



City of Nedlands

Minutes

Council Committee Meeting

13 April 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.

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City of Nedlands

Minutes of a meeting of the Council Committee held in the Council Chambers, Nedlands on Tuesday 13 April 2021 at 7 pm.

Declaration of Opening

The Presiding Member declared the meeting open at 7.06 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 (online 7.25 pm - 11.19pm)	Dalkeith Ward
	Councillor N R Youngman	Dalkeith Ward
	Councillor B G Hodsdon (until 11.21 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 E K Herne	Acting Chief Executive Officer
	Mr J Duff	Director Technical Services
	Mr T G Free	Director Planning & Development
	Mr A Melville	Acting Director Corporate & Strategy
	Ms P Panayotou	Executive Manager Community
	Mrs N M Ceric	Executive Officer

Public There were 9 members of the public present and 6 online.

Press Nil.

Leave of Absence (Previously Approved) Nil.

Apologies Nil.

Disclaimer

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

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1. 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.

2. 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 Stuart Reside, 23 Lynton Street, Swanbourne PD11.21
(spoke in support of the recommendation)

Mr Petar Mrdja, 231 Bulwer Street, Perth PD12.21
(spoke in support of the recommendation)

Mr Charlie Ball, Elberton Property, 315 Rokeby Road, Subiaco PD13.21
(spoke in opposition to the recommendation)

Councillor Mangano joined the meeting at 7.25 pm.

Mr Reegan Cake, Dynamic Planning, 15/29 Collier Road, Morley PD13.21
(spoke in opposition to the recommendation)

Mr Ian Long, 28 Quintilian Road, Mt Claremont
(spoke in support of the recommendation) TS03.21

Mr Carlo Famiano, 3/1 Mulgul Road, Malaga
(spoke in support of the recommendation) PD11.21

3. 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.

4. 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*.

There were no disclosures affecting impartiality at the beginning of the meeting however at item PD15.21 Consideration of Legal Advice – Possibility of Challenge to JDAP Decision on 97-105 Stirling Highway, Nedlands Councillor Smyth and Councillor Bennett declared impartiality interests as per below.

4.1 Councillor Smyth – PD15.21 - Consideration of Legal Advice – Possibility of Challenge to JDAP Decision on 97-105 Stirling Highway, Nedlands

Councillor Smyth disclosed an impartiality interest in Item PD15.21 - Consideration of Legal Advice – Possibility of Challenge to JDAP Decision on 97-105 Stirling Highway, Nedlands. Councillor Smyth disclosed that she is a Ministerial appointee and paid member of the MINJDAP that considered this item at a meeting on 16th February 2021. Councillor Smyth advised she is bound by the DAP Code of Conduct 2017, in particular 'Clause 2.1.7 A DAP member must not make any statement that is critical, or that could be understood as being critical, of the Minister, the Director General, a local government, a local government employee, departmental employee, a DAP or another DAP member.' As a consequence, there may be a perception that her impartiality on the matter may be affected. Councillor Smyth advised she would leave the meeting during this item.

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.

4.2 Councillor Bennett – PD15.21 - Consideration of Legal Advice – Possibility of Challenge to JDAP Decision on 97-105 Stirling Highway, Nedlands

Councillor Bennett disclosed an impartiality interest in Item PD15.21 - Consideration of Legal Advice – Possibility of Challenge to JDAP Decision on 97-105 Stirling Highway, Nedlands. Councillor Bennett disclosed that he is a Ministerial appointee and paid member of the MINJDAP that considered this item at a meeting on 16th February 2021. Councillor Bennett advised he is bound by the DAP Code of Conduct 2017, in particular 'Clause 2.1.7 A DAP member must not make any statement that is critical, or that could be understood as being critical, of the Minister, the Director General, a local government, a local government employee, departmental employee, a DAP or another DAP member.' As a consequence, there may be a perception that his impartiality on the matter may be affected. Councillor Bennett advised he would leave the meeting during this item.

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.

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

Councillor Smyth declared she did not have adequate time to read and consider Confidential item 11.1.

Councillor Horley declared she did not have adequate time to read and consider Confidential item 11.1.

Councillor Mangano declared he did not have adequate time to read and consider Confidential item 11.1.

6. Confirmation of Minutes

6.1 Committee Meeting 9 March 2021

Moved – Councillor Youngman
Seconded – Councillor Wetherall

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

CARRIED UNANIMOUSLY 12/-

7. 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.

Item 11.1 Tawarri Site Redevelopment

8. 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.

8.1 Planning & Development Report No's PD11.21 to PD15.21

Planning & Development Report No's PD11.21 to PD15.21 to be dealt with at this point (copy attached yellow cover sheet).

PD11.21	No. 23 Lynton Street, Swanbourne - Residential – Single House
Committee	13 April 2021
Council	27 April 2021
Applicant	CF Town Planning & Development
Landowner	Vanessa Reside
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.	<p>The author, reviewers and authoriser of this report declare they have no financial or impartiality interest with this matter.</p> <p>There is no financial or personal relationship between City staff and the proponents or their consultants.</p> <p>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.</p>
Report Type	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.
Quasi-Judicial	
Reference	DA20/56128
Previous Item	Nil
Delegation	In accordance with the City's Instrument of Delegation, Council is required to determine the application due to an objection being received.
Attachments	1. Applicant's Justification Report
Confidential Attachments	<ol style="list-style-type: none"> 1. Plans 2. Submissions 3. Assessment 4. Site photos

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 9/3
(Against: Crs. Horley Bennett & Mangano)**

Committee Recommendation / Recommendation to Committee

In accordance with Clause 68(2)(a) of the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015*, Council approves the development application received on 26 October 2020 in accordance with plans date stamped 12 February 2021 for a Single House at Lot 12 (No. 23) Lynton Street, Swanbourne, subject to the following conditions:

1. The development shall at all times comply with the application and the approved plans, subject to any modifications required as a consequence of any condition(s) of this approval.
2. This development approval only pertains to a Residential – Single House as indicated on the determination plans.
3. All footings and structures to retaining walls, fences and parapet walls, shall be constructed wholly inside the site boundaries of the property's Certificate of Title.
4. 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 and overlook any part of any other residential property behind its street setback line shall be setback, in direct line of sight within the cone of vision from the lot boundary, a minimum distance as prescribed in C1.1 of Clause 5.4.1 – Visual Privacy of the Residential Design Codes. Alternatively, the major openings and unenclosed outdoor active habitable spaces are screened in accordance with the Residential Design Codes by either;
 - a) fixed obscured glazing or translucent glass to a height of 1.60 metres above finished floor level, or
 - b) Timber screens, external blinds, window hoods and shutters to a height of 1.6m above finished floor level that are at least 75% obscure.
 - c) a minimum sill height of 1.60 metres as determined from the internal floor level, or
 - d) an alternative method of screening approved by the City of Nedlands.

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

- 5. Prior to occupation of the development the finish of the parapet wall 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 of Nedlands.**
- 6. All stormwater from the development, which includes permeable and non-permeable areas shall be contained onsite.**
- 7. 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 of Nedlands.**
- 8. 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 of Nedlands.**
- 9. Retaining walls, fences or other structures are to be truncated or reduced to no higher than 0.75m within 1.5m of where the wall, fences, other structures adjoining vehicle access points where a driveway meets a public street to the satisfaction of the City of Nedlands.**

PD12.21	No. 78 Waratah Avenue, Dalkeith - Amendments to approved plans for 5 Grouped Dwellings
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Committee	13 April 2021
Council	27 April 2021
Applicant	Urbanista Town Planning
Landowner	Emerald Development Alliance 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.	<p>The author, reviewers and authoriser of this report declare they have no financial or impartiality interest with this matter.</p> <p>There is no financial or personal relationship between City staff and the proponents or their consultants.</p> <p>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</p>
Report Type Quasi-Judicial	When Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications and other decisions that may be appealable to the State Administrative Tribunal.
Reference	DA21-60926
Previous Item	DA19-42171 and SAT20-1285
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	<ol style="list-style-type: none"> 1. Applicant's Cover Letter 2. Landscape Plan
Confidential Attachments	<ol style="list-style-type: none"> 1. Plans 2. Assessment

Regulation 11(da) - Council wanted to ensure that the finished floor level of Unit 1 was kept as close to the original approved height as possible. Information provided seems to indicate that as the sewer pipe at the rear of the property was 500mm higher than expected, then it would follow, that the finished floor level of Unit 1 only needed to be 500mm higher.

Moved – Councillor Senathirajah
Seconded – Councillor Wetherall

That the Recommendation to Committee be adopted subject to an additional clause 6 being added as follows:

6. That the building height of unit 1 will not be increased by more than the lesser amount of 500mm or the amount required to comply with the Australian Standard.

CARRIED ON THE CASTING VOTE 6/6

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

Committee Recommendation

In accordance with Clause 77 of the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015*, Council grants approval to the amendment of the development approval dated 27 October 2020 (DA19/42471) for 5 grouped dwellings at 78 Waratah Avenue, Dalkeith in accordance with the amended plans dated 23 February 2021 and subject to the following conditions:

1. This application is limited to amendments to the finished floor levels, site works and retaining as indicated on the plan date stamped 23 February 2021.
2. This 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. The previous development approval DA19/42171 dated 27 October 2020 and conditions (with the exception of Condition 4) there-in, remain in effect. This excludes the plans approved as part of the previous development application.
4. The plans dated 22 May 2020 and 29 September 2020 which form part of the approval for DA19/42171 are cancelled and replaced with plans dated stamped 23 February 2021.
5. Condition 4 of the previous development approval DA19/42171 dated 27 October 2020 is replaced with the following condition:
 - The Landscape Plan (Attachment 2) forms part of this approval. Landscaping shall be installed and maintained in accordance with the approved landscaping plan prepared by Kelsie Davies Landscape Architecture dated 2 March 2021, or any modifications approved thereto, for the lifetime of the development thereafter, to the satisfaction of the City.
6. That the building height of unit 1 will not be increased by more than the lesser amount of 500mm or the amount required to comply with the Australian Standard.

Recommendation to Committee

In accordance with Clause 77 of the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015*, Council grants approval to the amendment of the development approval dated 27 October 2020 (DA19/42471) for 5 grouped dwellings at 78 Waratah Avenue, Dalkeith in accordance with the amended plans dated 23 February 2021 and subject to the following conditions:

1. This application is limited to amendments to the finished floor levels, site works and retaining as indicated on the plan date stamped 23 February 2021.
2. This 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. The previous development approval DA19/42171 dated 27 October 2020 and conditions (with the exception of Condition 4) there-in, remain in effect. This excludes the plans approved as part of the previous development application.
4. The plans dated 22 May 2020 and 29 September 2020 which form part of the approval for DA19/42171 are cancelled and replaced with plans dated stamped 23 February 2021.
5. Condition 4 of the previous development approval DA19/42171 dated 27 October 2020 is replaced with the following condition:
 - The Landscape Plan (Attachment 2) forms part of this approval. Landscaping shall be installed and maintained in accordance with the approved landscaping plan prepared by Kelsie Davies Landscape Architecture dated 2 March 2021, or any modifications approved thereto, for the lifetime of the development thereafter, to the satisfaction of the City.

PD13.21	No. 17 Doonan Road, Nedlands – Residential - 5 Single Houses
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Committee	13 April 2021
Council	27 April 2021
Applicant	Summit Developments
Landowner	Elberton Property 9 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.	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.
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	DA/20-58509
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 report
Confidential Attachments	1. Development Plans 2. Landscape Plan 3. Planning Assessment 4. Overview of key lot boundary variations

Moved – Councillor Coghlan

Seconded – Councillor Youngman

That the Recommendation to Committee be adopted.
(Printed below for ease of reference)

Councillor Bennett left the meeting at 8.19 pm and returned at 8.21 pm.

Lost 3/9

(Against: Deputy Mayor McManus Crs. Horley Smyth Mangano Poliwka
Hodsdon Wetherall Coghlan & Tyson)

Regulation 11(da) – Council was of the view that this style of development, two storey single houses on individual lots was the appropriate style of development for Nedlands and ought to be encouraged.

Moved – Councillor Smyth

Seconded – Councillor Wetherall

Committee Recommendation

That Council request the CEO to provide an alternate recommendation for approval of this Development Application after discussions with the applicant with conditions to be provided for the Council Meeting.

**CARRIED 9/3
(Against: Crs. Bennett Horley & Senathirajah)**

Recommendation to Committee

Council, in accordance with clause 68(2)(c) of the Deemed Provisions refuses to grant development approval for five (5) two-storey single houses at No. 17 (Lot 77) Doonan Road, Nedlands, for the following reasons:

1. Non-compliance with the deemed-to-comply requirements and inconsistency with the Design Principles of R-Codes Vol. 1 in relation to the following design elements:
 - a) Clause 5.1 Context objectives
 - b) Clause 5.1.2 Street setback deemed-to-comply requirements C2.1 and C2.4 buildings setback from the primary street and Design Principles P2.1 and P2.2 in respect of Lot 206, 207, 208, 209 and 210.
 - c) Clause 5.1.3 Lot boundary setback deemed-to-comply requirements C3.1(i) for buildings setback from lot boundaries and Design Principle P3.1 with respect to Lots
 - d) Clause 5.1.4 Open space deemed-to-comply requirement C4 and Design Principle P4 with respect to all lots.
 - e) Clause 5.4.2 Solar access for adjoining sites deemed-to-comply requirement C2.1 and Design Principle P2.1 and P2.2 with respect to development on Lot 206 and its on development on Lot 207
2. Inconsistency with aims (a), (c) and (l) of the Scheme and SPP7.0 Design of the Built Environment with respect to Design Principle 2 – Landscaping and Design Principle 3 – Built form and Scale and Design Principle 6 – Amenity.

3. Does not satisfy clause 67(2)(m) with respect to the compatibility of the development with the desired future character outlined in the draft Melvista West Transition Zone LPP, and the consequent bulk impact on the large upper floors on the streetscape and adjoining land.

Please note the Presiding Member brought item TS03.21 forward to this point in the meeting from page 25.

TS03.21	Quintilian Road Traffic Calming, Parking and Shared Path – Community Consultation Results
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Committee	13 April 2021
Council	27 April 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	Jim Duff – Director Technical Services
Attachments	1. Quintilian Shared Path Concept Plan (Option 1) 2. Engagement Report
Confidential Attachments	Nil.

Regulation 11(da) – Not Applicable – No Recommendation Made

Moved – Councillor Wetherall
Seconded – Councillor Hodsdon

That the Recommendation to Committee be adopted.
(Printed below for ease of reference)

Lost 7/5

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

Recommendation to Committee

Council endorses the concept design (refer Attachment 1) for inclusion in the 10 Year Capital Works Program.

PD14.21	Proposed Amendments to the Local Planning Policy – Exempt Development
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Committee	13 April 2021
Council	27 April 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	Nil
Attachments	<ol style="list-style-type: none"> 1. Draft amended Local Planning Policy – Exempt Development 2. Planning Exemptions – Exempt Development LPP vs. 2015 Regulations 3. Local Planning Policy – Exempt Development with tracked changes

Regulation 11(da) – Council considered that it was appropriate to review the relevant planning instruments to determine if there was further development which should be exempt from planning approval.

Moved – Councillor Youngman

Seconded – Councillor Tyson

That the Recommendation to Committee be adopted subject to adding an additional clause as follows:

- 2. request the CEO to undertake a further review of the Exempt Development Policy in conjunction with the Planning Regulations and Local Planning Scheme No 3, in order to identify other opportunities to exempt further uses or development from the need to obtain planning approval, with the outcomes reported to Council.**

Councillor Hodsdon left the meeting at 9.23 pm and returned at 9.24 pm.

Councillor Senathirajah left the meeting at 9.34 pm.

**CARRIED 10/1
(Against: Cr. Bennett)**

Committee Recommendation

Council:

- 1. proceeds to adopt the draft amended Local Planning Policy – Exempt Development, 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); and**
- 2. request the CEO to undertake a further review of the Exempt Development Policy in conjunction with the Planning Regulations and Local Planning Scheme No 3, in order to identify other opportunities to exempt further uses or development from the need to obtain planning approval, with the outcomes reported to Council.**

Recommendation to Committee

Council proceeds to adopt the draft amended Local Planning Policy – Exempt Development, 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).

Councillor Senathirajah returned to the meeting at 9.36 pm.

PD15.21	Consideration of Legal Advice – Possibility of Challenge to JDAP Decision on 97-105 Stirling Highway, Nedlands
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Committee	13 April 2021
Council	27 April 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.	<p>The author, reviewers and authoriser of this report declare they have no financial or impartiality interest with this matter.</p> <p>There is no financial or personal relationship between City staff and the proponents or their consultants.</p> <p>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.</p>
Reference	DA20/56259
Previous Item	Nil
Attachments	Nil
Confidential Attachments	1. Legal Opinion dated 17 March 2021

Regulation 11(da) - Council wished to see the advice from the MINJDAP prior to the Council meeting to allow for an informed decision to be made at the Council meeting this month, noting the time limits on lodging appeals with the Supreme Court.

Moved – Councillor Senathirajah
Seconded – Deputy Mayor McManus

That the Recommendation to Committee be adopted subject to adding the words “by 26 April 2021” to the end of clause 2.

Councillor Poliwka left the meeting at 9.47 pm and returned at 9.49 pm.

Councillor Hodsdon left the meeting at 9.51 pm and returned at 9.53 pm.

Councillor Smyth – Impartiality Interest

Councillor Smyth that she is a Ministerial appointee and paid member of the MINJDAP that considered this item at a meeting on 16th February 2021. Councillor Smyth advised she is bound by the DAP Code of Conduct 2017, in particular 'Clause 2.1.7 A DAP member must not make any statement that is critical, or that could be understood as being critical, of the Minister, the Director

General, a local government, a local government employee, departmental employee, a DAP or another DAP member.’ As a consequence, there may be a perception that her impartiality on the matter may be affected. Councillor Smyth advised she would leave the meeting during this item.

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.

Councillor Bennett – Impartiality Interest

Councillor Bennett disclosed that he is a Ministerial appointee and paid member of the MINJDAP that considered this item at a meeting on 16th February 2021. Councillor Bennett advised he is bound by the DAP Code of Conduct 2017, in particular ‘Clause 2.1.7 A DAP member must not make any statement that is critical, or that could be understood as being critical, of the Minister, the Director General, a local government, a local government employee, departmental employee, a DAP or another DAP member.’ As a consequence, there may be a perception that his impartiality on the matter may be affected. Councillor Bennett advised he would leave the meeting during this item.

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.

Councillor Smyth & Councillor Bennett left the room at 10.01 pm.

**CARRIED 9/1
(Against: Cr. Mangano)**

Committee Recommendation

Council:

- 1. notes the legal opinion provided by Mr Ken Pettit SC in relation to the decision of the Metro Inner-North Joint Development Assessment Panel for the mixed use development at 97-105 Stirling Highway, Nedlands; and**
- 2. requests the Metro Inner-North Joint Development Assessment Panel provides proper reasons for its decision of 8 February 2021 to grant approval to the mixed use development at 97-105 Stirling Highway, Nedlands by 26 April 2021.**

Recommendation to Committee

Council:

1. notes the legal opinion provided by Mr Ken Pettit SC in relation to the decision of the Metro Inner-North Joint Development Assessment Panel for the mixed use development at 97-105 Stirling Highway, Nedlands; and
2. requests the Metro Inner-North Joint Development Assessment Panel provides proper reasons for its decision of 8 February 2021 to grant approval to the mixed use development at 97-105 Stirling Highway, Nedlands.

The Presiding Member granted a recess for the purposes of a refreshment break.

The meeting adjourned at 10.05 pm and reconvened at 10.10 pm with the following people in attendance:

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	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 E K Herne	Acting Chief Executive Officer
	Mr J Duff	Director Technical Services
	Mr T G Free	Director Planning & Development
	Mr A Melville	Acting Director Corporate & Strategy
	Ms P Panayotou	Executive Manager Community
	Mrs N M Ceric	Executive Officer

Public There were 1 members of the public present.

Press Nil.

8.2 Technical Services Report No's TS03.21 to TS08.21

Technical Services Report No's TS03.21 to TS08.21 to be dealt with at this point (copy attached blue cover sheet).

Please note this item was brought forward see page 18.

TS03.21	Quintilian Road Traffic Calming, Parking and Shared Path – Community Consultation Results
Committee	13 April 2021
Council	27 April 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	Jim Duff – Director Technical Services
Attachments	1. Quintilian Shared Path Concept Plan (Option 1) 2. Engagement Report
Confidential Attachments	Nil.

TS04.21	Local Roads and Community Infrastructure Grant Funding
----------------	---

Committee	13 April 2021
Council	27 April 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	Jim Duff – Director Technical Services
Attachments	Nil.
Confidential Attachments	Nil.

Regulation 11(da) – Council agreed it was appropriate to include the additional projects list for consideration in the 2021/22 Capital Works Program during budget considerations.

Moved – Councillor Smyth
 Seconded – Councillor Youngman

That the Recommendation to Committee be adopted subject to clause 2 being replaced with the following:

- 2. approves the additional projects list presented in this report as Table 2, to be considered for inclusion in the 2021/22 Capital Works Program.**

Councillor Coghlan and Councillor Senathirajah joined the meeting at 10.13 pm.

CARRIED UNANIMOUSLY 12/-

Committee Recommendation

Council:

- 1. approves the LRCI submission of the project list presented in this report as Table 1 to the Department of Infrastructure, Transport, Regional Development and Communications; and**
- 2. approves the additional projects list presented in this report as Table 2, to be considered for inclusion in the 2021/22 Capital Works Program.**

Recommendation to Committee

Council:

1. approves the LRCI submission of the project list presented in this report as Table 1 to the Department of Infrastructure, Transport, Regional Development and Communications; and
2. approves the additional projects list presented in this report as Table 2, to be included in the 2021/22 Capital Works Program.

TS05.21	Whitfeld Street Footpath – Community Consultation Results
----------------	--

Committee	13 April 2021
Council	27 April 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	Jim Duff – Director Technical Services
Attachments	1. Whitfeld Street Footpath Concept Plan
Confidential Attachments	Nil.

Regulation 11(da) – Not Applicable – Recommendation Adopted

Moved – Councillor Hodsdon
 Seconded – Councillor Wetherall

That the Recommendation to Committee be adopted.

(Printed below for ease of reference)

CARRIED UNANIMOUSLY 12/-

Committee Recommendation / Recommendation to Committee

Council approves the construction of the new footpath on Whitfeld Street, Floreat, between Birkdale Street and Selby Street, as per the Concept Plan presented in Attachment 1.

TS06.21	Waratah Avenue Placemaking Strategy
----------------	--

Committee	13 April 2021
Council	27 April 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	Jim Duff – Director Technical Services
Attachments	1. Concept Plan 2. Engagement Report
Confidential Attachments	Nil.

Moved – Councillor Bennett
 Seconded – Councillor Youngman

That the Recommendation to Committee be adopted subject to clause 2 being amended by changing the word “medium” to “high”.

Lost 0/12

(Against: Crs. Horley Smyth Bennett Youngman Poliwka Hodsdon Wetherall Coghlan Tyson & Senathirajah)

Regulation 11(da) - Regulation 11(da) – Council wanted to defer this item to the May 2021 Council Meeting to enable Councillors to be provided with additional information and a Councillor Briefing to be able to make an informed decision.

Moved – Councillor Youngman
 Seconded – Councillor Bennett

Committee Recommendation

That this item be deferred to the May 2021 Council Meeting.

CARRIED UNANIMOUSLY 12/-

Recommendation to Committee

Council

1. endorses the Concept Plan for the Waratah Avenue Placemaking Strategy presented in Attachment 1; and
2. endorses the medium quality finish option for inclusion in the 2021/22 Capital Works Program.

TS07.21	Waratah Avenue Precinct Parking Prohibitions
----------------	---

Committee	13 April 2021
Council	27 April 2021
Applicant	City of Nedlands
Employee Disclosure under section 5.70 Local Government Act 1995 and section 10 of the City of Nedlands Code of Conduct for Impartiality.	Nil.
Director	Jim Duff – Director Technical Services
Attachments	1. Parking Survey Results 2. Existing Parking Prohibition Plan 3. Proposed Parking Prohibition Plan
Confidential Attachments	Nil.

Regulation 11(da) – Council wanted to defer this item to the May 2021 Council Meeting to enable Councillors to be provided with additional information and a Councillor Briefing to be able to make an informed decision.

Moved – Councillor Youngman
Seconded – Councillor Bennett

Committee Recommendation

That this item be deferred to the May 2021 Council Meeting.

**CARRIED 11/1
(Against: Cr. Smyth)**

Recommendation to Committee

Council:

1. approves the parking prohibitions shown on Attachment 3 – Proposed Parking Prohibition Plan be implemented in May 2021; and
2. instructs the CEO to arrange for a parking survey to be undertaken two years following implementation of the parking prohibition to determine if any modifications to the parking prohibitions are required.

TS08.21	RFT 2020-21.07 Provision of Tree Surgery Services
----------------	--

Committee	13 April 2021
Council	27 April 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	Jim Duff – Director Technical Services
Attachments	Nil.
Confidential Attachments	1. Tender Evaluation and Recommendation Report

Regulation 11(da) – Not Applicable – Recommendation Adopted

Moved – Councillor Horley

Seconded – Councillor Hodsdon

That the Recommendation to Committee be adopted.

(Printed below for ease of reference)

**CARRIED 11/1
(Against: Cr. Bennett)**

Committee Recommendation / Recommendation to Committee

Council:

- 1. accepts the Administration recommendation to award the contract for RFT 2020-21.07 – Provision of Tree Surgery Services for the initial term of 12 months with the option of four (4) further 12 month extensions to be awarded at the sole discretion of the City; and**
- 2. authorises the Chief Executive Officer to enter into a contract with the accepted tenderer.**

8.3 Community Development No's CSD03.21 to CSD04.21

Report No's CSD03.21 to CSD05.21 to be dealt with at this point (copy attached orange cover sheet).

CSD03.21	Replacement Committee	Member	Public	Art
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Committee	13 April 2021
Council	27 April 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.
Executive Manager	Pat Panayotou – Executive Manager Community
Attachments	Nil.
Confidential Attachments	Nil.

Regulation 11(da) – Not Applicable – Recommendation Adopted

Moved – Councillor Coghlan
Seconded – Councillor Hodsdon

Committee Recommendation

Council appoints Councillor Tyson, as the Councillor for the Melvista Ward, to the Public Art Committee.

CARRIED BY ABSOLUTE MAJORITY 12/-

Recommendation to Committee

Council appoints Councillor (insert name), as the Councillor for the Melvista Ward, to the Public Art Committee.

ABSOLUTE MAJORITY REQUIRED

CSD04.21	Mt Claremont Playgroup Fee Reduction Request
-----------------	---

Committee	13 April 2021
Council	27 April 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.

Moved – Councillor Horley
 Seconded – Councillor Youngman

Council waives the Mt Claremont Playgroup’s 2020/2021 annual building usage fee due to the COVID Pandemic.

Lost 7/5
 (Against: Crs. Mangano Poliwka Hodsdon Wetherall
 Coghlan Tyson & Senathirajah)

Regulation 11(da) – Not Applicable – Recommendation Adopted

Moved – Councillor Hodsdon
 Seconded – Councillor Poliwka

That the Recommendation to Committee be adopted.
 (Printed below for ease of reference)

CARRIED 7/5
(Against: Deputy Mayor Crs. Horley Smyth Bennett & Youngman)

Committee Recommendation / Recommendation to Committee

Council reduces Mt Claremont Playgroup’s 2020/2021 annual building usage fee from \$3,000 to \$1,500.

8.4 Corporate & Strategy Report No's CPS09.21 to CPS10.21

Report No's CPS09.21 to CPS10.21 to be dealt with at this point (copy attached green cover sheet).

CPS09.21 List of Accounts Paid – February 2021	
Committee	13 April 2021
Council	27 April 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 – February 2021; and 2. Credit Card and Purchasing Card Payments – February 2021 (28 January – ## February 2021).
Confidential Attachments	Nil.

Councillor Mangano retired from the meeting at 11.11 pm.

Regulation 11(da) – Not Applicable – Recommendation Adopted

Moved – Councillor Wetherall

Seconded – Councillor Senathirajah

That the Recommendation to Committee be adopted.

(Printed below for ease of reference)

**CARRIED 10/1
(Against: Cr. Coghlan)**

Committee Recommendation / Recommendation to Committee

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

CPS10.21	New Lease to Fellowship of Australian Writers (WA) – Tom Collins House
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Committee	13 April 2021
Council	27 April 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.

Regulation 11(da) – Not Applicable – Recommendation Adopted

Moved – Councillor Smyth
 Seconded – Deputy Mayor McManus

That the Recommendation to Committee be adopted.
 (Printed below for ease of reference)

CARRIED UNANIMOUSLY 11/-

Committee Recommendation / Recommendation to Committee

Council:

1. approves an exclusive use lease between the City of Nedlands and The Fellowship of Australian Writers Western Australia Inc. for the Tom Collins House site consistent with the key terms as noted within this report. and;
2. subject to the Minister for Lands Consent, authorises the CEO and Mayor to execute the agreement and apply the City’s Common Seal.

9. Reports by the Chief Executive Officer

Nil.

10. Urgent Business Approved By the Presiding Member or By Decision

Any urgent business to be considered at this point.

11. Confidential Items

11.1 Tawarri Site Redevelopment

Confidential Report circulated separately to Councillors.

Closure of Meeting to the Public

Moved – Councillor Youngman

Seconded - Councillor Coghlan

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

**CARRIED 10/1
(Against: Cr. Bennett)**

The meeting was closed to the public at 11.20 pm.

Councillor Hodsdon retired from the meeting at 11.21 pm.

Moved - Councillor Bennett

Seconded - Councillor Youngman

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

CARRIED UNANIMOUSLY 10/-

The meeting was reopened to members of the public and the press at 12.07 am.

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 Wetherall
Seconded – Councillor Poliwka

Committee Recommendation / Recommendation to Council

Council:

- 1. notes the updated Financial Due Diligence findings and recommendations as per confidential attachment 1 and requests the CEO secure the financial guarantee from the Directors; and**
- 2. approves the key terms and conditions of the Draft Head Lease Agreement and Draft Sublease Agreement and requests the CEO to commence the necessary advertising of the transaction in accordance with the *Local Government Act 1995*. and;**
- 3. following the completion of the advertisement period, requests the CEO to prepare a further report to Council requesting the final endorsement of the Draft Head Lease Agreement and Draft Sublease Agreements.**

CARRIED CASTING VOTE 5/5
(Against: Crs. Horley Smyth Bennett Coghlan & Tyson)

Declaration of Closure

There being no further business, the Presiding Member will declare the meeting closed at 12.08 am.