan shall detail how proposed site works will be managed to minimise environmental impacts and shall address but not be limited to:**
18. **Staging plan for the entire works;**
19. **Applicable timeframes and assigned responsibilities for tasks;**
20. **Onsite storage of materials and equipment;**
21. **Parking for contractors;**
22. **Waste management;**
23. **Management of noise in accordance with the requirements of the *Environmental Protection (Noise) Regulations 1997*;**
24. **Management of vibrations;**
25. **Complaints and incidents; and**
26. **Site signage showing the builder’s direct contact details (telephone number and email address).**
27. **The responsible entity (strata/corporate body) is responsible for the maintenance of the common property (including roads) within the development.**
28. **The applicant is advised that all development must comply with this planning approval and approved plans at all times. Any development, whether it be a structure or building, that is not in accordance with the planning approval, including any condition of approval, may be subject to further planning approval by the City.**
29. **This planning decision is confined to the authority of the *Planning and Development Act 2005*, the City of Nedlands’ Local Planning Scheme No. 3 and all subsidiary legislation. This decision does not remove the obligation of the applicant and/or property owner to ensure that all other required local government approvals are first obtained, all other applicable state and federal legislation is complied with, and any restrictions, easements, or encumbrances are adhered to.**
30. **The applicant is advised that variations to the hereby approved development including variations to wall dimensions, setbacks, height, window dimensions and location, floor levels, floor area and alfresco area, may delay the granting of a Building Permit.  Applicants are therefore encouraged to ensure that the Building Permit application is in compliance with this planning approval, including all conditions and approved plans. Where Building Permit applications are not in accordance with the planning approval, a schedule of changes is to be submitted and early liaison with the City’s Planning Department is encouraged prior to lodgement.**
31. **This planning approval has been issued on the basis of the plans hereby approved. It is the responsibility of the applicant to ensure that the approved plans are accurate and are a true representation of all existing and proposed development on the site, and to ensure that development proceeds in accordance with these plans.**

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| **PD08.21** | **Establishment of a Design Review Panel, Final Adoption of the Design Review Panel Local Planning Policy and Appointment of Panel Members** |
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| **Committee** | 9 March 2021 |
| **Council** | 23 March 2021 |
| **Applicant** | City of Nedlands |
| **Director** | Tony Free – Director Planning & Development |
| **Employee Disclosure under section 5.70 Local Government Act 1995 and section 10 of the City of Nedlands Code of Conduct for Impartiality.** | Nil  “*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*”. |
| **Previous Item** | OCM – 23 April 2019 - PD14.19  OCM – 17 December 2019 - Item: 16.1  SCM – 30 January 2020 - Item: 7  OCM – 30 March 2020 - Item: 14.4  OCM – 28 July 2020 - Item: 14.1  OCM – 15 December 2020 - Item:13.9  OCM – 23 February 2021 - PD02.21 |
| **Attachments** | 1. Design Review Panel – Local Planning Policy 2. Summary of comments from Office of the Government Architect |
| **Confidential Attachments** | 1. Scoring Sheets 2. Specifics of Scoring System 3. Interview Forms 4. Overview of Interviewed Applicants 5. Applicants with DRP Experience 6. Recorded Interviews (MP4 video format) |

Closure of Meeting to the Public

Moved – Councillor Youngman

Seconded - Councillor Smyth

**That the meeting be closed to the public in accordance with Section 5.23 (e) (iii) of the Local Government Act 1995 to allow confidential discussion on the following Item.**

**CARRIED 10/2**

**(Against: Deputy Mayor McManus Cr. Senathirajah)**

The meeting was closed to the public at 8.43 pm.

Moved - Councillor Youngman

Seconded - Councillor Coghlan

**That the meeting be reopened to members of the public and the press.**

**CARRIED UNANIMOUSLY 12/-**

The meeting was reopened to members of the public and the press at 9.17 pm.

In accordance with Standing Orders 12.7(3) the Presiding Member read out the motions passed by the Committee whilst it was proceeding behind closed doors and the vote of the members to be recorded in the minutes under section 5.21 of the Local Government Act 1995.

Moved – Councillor Youngman

Seconded – Councillor Tyson

**Committee Recommendation**

**Council:**

1. **proceeds to adopt the Design Review Panel - Local Planning Policy, as set out in Attachment 1, in accordance with the Planning and Development (Local Planning Schemes) Regulations 2015 Schedule 2, Part 2, Clause 4(3)(b)(i);**
2. **in accordance with Clause 2 of the Design Review Panel - Terms of Reference, appoints, for a period of two years, the following Design Review Panel members:**

**General members:**

* **Dominic Snellgrove**
* **Emma Williamson,**
* **Simon Anderson**
* **Simon Venturi**
* **Tony Blackwell**
* **Tony Casella**

**Specialist members:**

* **Graham Agar**
* **John Taylor**

1. **Instructs the Chief Executive Officer to review the Design Review Panel Local Planning Policy and funding model after six months of the operation of the Panel.**
2. **In the event that one of the preferred applicants listed in Resolution 2 above is not able to accept the role due to schedule conflicts, or a decision to not proceed with being a Design Review Panel member, delegates authority to the Chief Executive Officer to select from the remaining list of interviewed applicants, in order of highest total score to lowest total score.**

**CARRIED 11/1**

**(Against: Cr. Mangano)**

Recommendation to Committee

Council:

1. Proceeds to adopt the Design Review Panel - Local Planning Policy, as set out in Attachment 1, in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015* Schedule 2, Part 2, Clause 4(3)(b)(i);
2. In accordance with Clause 2 of the Design Review Panel - Terms of Reference, appoints, for a period of two years, the following Design Review Panel members:
3. General members:
   * Tony Blackwell
   * Dominic Snellgrove
   * Samuel Klopper
   * Munira Mackay
   * Philip Gresley
   * Simon Venturi
4. Specialist members:
   * Graham Agar
   * John Taylor
5. Instructs the Chief Executive Officer to review the Design Review Panel Local Planning Policy and funding model after six months of the operation of the Panel.
6. In the event that one of the preferred applicants listed in Resolution 2 above is not able to accept the role due to schedule conflicts, or a decision to not proceed with being a Design Review Panel member, delegates authority to the Chief Executive Officer to select from the remaining list of interviewed applicants, in order of highest total score to lowest total score.

**Item PD10.21 - Response to Proposed Policy Framework – Cumulative Traffic Impact Assessment was also discussed while the Committee was behind closed doors and resolved the following:**

Moved – Councillor Youngman

Seconded – Councillor Coghlan

**Committee Recommendation / Recommendation to Committee**

**Council:**

1. **acknowledges the legal advice obtained from Castledine Gregory dated 12 February 2021; and**
2. **request that an information briefing session of Councillors be held to allow for discussion on the legal ad**
3. **vice received and for City officers to outline a path forward.**

**CARRIED UNANIMOUSLY 12/-**

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| --- |
| **PD09.21 RFT 2020-21.09 Natural Area Weed Control 2021-2025** |

|  |  |
| --- | --- |
| Committee | 9 March 2021 |
| Council | 23 March 2021 |
| Applicant | City of Nedlands |
| Employee Disclosure under section 5.70 of the Local Government Act 1995 and section 10 of the City of Nedlands Code of Conduct for Impartiality. | Nil. |
| Director | Tony Free – Director Planning & Development |
| Attachments | Nil. |
| Confidential Attachments | 1. RFT 2020-21.09 Final Evaluation Score Sheet |

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

Moved – Councillor Wetherall

Seconded – Councillor McManus

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

(Printed below for ease of reference)

**CARRIED ON THE CASTING VOTE 6/6**

**(Against: Crs. Smyth Bennett Mangano Hodsdon Coghlan & Tyson)**

**Committee Recommendation / Recommendation to Committee**

**Council:**

1. **accept the recommendation to award the contract for tender number RFT 2020-21.09 Natural Area Weed Control 2021-2025 to the South East Regional Centre for Urban Landcare (SERCUL) as the first preference panel member;**
2. **accept the recommendation to award the contract for tender number RFT 2020-21.09 Natural Area Weed Control 2021-2025 to UGC Holdings PTY LTD as the second preference panel member;**
3. **instruct the CEO to issue contracts to South East Regional Centre for Urban Landcare (SERCUL) and UGC Holdings PTY LTD; and**
4. **instruct the CEO to advise all other tenderers as to the outcome of Tender number RFT 2020-21.09.**

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| **PD10.21** | **Response to Proposed Policy Framework – Cumulative Traffic Impact Assessment** |
|  | |
| **Committee** | 9 March 2021 |
| **Council** | 23 March 2021 |
| **Applicant** | City of Nedlands |
| **Director** | Tony Free – Director Planning & Development |
| **Employee Disclosure under section 5.70 Local Government Act 1995 and section 10 of the City of Nedlands Code of Conduct for Impartiality.** | 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 |
| **Previous Item** | Nil |
| **Attachments** | 1. Special Meeting of Electors Minutes – 3 December 2020 |
| **Confidential Attachments** | 1. Legal Review of Policy Proposed at Special Meeting of Electors – 3 December 2020 |

**Please see recommendation on page 35.**

## Community Development No’s CSD01.21 to CSD02.21

Report No’s CSD01.21 to CSD02.21 to be dealt with at this point (copy attached orange cover sheet).

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| --- |
| **CSD01.21 Community Sport and Recreation Facilities Fund Applications – Various Clubs** |

|  |  |
| --- | --- |
| **Committee** | 9 March 2021 |
| **Council** | 23 March 2021 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under *section 5.70 of the Local Government Act 1995* and section 10 of the City of Nedlands Code of Conduct for Impartiality.** | Nil |
| **Director** | Pat Panayotou – Executive Manager Community |
| **Attachments** | Nil |
| **Confidential Attachments** | Nil |

**Deputy Mayor McManus – Impartiality Interest**

Deputy Mayor McManus disclosed that he is a life member and current Vice President of the Club, and as a consequence, there may be a perception that his/her impartiality on the matter may be affected. Deputy Mayor McManus declared that he would consider this matter on its merits and vote accordingly.

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

Moved – Deputy Mayor McManus

Seconded – Councillor Poliwka

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

(Printed below for ease of reference)

**CARRIED 8/4**

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

**Committee Recommendation / Recommendation to Committee**

**Council:**

1. **advises Department of Local Government, Sport and Cultural Industries that it has ranked and rated the application to the Community Sport and Recreation Facilities Fund Small Grant Round as follows:**
   1. **Claremont Nedlands Cricket Club – Upgrade of Turf Wicket Infrastructure: Well planned and needed by the applicant (B Rating);**
   2. **Nedlands Tennis Club – Upgrade of Synthetic Grass Courts: Well planned and needed by the applicant (B Rating);**
   3. **Allen Park Tennis Club – Tennis Court Fence Replacement: Well planned and needed by the applicant (B Rating);**
   4. **Dalkeith Tennis Club – Hardcourt Rebuild with LED Floodlighting: Well planned and needed by the applicant (B Rating); and**
   5. **Hollywood-Subiaco Bowling Club – New Synthetic Bowling Green: Needed by the applicant, more planning required (D Rating).**
2. **endorses each of the above applications to Department of Local Government, Sport and Cultural Industries conditional on:**
   1. **all necessary statutory approvals are obtained by the applicant; and**
   2. **the project receives DLGSCI funding.**
3. **approves a Council grant of $19,944 (ex GST) to the Claremont Nedlands Cricket Club for its Upgrade of Turf Wicket Infrastructure project on Melvista Oval;**
4. **approves a Council grant of $25,000 (ex GST) to the Nedlands Tennis Club for its Upgrade of Synthetic Grass Courts project;**
5. **approves a Council grant of $27,324 (ex GST) to the Allen Park Tennis Club for its Tennis Court Fence Replacement project;**
6. **approves a council grant of $99,289 (ex GST) to the Dalkeith Tennis Club for its Hardcourt Rebuild with LED Floodlighting project;**
7. **provides in-principle support to the Hollywood-Subiaco Bowling Club’s application; however, recommends that the project is deferred pending the Master Plan for Highview Park;**
8. **carries over the $100,000 approved for CSRFF expenditure in the 2020/21 budget to the 2021/22 financial year; and**
9. **instructs the CEO to include a further $100,000 in the draft 2022/23 budget for expenditure on CSRFF grants, for Council consideration in the 2022/23 budgeting process (in addition to the carried-over amount referred to at item 8 above).**

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| --- |
| **CSD02.21 Future use of Haldane House, 109 Montgomery Avenue, Mt Claremont** |

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| --- | --- |
| **Committee** | 9 March 2021 |
| **Council** | 23 March 2021 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under *section 5.70 of the Local Government Act 1995* and section 10 of the City of Nedlands Code of Conduct for Impartiality.** | Nil |
| **Director** | Pat Panayotou – Executive Manager Community |
| **Attachments** | Nil |
| **Confidential Attachments** | Nil |

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

Moved – Councillor Horley

Seconded – Councillor Smyth

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

(Printed below for ease of reference)

**CARRIED 7/5**

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

**Committee Recommendation / Recommendation to Committee**

**Council:**

1. **notes the options available for future use of Haldane House as detailed within this report;**
2. **instructs the CEO to commence arrangements for the operations of the Nedlands Community Care Service to be transferred from the 97-99 Waratah Avenue, Dalkeith site, to Haldane House, and;**
3. **authorises expenditure of $15,000 from the Welfare Reserve, to assist with the costs of moving from 97 Waratah Avenue to Haldane House, setting up Haldane House for the clients with the purchase of some new furniture and resources, to be reconciled in the budget process.**

## Corporate & Strategy Report No’s CPS05.21 to CPS08.21

Report No’s CPS01.21 to CS04.21 to be dealt with at this point (copy attached green cover sheet).

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| --- |
| **CPS05.21 List of Accounts Paid – January 2021** |

|  |  |
| --- | --- |
| **Committee** | 9 March 2021 |
| **Council** | 23 March 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 – January 2021; and 2. Credit Card and Purchasing Card Payments – January 2021 (29 December 2020 – 27 January 2021). |
| **Confidential Attachments** | Nil. |

Please note this item was brought forward see page 11.

|  |
| --- |
| **CPS06.21 Future of Nedlands Child Health Clinic – 152 Melvista Avenue, Nedlands** |

|  |  |
| --- | --- |
| **Committee** | 9 March 2021 |
| **Council** | 23 March 2021 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under *section 5.70 Local Government Act 1995*** | Nil. |
| **Director** | Ed Herne – Director Corporate & Strategy |
| **Attachments** | 1. Building Maintenance Inspection – May 2020; and 2. Asset Management Inspection – May 2020. |
| **Confidential Attachments** | Nil. |

Please note this item was brought forward see page 12.

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| --- |
| **CPS07.21 Swanbourne Nedlands Surf Life Saving Club – Variation to Lease at 282 Marine Parade, Swanbourne** |

|  |  |
| --- | --- |
| **Committee** | 9 February 2021 |
| **Council** | 23 February 2021 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under *section 5.70 Local Government Act 1995*** | Nil. |
| **Director** | Ed Herne – Director Corporate & Strategy |
| **Attachments** | Nil. |
| **Confidential Attachments** | Nil. |

Please note this item was brought forward see page 14.

|  |
| --- |
| **CPS08.21 Mid-Year Budget Review – 2020/21** |

|  |  |
| --- | --- |
| **Committee** | 9 February 2021 |
| **Council** | 23 February 2021 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under *section 5.70 Local Government Act 1995*** | Nil. |
| **Director** | Ed Herne – Director Corporate & Strategy |
| **Attachments** | 1. Revised Rate Setting Statement for the year ending 30 June 2021; 2. List of Changes Required to the Revised Operating Budget 2020/21; and 3. List of Changes Required to the Revised Capital Works & Acquisition Program Budget 2020/21. |
| **Confidential Attachments** | Nil. |

Please note this item was brought forward see page 18 pm.

# Reports by the Chief Executive Officer

## Lot 538 and 539 (No. 93 and 95) Broadway, Nedlands - Amendment to Mixed Use Development - Responsible Authority Report

|  |  |
| --- | --- |
| **Committee** | 9 March 2021 |
| **Applicant** | Element |
| **Employee Disclosure under section 5.70 Local Government Act 1995 and section 10 of the City of Nedlands Code of Conduct for Impartiality.** | 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 |
| **Acting CEO** | Jim Duff |
| **Attachments** | 1. Responsible Authority Report & Attachments |
| **Confidential Attachments** | Nil |

**Councillor Smyth – Impartiality Interest**

Councillor Smyth disclosed an impartiality interest in Item 9.1 - Responsible Authority Report - Lot 538 and 539 (No. 93 and 95) Broadway, Nedlands - Amendment to Mixed Use Development. 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 24th March 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 would 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 Bennett – Impartiality Interest**

Councillor Benentt disclosed an impartiality interest in Item 9.1 - Responsible Authority Report - Lot 538 and 539 (No. 93 and 95) Broadway, Nedlands - Amendment to Mixed Use Development. 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 24th March 2021. As a consequence, there may be a perception that his 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 would 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 Mangano left the meeting at 10.17 pm.

Councillor Smyth & Councillor Bennett left the meeting at 10.17 pm.

Councillor Wetherall retired from the meeting at 10.17 pm.

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

Moved – Councillor Coghlan

Seconded – Councillor Senathirajah

**Council Recommendation**

**Council:**

1. **notes Administration’s recommendation that the proposed minor amendment to Mixed Use Development at Lots 538 and 539 (No. 93 and 95) Broadway, Nedlands be approved by the Metro Inner-North Joint Development Assessment Panel in the Responsible Authority Report (Attachment 1);**
2. **considers the information in Attachment 1 relating to the proposed minor amendment to Mixed Use Development at Lots 538 and 539 (No. 93 and 95) Broadway, Nedlands and makes its recommendation to the Metro Inner-North Joint Development Assessment Panel as the Responsible Authority; and**
3. **incorporates its recommendation into the Responsible Authority Report (Attachment 1) for the proposed minor amendment to mixed use development at Lots 538 and 539 (No. 93 and 95) Broadway, Nedlands.**

Councillor Mangano returned to the meeting at 10.19 pm.

**CARRIED UNANIMOUSLY 9/-**

Recommendation to Committee

Council:

1. notes Administration’s recommendation that the proposed minor amendment to Mixed Use Development at Lots 538 and 539 (No. 93 and 95) Broadway, Nedlands be approved by the Metro Inner-North Joint Development Assessment Panel in the Responsible Authority Report (Attachment 1);
2. considers the information in Attachment 1 relating to the proposed minor amendment to Mixed Use Development at Lots 538 and 539 (No. 93 and 95) Broadway, Nedlands and makes its recommendation to the Metro Inner-North Joint Development Assessment Panel as the Responsible Authority;
3. incorporates its recommendation into the Responsible Authority Report (Attachment 1) for the proposed minor amendment to mixed use development at Lots 538 and 539 (No. 93 and 95) Broadway, Nedlands; and
4. agrees to appoint Councillor (insert name) and Councillor (insert name) to coordinate Council’s submission and presentation to the Metro Inner-North JDAP.
5. **Executive Summary**

In accordance with the *Planning and Development (Development Assessment Panels) Regulations 2011*, Administration have prepared a Responsible Authority Report for a Form 2 Application for the Metro-Inner North Joint Development Assessment Panel (JDAP) to consider. The application relates to a minor amendment to a Mixed Use Development at Lots 538 and 539 (No. 93 and 95) Broadway, which the JDAP approved on 14 September 2020.

The proposed modifications do not result in any changes to the current design, office and multiple dwelling aspects of the approved Mixed Use Development. All current conditions (except for Condition 13), advice notes and the four-year approval term remain the same.

The purpose of this report is to inform Council of the City’s recommendation to the JDAP and for Council to make its recommendation as the Responsible Authority.

1. **Background**

At the Development Assessment Panel meeting held on 14 September 2020, the JDAP approved the Mixed Use Development at the site comprising of 38 Multiple Dwellings and an Office. The subject site is zoned ‘Mixed Use’ and has a density coding of R-AC3.

1. **Application Details**

An application has been made in accordance with r.17(c) of the *Planning and Development (Development Assessment Panels) Regulations 2011* as it amends an aspect of the development which does not substantially change the original development that has been approved*.* The proposed modifications subject to this amendment are summarised below:

* The applicant is seeking an amendment to the number of commercial car parking bays by reducing it from 5 to 4. A total reduction of 1 commercial bay;
* At basement level, the utilities referred to as ‘pumps and tanks’ is to be relocated to the south-western corner; and
* At ground level, an approved vacant area is to be provided with tanks and car park exhaust air duct is to be moved slightly to the east and one (1) additional motorcycle bay is to be provided in the north-west corner.

The proposed modifications only relate to internal changes to the Ground Floor and Basement Floor and do not result in any changes to the current design, office and multiple dwelling aspects of the approved mixed-use Development. All current conditions (except for Condition 13), advice notes and the four-year validity period of the 14 September 2020 approval remains the same.

1. **Consultation**

The City’s Local Planning Policy – Consultation of Planning Proposals states that the development proposal for multiple dwellings is classified as a “Complex” Application. In accordance with this policy, the application was advertised for a period of 21 days from 22 January 2021 to 13 February 2021. The following forms of notification included:

* 257 letters were sent to all City of Nedlands and City of Perth landowners and occupiers within a 200m radius of the subject site;
* A sign on site was installed at the frontage of the site for the advertising period;
* An advertisement was uploaded to the City’s website with all documents relevant to the application made available for viewing during the advertising period;
* An advertisement was placed in The Postnewspaper;
* A notice was affixed to the City’s Noticeboard at the City’s Administration Offices; and
* A community information session was held on 8 February 2021 and attended by three residents.

At the close of the advertising a total of 22 submissions were received comprising of 1 submission in support and the remaining 21 submissions objecting. The objections primarily related to non-compliance with the R-Codes, incorrect marking of boundaries, the existing mobile phone tower and health concerns and an undesirable level of traffic.

1. **Recommendation to JDAP**

An application under Regulation 17 of the *Development Assessment Panel Regulations 2011* is not an application for a review or reconsideration of the original decision. The assessment is based on the extent of the amendments sought. It is the City’s view that the proposed modifications sought are deemed as minor in nature. It is considered to appropriately address the City’s Local Planning Policy – Parking and considerations of the application by local government under clause 67(2) of the *Planning and Development (Local Planning Schemes) Regulations 2015*. Approval is therefore recommended.

1. **Conclusion**

The City have prepared a Responsible Authority Report to the JDAP recommending approval for a minor amendment to the Mixed Use Development at Lots 538 and 539 (No. 93 and 95) Broadway, Nedlands.

## No. 25 John XXIII Avenue, Mount Claremont – Alterations and Additions to John XXIII College – Responsible Authority Report

|  |  |
| --- | --- |
| **Committee** | 9 March 2021 |
| **Applicant** | Taylor Robinson Chaney Broderick |
| **Employee Disclosure under section 5.70 Local Government Act 1995 and section 10 of the City of Nedlands Code of Conduct for Impartiality.** | 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 |
| **Acting CEO** | Jim Duff |
| **Attachments** | 1. Responsible Authority Report & Attachments |
| **Confidential Attachments** | Nil |

**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 19th March 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 would 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 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 19th March 2021. As a consequence, there may be a perception that his 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 would 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.

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

Moved – Councillor Youngman

Seconded – Councillor Tyson

**Council Resolution**

**Council:**

1. **notes Administration’s recommendation that the proposed alterations and additions to John XXIII College at Lot 10629 (No.25) John XXIII Avenue, Mount Claremont be approved by the Metro Inner-North Joint Development Assessment Panel in the Responsible Authority Report (Attachment 1);**
2. **considers the information in Attachment 1 relating to the proposed alterations and additions to John XXIII College at Lot 10629 (No.25) John XXIII Avenue, Mount Claremont and makes its recommendation to the Metro Inner-North Joint Development Assessment Panel as the Responsible Authority; and**
3. **incorporates its recommendation into the Responsible Authority Report (Attachment 1) for the alterations and additions to John XXIII College at Lot 10629 (No.25) John XXIII Avenue, Mount Claremont.**

**CARRIED UNANIMOUSLY 9/-**

Recommendation to Committee

Council:

1. notes Administration’s recommendation that the proposed alterations and additions to John XXIII College at Lot 10629 (No.25) John XXIII Avenue, Mount Claremont be approved by the Metro Inner-North Joint Development Assessment Panel in the Responsible Authority Report (Attachment 1);
2. considers the information in Attachment 1 relating to the proposed alterations and additions to John XXIII College at Lot 10629 (No.25) John XXIII Avenue, Mount Claremont and makes its recommendation to the Metro Inner-North Joint Development Assessment Panel as the Responsible Authority;
3. incorporates its recommendation into the Responsible Authority Report (Attachment 1) for the alterations and additions to John XXIII College at Lot 10629 (No.25) John XXIII Avenue, Mount Claremont; and
4. agrees to appoint Councillor (insert name) and Councillor (insert name) to coordinate Council’s submission and presentation to the Metro Inner-North JDAP.
   1. **Executive Summary**

In accordance with the *Planning and Development (Development Assessment Panels) Regulations 2011*, Administration has prepared a Responsible Authority Report for a Form 1 Application for the Metro-Inner North Joint Development Assessment Panel to consider. The application is for proposed alterations and additions to John XXIII College located at Lot 10629 (No.25) John XXIII Avenue, Mount Claremont.

The purpose of this report is to inform Council of Administration’s recommendation to the JDAP and for Council to make its recommendation as the Responsible Authority.

* 1. **Background**

The JDAP application for alterations and additions to John XXIII College was lodged on 25 November 2021. The City has previously approved the forward works component, under Delegated Authority (DA20-55823) which comprised of the new grounds and maintenance storage facility and additional car parking.

* 1. **Application Details**

This application is for proposed works at John XXIII College which includes the following:

* A reconfigured main car park, associated landscaping and entry sequence addressing John XXIII Avenue;
* A reconfigured junior school car park;
* A new two-storey administration building and landscaping;
* Minor additions and alterations to an existing classroom building (Classroom A Building);
* Additions and alterations to the existing library building;
* Demolition of the existing Grounds and Maintenance storage facilities; and
* Minor alterations to the existing staff room.

There is no increase to student enrolments and no additional staffing will be required as part of this proposal. As part of the proposal there will be an additional 154 car parking bays consistent with the City’s Parking Policy.

* 1. **Consultation**

**Public Consultation**

In accordance with the City’s Local Planning Policy – Consultation of Planning Proposals, the application was advertised for a period of 21 days from 23 January until 13 February 2021. The following forms of notification were included:

* A total of 350 letters were sent to all City of Nedlands and City of Perth landowners and occupiers within a 200m radius of the site informing of the application and inviting comment;
* A sign on site was installed at the site’s street frontage for the duration of the advertising period;
* An advertisement was published on the City’s website with all documents relevant to the application made available for viewing during the advertising period;
* An advertisement was placed in The Post newspaper;
* A notice was place on the City’s Social Media Platform on the 22 January 2021;
* A notice was affixed to the City’s Noticeboard at the City’s Administration Offices; and
* A community information session was held by City Officers on the 28 January 2021 at the City’s Council Chambers. Two people from the same residence attended.

The City received a total of 8 submissions during the public consultation period: 4 in support, 3 stated neither object or support and 1 objected on the grounds of traffic management, insufficient number of parking bays and sight lines.

**External Agencies**

The application was referred both Water Corporation and the Department of Environmental Regulation due to the school’s proximity to the Subiaco Waste Water Treatment Plant and as there is a memorial on the subject lot related to being a contaminated site. No objections were received subject to standard conditions.

* 1. **Recommendation to JDAP**

Approve, subject to conditions.

* 1. **Conclusion**

The City has reviewed the Traffic Impact Assessment and accepts the findings and conclusions within the report. The development does not propose an increase to student numbers or staff; however, it makes improvements to vehicle access and provides for an increase of 154 bays, consistent with the City’s Parking Policy. The built form is considered sympathetic with the existing character of the school and was supported via the design review process. Approval is recommended.

## No. 87 and 89 Broadway, Nedlands – 36 x Multiple Dwellings and Office – Responsible Authority Report

|  |  |
| --- | --- |
| **Committee** | 9 March 2021 |
| **Applicant** | Element |
| **Employee Disclosure under section 5.70 Local Government Act 1995 and section 10 of the City of Nedlands Code of Conduct for Impartiality.** | 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 |
| **Acting CEO** | Jim Duff |
| **Attachments** | 1. Responsible Authority Report & Attachments |
| **Confidential Attachments** | Nil |

**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 24th March 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 would 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 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 24th March 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 would 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.

**Regulation 11(da) – Council did not support the development application for the reasons listed in item 6 of this resolution but agreed to request an additional condition be added should the MINJDAP decide to approve the development application.**

Moved – Councillor Coghlan

Seconded – Councillor Tyson

**Council Resolution**

**Council:**

1. **notes Administration’s recommendation that the proposed 36 Multiple Dwellings and Office at Lot 535 and 536 (No.87 & 89) Broadway, Nedlands be approved by the Metro Inner-North Joint Development Assessment Panel in the Responsible Authority Report (Attachment 1);**
2. **considers the information in Attachment 1 relating to the proposed 36 Multiple Dwellings and Office at Lot 535 and 536 (No.87 & 89) Broadway, Nedlands, and makes its recommendation to the Metro Inner-North Joint Development Assessment Panel as the Responsible Authority;**
3. **incorporates its recommendation into the Responsible Authority Report (Attachment 1) for the proposed 36 Multiple Dwellings and Office at Lot 535 and 536 (No.87 & 89) Broadway, Nedlands;**
4. **agrees to appoint Councillor Coghlan to coordinate Council’s submission and presentation to the Metro Inner-North JDAP;**
5. **should MINJDAP decide to approve this development application Council requests the following additional condition be included**

**Prior to occupation of the development the terrace / balcony balustrading located on the north, south and west elevations at Levels 2-5 inclusive shall comprise of visually non-permeable materials to the City’s satisfaction; and**

1. **does not support the development application for the following reasons:**
2. **Over plot ratio**
3. **Overlooking properties to the rear and to the north**
4. **Severe overshadowing of the properties to the south**
5. **Impacts adversely on the amenity of the area**
6. **Impacts adversely on the desired future character of the area**
7. **Poor street activation**

**CARRIED UNANIMOUSLY 9/-**

Recommendation to Committee

Council:

1. notes Administration’s recommendation that the proposed 36 Multiple Dwellings and Office at Lot 535 and 536 (No.87 & 89) Broadway, Nedlands be approved by the Metro Inner-North Joint Development Assessment Panel in the Responsible Authority Report (Attachment 1);
2. considers the information in Attachment 1 relating to the proposed 36 Multiple Dwellings and Office at Lot 535 and 536 (No.87 & 89) Broadway, Nedlands, and makes its recommendation to the Metro Inner-North Joint Development Assessment Panel as the Responsible Authority;
3. incorporates its recommendation into the Responsible Authority Report (Attachment 1) for the proposed 36 Multiple Dwellings and Office at Lot 535 and 536 (No.87 & 89) Broadway, Nedlands; and
4. agrees to appoint Councillor (insert name) and Councillor (insert name) to coordinate Council’s submission and presentation to the Metro Inner-North JDAP.

**1.0 Executive Summary**

In accordance with the *Planning and Development (Development Assessment Panels) Regulations 2011*, Administration has prepared a Responsible Authority Report in relation to the plans received on 27 November 2020 for the Metro-Inner North Joint Development Assessment Panel (JDAP) Form 1 Application at Lot 535 and 536 (No.87 - 89) Broadway, Nedlands.

The City has appointed Altus to assess and complete the Responsible Authority Report due to a perceived conflict of interest. The purpose of this report is to inform Council of the recommendation to the JDAP and for Council to make its recommendation as the Responsible Authority.

**2.0 Background**

On 27 November 2020, the City received a development application for a Mixed Use Development comprising 36 Multiple Dwellings and an Office at Lots 535 and 536 (No.87 & 89) Broadway, Nedlands which is to be determined by the Metro Inner-North Joint Development Assessment Panel. The subject lot is zoned ‘Mixed Use’ and has a density coding of R-AC3.

On 23 January 2020, the City appointed Hassell to undertake the built form modelling for the Nedlands Town Centre, Broadway and Waratah Precincts in which the subject site is located within. As Hassell is the architect on this application, there is a potential for a perception there being a conflict of interest and therefore the City sought to appoint an independent planning consultant (Altus) to undertake the assessment work and Responsible Authority Report and present at the Metro-Inner North Joint Development Assessment Panel meeting.

**3.0 Application Details**

The proposal is for a six-storey mixed use development, consisting of an Office tenancy and residential lobby/entrance on the ground floor, with all car parking, storage and service areas located within the rear undercroft/basement area. The remaining floors contain a mix of one, two and three-bedroom units, for a total of 36 apartments, with balconies and outdoor areas generally facing towards the front and rear of the site.

The main details of the development are as follows:

* 36 residential apartment dwellings.
* 126m2 Office with a 1.5m setback to Broadway.
* The removal of two existing on-street car parking bays (and associated signage) adjoining the site as well as the relocation of one existing street tree. These works are to accommodate a 6m wide vehicle crossover.
* 71 car parking bays, comprising 59 residents’ bays, six visitors’ bays and six commercial bays (including one disabled bay). With the exception of one visitors’ bay, they are otherwise all located behind a security gate.
* A communal residents’ bin store and a separate commercial bin store.
* 12 motorcycle bays.
* 42 bicycle spaces, comprising 36 residents’ spaces and six visitors’ spaces.
  1. **Consultation**

The City’s Local Planning Policy – Consultation of Planning Proposals states that the development proposal for multiple dwellings is classified as a Complex Application.

In accordance with the City’s Policy, the application was advertised for a period of 52 days, from 16 December 2020 until 6 February 2021. This extended advertising period accounted for the consultation exclusion period over Christmas/New Year. The following forms of notification were used:

* Letters to all landowners and occupiers (including City of Perth residents, on the eastern side of Broadway) within a 200m radius of the site.
* Sign installed on the frontage of the site.
* Advertisement published on the City’s website.
* Advertisement published in the “Post” local newspaper.
* Posted on the City’s social media platforms.
* Noticeboard at the City’s Administration Centre.
* Separate Community and Councillor Information Sessions, which were held on 20 and 21 January 2021 respectively. The former was open to the public and both were attended by the applicant, City officers and elected members.

At the conclusion of advertising, the City received 44 submissions on the proposal, 41 submissions objecting to the proposal and 3 in support. Due to the number of concerns raised during public consultation, a separate summary of the submissions is contained as **Attachment 1**.

**5.0 Recommendation to JDAP**

The Responsible Authority Report, prepared by Altus, recommends that the application is approved, subject to conditions. Justification for this is provided below.

**Design Review**

In October 2020, a formal pre-lodgment review was undertaken by the applicant with the City. During this process, the City sought design comments from an independent architect and landscape architect consultants.

Following lodgment of the application, the City sought design comments from the same consultants as part of the formal “post-lodgment” review against the ten design principles of *State Planning Policy 7.0 - Design of The Built Environment* (*SPP 7.0*). A full copy of these latest design comments by the City’s consultants is contained in **Attachment 1**.

Based on this post-lodgment review, a summary of the proposal against *SPP 7.0* is tabled overleaf, noting that since the original application was submitted, further information was submitted by the applicant. However, as the original development plans were assessed by the City’s consultants as being consistent with *SPP 7.0* and the additional information did not materially alter the proposal, it was not considered necessary to re-refer the proposal for further review.

It is considered that the table also provides an overview as to how the proposal has progressed through the design review process from its initial concept to formal lodgment as a development application.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  | **Legend:** | | | |
|  | Supported | | | |
|  | Supported with conditions | | | |
|  | Pending further attention | | | |
|  | Not yet supported | | | |
|  | Yet to be addressed | | | |
|  | | Pre-lodgement Development Plans  (October 2020) | Original Lodged Development Plans  (27 November 2020) | Further Information  (9 February 2021) |
| P1: Context and Character | |  |  | Re-referral not required |
| P2: Landscape Quality | |  |  |
| P3: Built Form and Scale | |  |  |
| P4: Functionality and Built Quality | |  |  |
| P5: Sustainability | |  |  |
| P6: Amenity | |  |  |
| P7: Legibility | |  |  |
| P8: Safety | |  |  |
| P9: Community | |  |  |
| P10: Aesthetics | |  |  |

With respect to the context, character and scale of the proposal, the relevant comments of the City’s architect consultant are as follows:

Context and Character:

“The overall design submission demonstrates a sensitive and thoughtful consideration of its physical and historical context. The integration of extensive vegetation is an acknowledgement of the green character of the area. The development has used the existing landform to assist with concealment of the parking areas and reduction of the overall height of the development. This helps mediate the size of the new development relative to the surrounding residential buildings. The quality of the units and the extensive balconies demonstrates an appreciation of the Nedlands context for generous living spaces, inside and out. Materially the development proposes a combination of textured masonry and ribbed metal cladding. The charcoal colour of the cladding is not an established material in the area. However, it is reflective of creating a contemporary character and will be a positive contribution to the area.”

Built Form and Scale:

“The proposal sensitively considers the impact that a high-density development will have upon surrounding lower density areas. They have used the sloping site to hide services and parking while also keeping the building significantly under the permissible heights. The outcome is a considerable reduction of the overall bulk of the buildings. The articulation of the massing has been broken into 4 parts that helps reduce bulk while a finer grain of detail is achieved through careful vertical layering. Deep recesses along the elevations also help to reduce the bulk and scale.”

Whilst the City acknowledges that an individual architectural and landscape architectural review is not a substitute for a formal DRP, the comments from its consultants have nonetheless assisted the City in the consideration of the application against *SPP 7.0*.

Based on these comments, the proposal is considered consistent with the 10 design principles of *SPP 7.0*.

**Assessment against Residential Design Codes Volume 2**

An assessment of the proposal against the *R-Codes Volume 2* is detailed in full in **Attachment 1**. Those elements that were raised as the main areas of concern during public consultation or which require the imposition of conditions are addressed in the table below. Further discussion of these issues, as well as all other relevant issues, is provided in **Attachment 1**.

|  |  |
| --- | --- |
| **Element** | **How it is addressed** |
| 2.1 Building Height | Meets element objectives.  The development considers and responds to the approximate 8m east-west rise across the site by “cutting” a large portion of the ground floor into the land. This results in the building presenting as five storeys to the side boundaries and four storeys to the rear. |
| 2.3 Street Setbacks | Meets element objectives.  The proposed street setbacks are considered appropriate for the streetscape, provides a clear transition between the public and private realm and balances the need for visual privacy to upper floor apartments with opportunities for passive surveillance and outlook over the street. |
| 2.4 Side and Rear Setbacks | The development meets the element objectives, subject to a condition requiring privacy screening and obscure glazing. |
| 2.5 Plot Ratio | The development proposes a plot ratio of 2.16, in lieu of 2.0 specified by Table 2.1. This translates to approximately 289m2 (8%) of additional floor space. Notwithstanding, the element objective is achieved for the reasons outlined in **Attachment 1**. |
| 2.7 Building Separation | Meets element objectives.  The building separation is proportionate to the overall building height due to the proposed “podium” built form (i.e., the building’s setbacks increase as its height increases). |
| 3.3 Tree Canopy and Deep Soil Areas | Meets element objectives.  An approximate 160m2 DSA is provided along the western boundary of the site, outside of the area required for the under croft/basement parking. This exceeds minimum requirements by 36.7m2 (approximately 30%). In this regard, the City’s consultant landscape architect advised of the following:   * The provided DSA and numbers of trees exceeds minimum R-Code requirements. * The mix of native and exotic trees and understorey plants respond to the varied light levels across the site. |
| 3.4 Communal Open Space | Meets element objectives.  As per R-Codes Vol. 2, 216m2 of communal open space is required. Approximately 250m2 has been provided at the rear of the development and is accessed via the residents’ ‘Garden Room’. |
| 3.5 Visual Privacy | Meets element objectives, subject to a condition requiring privacy screening and obscure glazing. |
| 3.6 Public Domain Interface | Meets element objectives.  The development has numerous opportunities for passive surveillance and presentation/outlook opportunities to the street. The residential entry is well defined with a small setback and distinctive planting which contributes to the greening of the streetscape. A street tree is proposed to be relocated and communal bench seating is to be integrated within the planters. This provides opportunities for casual interaction between residents and visitors/the public. |
| 3.7 Pedestrian Access and Entries | Meets element objectives, subject to conditions for directional signage. |
| 3.9 Car and Bicycle Parking | Meets element objectives, subject to condition for a Parking Management Plan. |
| 4.7 Managing the Impact of Noise | Meets element objectives, subject to condition for compliance with Acoustic Report. |
| 4.9 Universal Design | Meets element objectives, subject to condition for compliance of nominated apartments with the *Liveable Housing Design Guidelines*. |
| 4.10 Façade Design | Meets element objectives.  The building façades provide articulation, achieved through varying boundary setbacks and the use of different building materials and detailing (e.g., balustrades, landscaped planter boxes and a podium style design, whereby the central core of the building is generally setback further as the building height increases). |
| 4.12 Landscape Design | Meets element objectives.  The landscaping is generally spread evenly along the frontage of the building and is located either side of the various entry points to the development and the amount of landscaping is considered appropriate having regard to the scale of the overall development and its location underneath apartments on the upper floors.  In this regard, the City’s landscape consultant also advised that “*The development presents well to the street. New garden planters at street level will soften built form…*”  In terms of the apartments themselves, the landscape planter boxes are highly visible from habitable rooms and are easily accessible from the terraces/balconies of apartments.  The substantial landscaped deep soil area at the rear of the property enhances the main communal open space on the site. |
| 4.15 Energy Efficiency | Meets element objectives, subject to condition for compliance with Sustainability Strategy (sans battery inverters due to feasibility/economics). |
| 4.16 Water Management and Conservation | Meets element objectives, subject to condition for stormwater management. |
| 4.17 Waste Management | Meets element objectives, subject to condition for compliance with Waste Management Plan. |
| 4.18 Utilities | Meets element objectives, subject to condition for provision of clothes dryers. |

**6.0 Conclusion**

The Responsible Authority Report, prepared by Altus, recommends that the application is approved, subject to conditions.

The proposal provides an appropriate transition from its R-AC3 to the abutting rear R60 coded lots. The built form of the proposal meets the elements of the *R-Codes Volume 2*, particularly with respect to the building envelope and central massing on-site, courtesy of the podium design of the development. This is consistent with the intended scale of future development for the Mixed Use zone along Broadway.

The active pedestrian-scale ground floor frontage to Broadway is considered desirable and meets the objectives and additional development requirements of the Scheme. Amenity considerations such as overshadowing and visual privacy have been afforded due regard in the context of recent changes to State legislation. The latter is addressed via proposed planter box design solutions, supplemented by additional privacy screening being conditioned. Other relevant considerations such as traffic and waste generation have also been satisfactorily addressed.

Councillor Smyth & Councillor Bennett returned to the meeting at 10.59 pm.

# 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 will declare the meeting closed at 10.50 pm.