



City of Nedlands

# **Minutes**

## **Council Committee Meeting**

**14 May 2019**

### **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 14 May 2019 at 7 pm.

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#### Declaration of Opening

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

(NOTE: Council at its meeting on 24 August 2004 resolved that should the meeting time reach 11.00 p.m. the meeting is to consider an adjournment motion to reconvene the next day).

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

<b>Councillors</b>	Deputy Mayor Hassell	(Presiding Member)
	Councillor I S Argyle	Dalkeith Ward
	Councillor A W Mangano	Dalkeith Ward
	Councillor C M de Lacy	Hollywood Ward
	Councillor B G Hodsdon	Hollywood Ward
	Councillor J D Wetherall	Hollywood Ward
	Councillor G A R Hay	Melvista Ward
	Councillor T P James	Melvista Ward
	Councillor N W Shaw	Melvista Ward
	Councillor N B J Horley	Coastal Districts Ward
	Councillor L J McManus	Coastal Districts Ward
	Councillor K A Smyth	Coastal Districts Ward

<b>Staff</b>	Mr M A Goodlet	Chief Executive Officer
	Mrs L M Driscoll	Director Corporate & Strategy
	Mr P L Mickleson	Director Planning & Development
	Ms M Hulls	Acting Director Technical Services
	Mrs N M Ceric	Executive Assistant to CEO & Mayor

**Public** There was 1 member of the public present.

**Press** The Post Newspaper representative.

**Leave of Absence (Previously Approved)** His Worship the Mayor, R M C Hipkins

**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**

Nil.

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

Ms Evelyn Lee, 14 Nardina Crescent, Dalkeith  
(spoke in opposition to the recommendation)

PD17.19

### **3. Disclosures of Financial 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*.

#### **4.1 Councillor McManus – PD16.19- No. 50/145 Stirling Highway, Nedlands – Proposed Additional Customer Seating**

Councillor McManus disclosed an impartiality interest in Item PD16.19 - No. 50/145 Stirling Highway, Nedlands – Proposed Additional Customer Seating. Councillor McManus disclosed that he is friends with the owner, and as a consequence, there may be a perception that his impartiality on the matter may be affected. Councillor McManus declared that he would consider this matter on its merits and vote accordingly.

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

Councillor McManus advised he had not read all pages of the Natural Areas Management Plans 2019-2024 due to the size of the documents. Councillor Argyle advised the same.

**6. Confirmation of Minutes**

**6.1 Committee Meeting 9 April 2019**

Moved – Councillor Hodsdon  
Seconded – Councillor McManus

**The Minutes of the Council Committee held 9 April 2019 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.

Nil.

**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 PD16.19 to PD19.19**

Planning & Development Report No's PD16.19 to PD19.19 to be dealt with at this point (copy attached yellow cover sheet).

<b>PD16.19</b>	<b>No. 50/145 Stirling Highway, Nedlands – Proposed Additional Customer Seating</b>
<b>Committee</b>	14 May 2019
<b>Council</b>	28 May 2019
<b>Applicant</b>	G Fatouros
<b>Landowner</b>	L Silby and M Gibson
<b>Director</b>	Peter Mickleson – Director Planning & Development
<b>Employee Disclosure under section 5.70 Local Government Act 1995</b>	Nil
<b>Report Type</b> Quasi-Judicial	<i>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.</i>
<b>Reference</b>	DA18/32355
<b>Previous Item</b>	Nil.
<b>Delegation</b>	In accordance with Clause 6.7.1a) of the City's Instrument of Delegation, Council is required to determine the application due to objections being received.
<b>Attachments</b>	1. Photograph of the subject property 2. Applicant's car parking bay survey

**Councillor McManus – Impartiality Interest**

Councillor McManus disclosed that he is friends with the owner, and as a consequence, there may be a perception that his impartiality on the matter may be affected.

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

Moved – Councillor Shaw

Seconded – Councillor de Lacy

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

(Printed below for ease of reference)

**CARRIED 11/-  
(Abstained: Deputy Mayor Hassell)**

**Committee Recommendation / Recommendation to Committee**

**Council approves the development application dated 2 November 2018 to increase the number of customer seats from 85 to 113 at Lot 50 (No. 50/145) Stirling Highway, Nedlands, subject to the following conditions and advice notes:**

- 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. A maximum of 113 seats being permitted for the restaurant.**

**Advice Notes**

- 1. The landowner is advised that use of the outdoor seating area is required to comply with the *Environmental Protection (Noise) Regulations 1997*, in relation to noise.**
- 2. A separate application is required to be lodged and approved prior to the erection/installation of any signage on the lot.**
- 3. A separate development application is required to be submitted to and approved by the City prior to increasing seating numbers any further.**
- 4. Adequate staff and public sanitary conveniences shall be provided in accordance with the Building Code of Australia.**
- 5. This decision does not obviate rights and responsibilities of strata owners under the *Strata Titles Act 1985*, which may require additional consultation and/or permissions from the stratum, prior to the commencement of works.**
- 6. This decision constitutes planning approval only and is valid for a period of two years from the date of approval. If the subject development is not substantially commenced within the two-year period, the approval shall lapse and be of no further effect.**

<b>PD17.19</b>	<b>No. 14 Nardina Crescent, Dalkeith – Amendments to DA18/33719 (Two Storey Single Dwelling)</b>
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<b>Committee</b>	14 May 2019
<b>Council</b>	28 May 2019
<b>Applicant</b>	Oswald Homes
<b>Landowner</b>	P J & J M England
<b>Director</b>	Peter Mickleson – Director Planning & Development
<b>Employee Disclosure under section 5.70 Local Government Act 1995</b>	Nil
<b>Report Type</b>	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.
<b>Reference</b>	DA19/35204
<b>Previous Item</b>	Nil.
<b>Delegation</b>	No delegation exists under Local Planning Scheme No. 3 at the time of writing this report.
<b>Attachments</b>	1. Site Photographs 2. Submission table

Ms Evelyn Lee, 14 Nardina Crescent, Dalkeith  
(spoke in opposition to the recommendation)

PD17.19

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

Moved – Councillor Shaw  
Seconded – Councillor Argyle

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

(Printed below for ease of reference)

**CARRIED 6/2**  
**(Against: Crs. Mangano & Hay)**  
**(Abstained: Deputy Mayor Hassell Crs. Horley McManus & Smyth)**



**Committee Recommendation / Recommendation to Committee**

**Council approves the development application dated 28 March 2019 for Amendments to DA18/33719 (Two Storey Single House) at Lot 783 No. 14 Nardina Crescent, Dalkeith, subject to the following conditions and advice:**

- 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. The previous development approval (DA18/33719, dated 07 March 2019) and conditions there-in, remain in effect. This excludes the plans approved as part of the previous development application.**

**Advice Notes specific to this proposal:**

- 1. This decision constitutes development approval only and is valid for a period of two years from the date of the original development approval (07 March 2021 expiry date). If the subject development is not substantially commenced within the two-year period, the approval shall lapse and be of no further effect.**

<b>PD18.19</b>	<b>No. 154 Adelma Rd, Dalkeith – Amendment to DA17/127</b>
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<b>Committee</b>	14 May 2019
<b>Council</b>	28 May 2019
<b>Applicant</b>	Seacrest Homes
<b>Landowner</b>	58 Ocean Drive Pty Ltd
<b>Director</b>	Peter Mickleson – Director Planning & Development
<b>Employee Disclosure under section 5.70 Local Government Act 1995</b>	Nil
<b>Report Type</b>  Quasi-Judicial	<i>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.</i>
<b>Reference</b>	DA19/34565
<b>Previous Item</b>	OCM 22 May 2019 – PD19.18
<b>Delegation</b>	At the time of writing this report there is no delegation for officers to approve development applications. Further to this, the existing development approval for the property was obtained through Council and therefore amendment is more appropriately determined by Council.
<b>Attachments</b>	1. Site Photographs

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

Moved – Councillor Shaw

Seconded – Councillor de Lacy

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

(Printed below for ease of reference)

**CARRIED 9/1**  
**(Against: Cr. Mangano)**  
**(Abstained: Deputy Mayor Hassell Cr. McManus)**

**Committee Recommendation / Recommendation to Committee**

**Council approves the development application dated 21 February 2019 with amended plans dated 04 April 2019 to Amend the approved plans for DA17/127 (Two Storey Single House with Under-croft) at Lot 46 No. 154 Adelma Road, Dalkeith, subject to the following conditions and advice/for the following reasons:**

- 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. The previous development approval (DA17/127, dated 22 May 2018) and conditions there-in, remain in effect. This excludes the plans approved as part of the previous development application.**

**Advice Notes specific to this proposal:**

- 1. This decision constitutes planning approval only and is valid for a period of two years from the date of the initial approval (22 May 2021 expiry date). If the subject development is not substantially commenced within the two-year period, the approval shall lapse and be of no further effect.**

<b>PD19.19 Natural Areas Management Plans 2019-2024</b>	
<b>Committee</b>	14 May 2019
<b>Council</b>	28 May 2019
<b>Applicant</b>	City of Nedlands
<b>Director</b>	Peter Mickleson – Director Planning & Development
<b>Employee Disclosure under section 5.70 Local Government Act 1995</b>	Nil
<b>Attachments</b>	<ol style="list-style-type: none"> <li>1. Draft Action Tables Natural Area Management Plans 2019-2024.</li> <li>2. Community Engagement Report</li> <li>3. Draft Natural Areas Management Plan 2019-2024</li> <li>4. Draft Shenton Bushland Management Plan 2019-2024</li> <li>5. Draft Allen Park Bushland Management Plan 2019-2024</li> <li>6. Draft Hollywood Reserve Management Plan 2019-2024</li> <li>7. Draft Birdwood Parade Management Plan 2019-2024</li> <li>8. Draft Point Resolution Bushland Management Plan 2019-2024</li> <li>9. Draft Mt Claremont Oval Bushland Management Plan 2019-2024.</li> </ol>

Procedural Motion

Moved – Councillor McManus

Seconded – Councillor Wetherall

**That the Committee proceed to the next item of business.****CARRIED 10/2  
(Against: Crs. de Lacy & Shaw)**

## Recommendation to Committee

Council adopts the seven Natural Area Management Plans including:

1. Natural Areas Management Plan 2019-2024;
2. Shenton Bushland Management Plan 2019-2024;
3. Allen Park Bushland Management Plan 2019-2024;
4. Hollywood Reserve Management Plan 2019-2024;
5. Birdwood Parade Management Plan 2019-2024;
6. Point Resolution Bushland Management Plan 2019-2024; and
7. Mt Claremont Oval Bushland Management Plan 2019-2024.

**8.2 Technical Services Report No's TS11.19**

Technical Services Report No's TS11.19 to be dealt with at this point (copy attached blue cover sheet).

<b>TS11.19</b>	<b>East Hollywood Parking Review Community Consultation Results</b>
<b>Committee</b>	14 May 2019
<b>Council</b>	28 May 2019
<b>Applicant</b>	City of Nedlands
<b>Employee Disclosure under section 5.70 Local Government Act 1995</b>	Nil.
<b>Director</b>	Maria Hulls – Acting Director Technical Services
<b>Attachments</b>	1. East Hollywood Precinct Area Map 2. Existing Parking Prohibition Map 3. Recommended Parking Changes Map

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

Moved – Councillor Wetherall

Seconded – Councillor de Lacy

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

(Printed below for ease of reference)

**CARRIED 9/1**  
**(Against: Cr. Mangano)**  
**(Abstained: Deputy Mayor Hassell Cr. Horley)**

**Committee Recommendation / Recommendation to Committee**

**Council approves verge parking on Verdun Street to permit holders only with all other existing prohibitions to remain unchanged.**

**8.3 Corporate & Strategy Report No's CPS08.19**

Report No's CPS08.19 to be dealt with at this point (copy attached green cover sheet).

<b>CPS08.19 List of Accounts Paid – March 2019</b>	
<b>Committee</b>	14 May 2019
<b>Council</b>	28 May 2019
<b>Applicant</b>	City of Nedlands
<b>Employee Disclosure under section 5.70 Local Government Act 1995</b>	Nil.
<b>Director</b>	Lorraine Driscoll – Director Corporate & Strategy
<b>Attachments</b>	1. Creditor Payment Listing March 2019 2. Purchasing Card Payments March 2019 (29 <sup>th</sup> February 2019 – 28 <sup>th</sup> March 2019)

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

Moved – Councillor Shaw

Seconded – Councillor Hodsdon

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

(Printed below for ease of reference)

**CARRIED 11/-  
(Abstained: Cr. Mangano)**

<b>Committee Recommendation / Recommendation to Committee</b>
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<b>Council receives the List of Accounts Paid for the month of March 2019 (refer to attachments).</b>
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## 9. Reports by the Chief Executive Officer

### 9.1 Lot 10764 John XXIII Avenue Funding Model

<b>Committee</b>	14 May 2019
<b>Council</b>	28 May 2019
<b>Applicant</b>	City of Nedlands
<b>Employee Disclosure under section 5.70 Local Government Act 1995</b>	Nil.
<b>CEO</b>	Mark Goodlet
<b>Attachments</b>	<ul style="list-style-type: none"> <li>4. Letter from Minister Wyatt's Acting Chief of Staff to the City dated 18 April 2019</li> <li>5. Lot 10764 John XXIII Avenue Valuation (Confidential)</li> <li>6. Funding Model (Confidential)</li> </ul>

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

Moved – Councillor McManus

Seconded – Councillor Shaw

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

(Printed below for ease of reference)

**CARRIED 9/1**  
**(Against: Cr. Smyth)**  
**(Abstained: Crs. Mangano & Horley)**

#### **Committee Recommendation / Recommendation to Committee**

**That Council does not proceed with the freehold purchase of Lot 10764 John XXIII Ave for Public Open Space Purposes.**

#### **Executive Summary**

The Department for Planning Lands and Heritage undertook an expression of interest process for the sale of lot 10764 John XXIII Avenue, which ended on 12 October 2018. This lot is being zoned as urban under the Metropolitan Region Scheme.

Council directed that a valuation and funding model be provided for lot 10764, with a view to consideration of purchase of this lot. This report provides the required information and recommends that Council does not proceed with purchase of this lot.

## Discussion/Overview

### Background

The Department for Planning Lands and Heritage undertook an expression of interest process for lot 10764 John XXIII Avenue, which ended on 12 October 2018. The City unsuccessfully sought gifting of this lot from the State Government in this process. The City has not been advised of the outcome of the expression of interest process at this point.

Land Area	16,641m <sup>2</sup>
Local Planning Scheme Zone	No Zone
Current Metropolitan Region Scheme Zone	Public Purpose – Hospital
Omnibus No.5 Metropolitan Region Scheme Proposed Zone	Urban



Figure 1. Lot 10764, John XXIII Avenue



### **Key Relevant Previous Council Decisions:**

Item 14.4 Council Meeting of 26 February 2019 – Council Resolution

*Council authorises the CEO to investigate the acquisition of Lot 10764 John XXIII Ave for public open space and recreation purposes by:*

1. *Request again that the State Government vest this Lot in the City of Nedlands for POS/recreation purposes by writing to the Minister for Lands and by seeking a meeting with the Minister and/or relative parties.*
2. *If they again refuse, to investigate purchase of this Lot including the funding model.*
3. *Immediately arrange for a sworn valuation of this Lot.*
4. *Report back to Council by 30/4/19.*

### **State Government Response, Valuation and Funding Model**

The City again wrote to the State Government and was again advised that they would be proceeding with the sale of the property (Attachment 1).

A valuation of Lot 10764 was provided by Hemsley Paterson (Attachment 2). This and a funding model were developed and provided to Councillors on 30 April 2019.

A purchase option based on debt alone was considered however the City's ability to service debt is limited to an additional \$2.2M, meaning that additional funding would be required. The Funding Model therefore considers two purchase options for the land. The first is for purchase through borrowings, supplemented with land sale, while the second is for purchase through sale of land alone.

### **Budget/Financial Implications**

The funding model is provided as confidential Attachment 3.

By way of summary the City would need to consider, in the context of the Long-Term Financial Plan, the most appropriate combination of funding models to meet the cost of the land purchase.

It is certain that the funding model must include either sale of City freehold land and debt servicing as a combination, or sale of City freehold land equal to the value of lot 10764 and purchasing costs.

The option that would have least impact on services and rates would be the sales of freehold land to fully fund purchase of lot 10764. The option with debt servicing will have significant impacts on the provision of services and on rates.

## **Consultation**

A memorandum from the Chief Executive Office was circulated to Councillors on 30 April 2019 with the valuation and the funding model.

## **Comments**

In creating public open space, the Land Administration Act 1997 provides a low-cost mechanism for acquisition of crown land vested in the local government for the purpose of recreation. Acquiring freehold land for the purpose of recreation ties up City equity permanently in land that the City will be unable to realize any future financial value from.

The subject land has no zoning under LPS3 but is in the process of being re-zoned under the Metropolitan Regional Scheme (MRS) from "Hospital Purposes" to "Urban" presumably to ensure a wider range of potential uses and therefore a higher market value. To assist this the Minister also amended the Odour Buffer Zone for the Subiaco Waste Water Plant in LPS3 to specifically exclude this site from the buffer zone and therefore allow the possibility of "sensitive uses" (i.e. residential) which is also likely to enhance the land's value. However, there is a separate State Policy that effectively "re-applies" this buffer to the site and requires a case by case assessment of any proposed development.

This creates significant uncertainty regarding the valuation of the land, so the given valuation has been used for the funding model. Should the funding model have assumed a higher value for the land, such as residential, the impacts on debt servicing, reduction in services, and rates increase would all be worse for the City.

The valuation received assumes an Urban zoning under the MRS, as the land value would be significantly reduced with the current Hospital Purpose zone or indeed if it was Public Open Space (POS). This creates a significant issue for Council if it were to acquire the land in that it would be paying a price based on the highest and best use and would then need to, in effect, write off most of this value if it was to be used for POS and any land zoned or reserved for such or similar purposes has effectively no market value.

## **Conclusion**

Purchase of lot 10764, John XXIII Avenue is not recommended. The City is constrained by its debt servicing capacity and purchase using debt servicing is not recommended. Purchase of this lot as freehold land will lock away City equity permanently. Where possible public open space should be placed on Crown reserve vested in the City.



**Hon Ben Wyatt MLA**  
**Treasurer; Minister for Finance; Aboriginal Affairs; Lands**

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Our Ref: 69-13369

Mr Peter Mickleson  
Director Planning and Development  
City of Nedlands

*Via email: rcrabtree@nedlands.wa.gov.au*

Dear Mr Mickleson

**LOT 10764 JOHN XXIII AVENUE MT CLAREMONT - LAND DISPOSAL BID**

I refer to your correspondence dated 22 March 2019 to the Hon Rita Saffioti MLA, regarding Lot 10764, John XXIII Avenue in Mount Claremont.

I confirm that, as per the response from Minister Saffioti to your request dated 2 November 2018 (copy attached), the land will be sold via a competitive process, wherein the City will be provided with an opportunity to purchase.

The Department of Planning, Lands and Heritage has recorded the City's interest in the site and will forward all relevant information when the sale process is commenced.

Yours sincerely

A handwritten signature in blue ink, appearing to be 'A. Morey'.

Aaron Morey  
**A/CHIEF OF STAFF**

Att.

**18 APR 2019**

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

Nil.

**11. Confidential Items**

Nil.

**Declaration of Closure**

There being no further business, the Presiding Member declared the meeting closed at 7.45 pm.