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***Minutes***

***Special Council Meeting***

***1 July 2021***

**Attention**

**These Minutes are subject to confirmation.**

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

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**City of Nedlands**

**Minutes of a special meeting of Council held in online via teams on Thursday 1 July 2021 at 5.30 pm for the purpose of considering the following items:**

1. **Consideration of Responsible Authority Report for a 19 Multiple Dwellings & Office at 105 Broadway, Nedlands**
2. **Development Assessment Panels – City of Nedlands Nomination of Replacement Alternate Member**

# Declaration of Opening

The Presiding Member declared the meeting open at 5.56pm drew attention to the disclaimer below.

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

**Councillors** Her Worship Mayor F Argyle (Presiding Member)

Councillor F J O Bennett Dalkeith Ward

Councillor A W Mangano (from 6.24pm) Dalkeith Ward

Vacant Hollywood Ward

Councillor R A Coghlan Melvista Ward

Councillor R Senathirajah Melvista Ward

Councillor B Tyson (from 6.05 pm) Melvista Ward

Councillor N B J Horley Coastal Districts Ward

Councillor L J McManus 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

Mr J Filippone Senior Systems Engineer

**Public** There were 5 members of the public online.

**Press** Nil.

**Leave of Absence** Councillor J D Wetherall Hollywood Ward

**Apologies** Councillor N R Youngman Dalkeith Ward

Mr E K Herne Acting Chief Executive Officer

**Absent** 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.

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

# Public Question Time

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

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

Nil.

# Addresses by Members of the Public

Addresses by members of the public who have completed Public Address Session Forms to be made at this point.

Nil.

# Disclosures of Financial Interest

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

There were no disclosures of financial interest.

# Disclosures of Interests Affecting Impartiality

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

Council Members and employees are required, in addition to declaring any financial interests to declare any interest that may affect their impartiality in considering a matter. This declaration does not restrict any right to participate in or be present during the decision-making procedure.

## Councillor Smyth – Item 6 - Consideration of Responsible Authority Report for 19 Multiple Dwellings & Office at 105 Broadway, Nedlands

Councillor Smyth disclosed an impartiality interest in Item 6 - Consideration of Responsible Authority Report for 19 Multiple Dwellings & Office at 105 Broadway, Nedlands. Councillor Smyth disclosed that she is a Ministerial appointee and paid member of the MINJDAP that will be considering this item at a meeting scheduled for 15 July 2021. As a consequence, there may be a perception that her impartiality on the matter may be affected. In accordance with recent legal advice from McLeods released to the local government sector in relation to a recent Supreme Court ruling, Councillor Smyth advised she will not stay in the room and debate the item or vote on the matter.

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

## Councillor Bennett – Item 6 - Consideration of Responsible Authority Report for 19 Multiple Dwellings & Office at 105 Broadway, Nedlands

Councillor Bennett disclosed an impartiality interest in Item 6 - Consideration of Responsible Authority Report for 19 Multiple Dwellings & Office at 105 Broadway, Nedlands. Councillor Bennett disclosed that he is a Ministerial appointee and paid member of the MINJDAP that will be considering this item at a meeting scheduled for 15 July 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 will not stay in the room and debate the item or vote on the matter.

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

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

Nil.

# Consideration of Responsible Authority Report for 19 Multiple Dwellings & Office at 105 Broadway, Nedlands

|  |  |
| --- | --- |
| **Council** | 1 July 2021 – Special Council Meeting |
| **Applicant** | Planning Solutions |
| **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 |
| **Acting CEO** | Ed Herne |
| **Attachments** | 1. Responsible Authority Report and Attachments 2. Alternate Recommendation for Approval with Conditions |

**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 15 July 2021. As a consequence, there may be a perception that her impartiality on the matter may be affected. In accordance with recent legal advice from McLeods released to the local government sector in relation to a recent Supreme Court ruling, Councillor Smyth advised she will not stay in the room and debate the item or vote on the matter.

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

**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 15 July 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 will not stay in the room and debate the item or vote on the matter.

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

Councillor Smyth & Councillor Bennett left the meeting at 6.26pm.

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

Moved – Councillor Tyson

Seconded – Councillor Senathirajah

**Council:**

1. **adopts as the Responsible Authority the Officer Recommendation contained in the Responsible Authority Report for the development of 19 Multiple Dwellings & Office at 105 Broadway, Nedlands included at Attachment 1; and**
2. **instructs the CEO to incorporate Council’s Responsible Authority recommendation into the Responsible Authority Report for the development of 19 Multiple Dwellings & Office at 105 Broadway, Nedlands.**

**CARRIED 6/1**

**(Against: Mayor Argyle)**

Moved – Councillor Horley

Seconded – Councillor Mangano

1. **appoints Councillor Coghlan to coordinate Council’s submission and presentation to the Metro Inner-North JDAP for the development of 19 Multiple Dwellings & Office at 105 Broadway, Nedlands.**

**CARRIED 6/1**

**(Against: Cr. McManus)**

**Council Resolution**

**Council:**

1. **adopts as the Responsible Authority the Officer Recommendation contained in the Responsible Authority Report for the development of 19 Multiple Dwellings & Office at 105 Broadway, Nedlands included at Attachment 1; and**
2. **instructs the CEO to incorporate Council’s Responsible Authority recommendation into the Responsible Authority Report for the development of 19 Multiple Dwellings & Office at 105 Broadway, Nedlands; and**
3. **appoints Councillor Coghlan to coordinate Council’s submission and presentation to the Metro Inner-North JDAP for the development of 19 Multiple Dwellings & Office at 105 Broadway, Nedlands.**

Recommendation to Council

Council:

1. adopts as the Responsible Authority the Officer Recommendation contained in the Responsible Authority Report for the development of 19 Multiple Dwellings & Office at 105 Broadway, Nedlands included at Attachment 1;
2. instructs the CEO to incorporate Council’s Responsible Authority recommendation into the Responsible Authority Report for the development of 19 Multiple Dwellings & Office at 105 Broadway, Nedlands; and
3. appoints Councillor (insert name) and Councillor (insert name) to coordinate Council’s submission and presentation to the Metro Inner-North JDAP for the development of 19 Multiple Dwellings & Office at 105 Broadway, Nedlands.

**1.0 Executive Summary**

The purpose of this report is for Council to consider the Development Assessment Panel application that proposes a Mixed-Use development comprising of 19 Multiple Dwellings and Office at 105 Broadway, Nedlands and make its recommendation to the Joint Development Assessment Panel (JDAP) as the Responsible Authority. Council’s recommendation will be incorporated into the Responsible Authority Report (RAR) and lodged with the DAP Secretariat on 5 July 2021.

This application was previously determined by the JDAP on 17 March 2021. The JDAP resolved to defer the application to allow the applicant to consider and address the design of the development focusing on:

1. Plot ratio and interface to the lower zoned property to the west;
2. Interface and design of the proposal to Broadway; and
3. To consider universal access to the lift lobby

Despite several improvements, there remains deficient design elements that Administration considers will negatively impact the streetscape and locality. The recommendation of this report is for refusal.

**2.0 Background**

On 17 March 2021 the Metro Inner-North JDAP considered a 6 storey Mixed Use development comprising of 22 Multiple Dwellings and Office tenancy located on the site.

The City recommended that JDAP refuse the application for the following key reasons:

* The height did not respond appropriately to the changes in topography, as it presented with a five-storey interface to the adjoining R60 lot to the west;
* The reduced street setbacks were inconsistent with expectations under the R-AC3 code and did not mitigate perceived bulk and scale. This is further exacerbated by the absence of landscaping that is visible from the public realm and that is consistent with the area that would enhance the streetscape;
* The proposed plot ratio of 2.6 did not reflect the expectation for an R-AC3 ‘Mid-rise urban centre’ which has a default plot ratio of 2.0. The development was more representative of a R-AC2 or R-AC1 ‘High density urban centre’ which has a default plot ratio of 2.5 and 3.0 respectively;
* The reduced building separation from Levels 4 & 5 did not provide for adequate separation between the site and neighbouring properties. The reduced setbacks exacerbated building bulk as viewed from all boundaries and compromised extent of shadow cast and internal and external amenity;
* The façade design did not address Broadway and the parking design from Elizabeth Street was considered to negatively impact the streetscape;
* The composition of colours and materials were not considered to resonate with the character of the locality;
* The absence of landscaping that was visible to the streetscape;
* The design of the office at ground level was not considered to enhance the streetscape or appropriately activate the street; and
* Window openings from the units to open access walkways and communal open space would cause unreasonable internal amenity impacts.

The JDAP determined to defer the application for a period of 120 days to allow the applicant to consider and address the design of the development focusing on:

1. Plot ratio and interface to the lower zoned property to the west;
2. Interface and design of the proposal to Broadway; and
3. To consider universal access to the lift lobby

Amended plans and technical reports were submitted to the City on 19 May 2021, 26 May 2021 and 18 June 2021. A summary of the revised changes include:

* The number of storeys has reduced from 6 to 5;
* Increased setbacks to the western interface;
* The number of apartments has reduced from 22 to 19;
* Plot ratio has reduced from 2.6 to 2.0;
* A ground floor office area only at 63m2;
* Increase in landscaping from 173m2 to 232m2;
* The balconies to Units 3, 8 13 & 17 have increased in area and now wrap around the corner of the building, addressing both Elizabeth Street and Broadway; and
* The reduction of resident car parking bays from 30 to 28 bays. The basement area has been expanded to accommodate resident parking. The 2 on-site resident visitor bays and 4 commercial bays are unchanged.

An overview of the amended application against the JDAP deferral reasons and the City’s original refusal recommendation is tabled below. The City’s assessment is summarised in these sections.

**3.0 Application Details**

An overview of the amended application against the JDAP deferral reasons and the City’s original refusal recommendation is tabled below. Administration’s assessment is summarised in these sections.

**JDAP’s Reason for Deferral**

|  |  |  |
| --- | --- | --- |
| **Deferral Reason** | **Modification Made** | **Assessment Status** |
| 1. Plot ratio and interface to the lower zoned property to the West | The number of apartments has been reduced from 22 to 19 and the plot ratio decreased from 2.6 (2,328m2) to 2.0 (1,777m2). This is now in line with the 2.0 plot ratio for R-AC3.  The design has been reduced by a storey to have a maximum of 5-storeys by definition, where up to 6 storeys could be considered by R-AC3. The development is now viewed as a 3-4 storey interface to the adjoining R60 coded lot to the west and presents as 5-6 storeys to Broadway and Elizabeth Street. This has been achieved by reducing the number of storeys, removing the second storey office and increasing the setbacks to the west. | ✓ |
| 1. Interface and design of the proposal to Broadway | The balconies to Units 3, 8 13 & 17 have increased in area and now wrap around the corner of the building, addressing both Elizabeth Street and Broadway.  The revised design has reduced the area of the office from 126m2 to 63m2 and to ground floor only. This now addresses the interface with Broadway. This aspect is supported by the City. | ✓ |
| 1. To consider universal access to the lift lobby | The parking areas have been modified to provide for universal access to the site for residents, visitors and commercial staff/visitors. At lower ground level, these include an increase of the corridor width from 1.2m to 1.3m and the entry of the lift has been reorientated from north to west. On the upper ground floor, the stairs have been replaced with a ramp to the internal accessways and a lift has been included at the southern side of the building. This aspect is supported by the City. | ✓ |

**City’s Reason for Refusal**

|  |  |  |
| --- | --- | --- |
| **Refusal Reason** | **Modification Made** | **Assessment Status** |
| 2.2 – Building Height  The building height creates a bulk and scale that adversely affects the amenity of the property to the west and south | The design has been reduced by a storey to have a maximum of 5-storeys. The development is viewed as a 3-4 storey interface to the adjoining R60 coded lot. The bulk and scale are now considered to appropriately transition to the adjoining lower coding interface to the west. With the removal of the 6th storey, the development is now viewed as 4-5 storeys to the south. | ✓ |
| * 1. – Street Setbacks   The building is not consistent with the landscape character of Broadway | Minor modifications have been made to the design which now removes the 6m2 deep soil area facing Elizabeth Street. The landscape design is now completely reliant on planting on structure.  Administration considers additional modifications are required to ensure the landscape character of Broadway is maintained. The landscaping provided at ground level is minimal and most planter areas are not wide enough to provide meaningful planting and may struggle to survive. The only deep soil area has removed the ability to provide for a larger tree at the corner of Elizabeth Street and Broadway. Overall, it is considered the pedestrian amenity is not improved.  Although additional landscaping has been proposed in the revised design, it is not visible from the public realm and has generally been limited to communal areas. The modification to the balconies to Units 3, 8, 13 & 17 provide opportunity for additional planting on structure at the edges to enhance outlook and further connect to the context and character of Broadway. | **x** |
| 2.4 – Side & Rear Setbacks  Insufficient side boundary setbacks to the south and western boundaries at the 4th and 5th floor. The insufficient side and rear boundary setbacks are not supported given they do not provide for adequate separation or transition between the site and neighbouring properties which are affected by different density codes and development intensity. | The revised plans have removed Level 5 (6th storey).  The revised plans have also provided for an increased setback to the top storey to the western elevation. It now proposes an increase to the setback from 5.1m to 8.8m. These setbacks are supported by Administration as it provides an adequate transition between the site and the neighbouring R60 property located to the west.  Minor modifications are proposed to the southern elevation. Bedroom 3 has been removed in the previous Unit 20 (now Unit 18) and has been replaced with a planter box. This is accepted by Administration, noting the removal of the 6th storey has further reduced the bulk and enabled an appropriate transition. | ✓ |
| 2.5 Plot Ratio  The plot ratio exceeds the bulk and scale of a building coded R-AC3 and its massing will unreasonably impact the Residential (R60) single house to the west (No. 36 (Lot 571) Kingsway) and the grouped dwelling development to the south (No. 109 Broadway) | The number of apartments has been reduced from 22 to 19 and the plot ratio decreased from 2.64 (2,328m2) to 2.02 (1,777m2). This is in line with the 2.0 plot ratio for R-AC3 and intended built form. The overall massing is considered to now appropriately address the adjoining properties as outlined in Elements 2.2 & 2.4 of the R-Codes. The interface design is now consistent with previous approvals on Broadway. | ✓ |
| 2.7 - Building Separation  There is insufficient separation at the 4th and 5th floor, to provide for reasonable internal external residential amenity. The number of dwellings and form has resulted in design deficiencies that will negatively impact internal amenity | The building is predominately proportionate to its height and focuses on reducing bulk to the western R60 coded lots. This aspect is supported by Administration. | ✓ |
| 3.2 - Orientation  Insufficient evidence that the building form minimises shadow impacts on the adjoining property (No. 109 Broadway) in mid-winter | The extent of overshadowing at 12pm winter solstice directly adjoining southern landowner at No.103 Broadway (at 33%). This meets the acceptable outcomes. | ✓ |
| 3.6 - Public domain interface  The Broadway frontage is not appropriately activated and has a poor landscape response. | Administration considers that there is still a lack of landscaping addressing the public realm which could otherwise provide a green presence and address the context and character of Broadway. There is no longer any true deep soil area (previously 6m2) along Elizabeth Street and further, there are no mature plant species proposed at ground level. The new wrap around balconies do not contain any additional landscaping. | **X** |
| 3.7 - Pedestrian access and entries  The internal layout of the ground floor office results that does not adequately address the public domain. | The removal of the 1st floor office is an improvement and will deliver a more useful commercial space. The layout of the office can accommodate a wide range of future uses and has a minimum depth of 10m. | ✓ |
| 3.9 - Car and bicycle parking  The oversupply of car parking at levels 1 and 2 diminishes the development’s opportunity to provide an appropriate pedestrian-scale, activated streetscape interface and results in negative visual amenity and streetscape impacts | 10 car parking bays have been relocated to the basement level. However, no change has been made to the car parking design, as viewed from Elizabeth Street. The unsleeved parking maintains a negative interface with the street. | **X** |
| 4.5 - Circulation and common spaces  The open access walkways will cause unreasonable internal and external amenity impacts. | Additional internal landscaping has been proposed to address previous internal amenity concerns. The design continues to have windows fronting the internal walkways which remains a suboptimal design due to the associated nuisance with light, noise, and natural ventilation. A condition could via a revised acoustic report and lighting plan. | ✓ |
| 4.10 - Façade design  The development does not provide a resolved façade treatment that aesthetically aligns with the quality and character of the area. It does not incorporate a sophisticated composition of materials and finishes to define the ‘top’ of the building, articulate the side facades or reduce the dominance of the upper levels. | The reduction in height has helped create a better aesthetic outcome. This has been further enhanced by the removal of the second level of commercial offices. The increase in setbacks have enabled a clear ‘base, middle & top’. This aspect is supported.  The overall façade design with open walkways to the south, the materials, openings and colours have not been addressed. Administration considers that the overall design does not aesthetically align with the quality and context of the area. There has been no clear demonstration of the context and place that would enhance the distinctive character of the area. | **X** |
| 4.11 - Roof design  The roof form has not been appropriately defined to reduce perceived bulk and scale and does not therefore positively to the street. | The design of the building has reduced and minor modifications to the roof design have been made. With the removal of the 6th storey, it now appropriately responds to R-AC3. | ✓ |
| 4.12 – Landscaping  The development has failed to provide landscaping that integrated into the overall design. | Although additional landscaping has been provided, it has not addressed the City & Design Reviewers previous comments and concerns as identified in the original design.  Landscaping is generally limited to communal areas. There is limited landscaping provided at balcony edges facing Elizabeth Street or Broadway. There is still an absence of at grade landscaping along Elizabeth Street which would contribute to the existing character of Broadway. This is particularly due to the removal of the existing trees at 4m height which contribute to the leafy green character of the street. | **X** |
| 4.14 - Mixed use  The ground floor office does not enhance the streetscape or appropriately activate the street. | The revised design has reduced the area of office area from 126m2 to 63m2 and to the ground level only. The area is now considered adaptable for future uses as it located on ground level only and provides a 10m depth. | ✓ |

**4.0 Consultation**

**Original**

In accordance with the City’s Local Planning Policy – Consultation of Planning Proposals, the development was advertised for a period of 21 days, commencing 31 October 2020 and concluding 21 November 2020. Public consultation consisted of:

* Letters sent to all City of Nedlands and City of Perth landowners and occupiers within a 200m radius of the site (letters);
* A sign on site was installed at the site’s 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 published on 31 October 2020;
* A Social media post was made on one of the City’s Social Media platforms;
* 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 11 November 2020, where approximately 30 residents and elected members were present.

At the close of the advertising period, the City received a total of 103 submissions, of which 2 submissions were in support of the application, and the remaining 101 submissions objected to the proposal. A summary of the key issues raised in public consultation are tabled below.

| **Issue Raised** | **Officer comments** | **Satisfied** |
| --- | --- | --- |
| **Building Height** | The design has been reduced by a storey to have maximum height of 5-storeys by definition, where up to 6 storeys could be considered by R-AC3. The development is now viewed as a 3-4 storey interface to the adjoining R60 coded lot to the west and presents as 5-6 storeys to Broadway and Elizabeth Street. | ✓ |
| **Plot ratio, bulk and scale** | The number of apartments has been reduced from 22 to 19 and the plot ratio decreased from 2.64 (2,328m2) to 2.02 (1,777m2). This is in line with the 2.0 plot ratio for R-AC3. | ✓ |
| **Side/rear setback** | The proposed setbacks are now considered acceptable due to the building articulation provided along the respective elevations and increased setbacks. | ✓ |
| **Overshadowing** | The extent of overshadowing is at 12pm winter solstice has been is at 33% to the directly adjoining southern landowner at No.103 Broadway. | ✓ |
| **Visual Privacy** | The development features appropriate screening / setback to mitigate visual privacy impacts. Minor modifications are needed to the 1st floor open access walkway. | ✓ |
| **Vehicle access** | The Elizabeth Street & Broadway is supported as it provides a safe access and egress point for vehicles. | ✓ |
| **Traffic** | The Applicant’s Transport Impact Statement concludes that the development does not adversely affect the surrounding road network capacity and the findings are supported. | ✓ |
| **Parking** | The minimum number of parking bays have now been provided as a result of the reduced floor area of the office. | ✓ |
| **Amenity** | The proposal’s character & design has remained largely unchanged as is considered to adversely affect the amenity of the adjoining properties and streetscape. | **X** |
| **Design** | The design review has not addressed the City’s previous concerns. | **X** |
| **Land use** | The modified office layout addresses this issue. | ✓ |
| **Development bonus** | A common objection raised by residents related to the application of the Acceptable Outcomes. The basis of the objection was that neither City nor the decision-maker should allow any development to exceed the Acceptable Outcome as there is no planning instrument that sets out the desired metrics for development bonus. While the City acknowledges there is no such adopted policy, the R-Codes Vol. 2 is a performance-based policy, the intent of which is to promote good design over rigid development controls. | ✓ |
| **Tree canopy / Deep Soil / Landscaping** | The proposal does not currently meet Element 4.12 – Landscaping. Although some objectives (impact on neighbouring trees) could be achieved through conditions, there are fundamental concerns with the landscape response. Further discussion of Design Elements 3.3 and 4.12 of the R-Codes Vo. 2 are provided in the Officer Comments of the RAR. | **X** |

**Amended Application**

Due to the timing of the amended plans being received, the City was unable to undertake formal advertising for a minimum period of 28 days. The amended plans were made available for public inspection on the City’s Your Voice website with a summary of changes proposed and email notification to all previous submitters.

Overall, Administration consider that the amendment seeks to reduce the height, plot ratio, number of dwellings and increase setbacks to the west. It is considered the revised plans have largely reduced the impact of the development on neighbouring properties when compared to the original proposal considered. All previous submissions on this proposal have been given due regard in this assessment in accordance with clause 67(y) of *Planning and Development (Local Planning Schemes) Regulations 2015.*

**5.0 Design Review**

The application was referred back to the original Architect and Landscape Architect. Below is a table which shows how the development has progressed during design review. It is noted that a key positive aspect of the development was the reduction in height that has made a considerable positive change in such a high-profile location.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| 3 | *Supported* | | | |
| 2 | *Supported with conditions / Further Information required* | | | |
| 1 | *Not supported* | | | |
|  | | Original Plans  14 October 2020 | Plans previously considered by JDAP  27 November 2020 | Amended Plans  19 May 2021 & 18 June 2021 |
| Principle 1 – Context & Character | |  |  |  |
| Principle 2 – Landscape Quality | |  |  |  |
| Principle 3 – Built Form & Scale | |  |  |  |
| Principle 4 – Functionality & Built Quality | |  |  |  |
| Principle 5 - Sustainability | |  |  |  |
| Principle 6 – Amenity | |  |  |  |
| Principle 7 - Legibility | |  |  |  |
| Principle 8 – Safety | |  |  |  |
| Principle 9 – Community | |  |  |  |
| Principle 10 – Aesthetics | |  |  |  |

In summary, the main concerns continue to be re-iterated which include:

* No additional information was provided that helped demonstrate a clear interpretation of context and place that would enhance the distinctive character of the area; and
* Limited landscaping provided that addresses the street. More landscaping elements to address the corner. Greater setbacks will offer more deep soil that could also be utilised for a more generous interface with the street and provision of elements for community benefit;

**6.0 Recommendation to JDAP**

Despite several improvements, particularly to bulk and scale, there remains deficient design elements that Administration considers will negatively impact the streetscape and locality.

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

1. **Refuse** DAP Application reference DAP/20/01871 and accompanying plans (Attachment 1) in accordance with Clause 68 of Schedule 2 (Deemed Provisions) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, and the provisions of the City of Nedlands Local Planning Scheme No. 3, subject to the following reasons:
2. The development is inconsistent with the existing and emerging character. The façade design, landscaping and location of circulation areas along the south boundary and does not accord with the following:
3. Clause 67(2)(a)(b)(m)(p) of the *Planning and Development (Local Planning Scheme) Regulations 2015;* and
4. Aims of the Scheme under Clause 9(a) of the City of Nedlands Local Planning Scheme No.3.
5. State Planning Policy 7.0 (Principle 1 – Context & Character, Principle 2 – Landscape Quality, Principle 9 – Community & Principle 10 - Aesthetics)
6. Having regard to State Planning Policy 7.3 Residential Design Codes Volume 2 – Apartments, the façade design and landscape response of the proposed development is inappropriate to the context and local character and will result in unreasonable adverse external amenity impacts given that:
7. Elements 2.3 (Street Setbacks), 3.6 (Public Domain Interface) & 3.9 (Car Parking) - The reduced street setbacks from Elizabeth Street and the design of the car parking as viewed from Elizabeth Street diminishes the development’s opportunity to provide an appropriate pedestrian-scale, landscape interface that is consistent with the ‘leafy green’ character of the locality;
8. Element 4.10 (Façade Design) - The façade design on all elevations (windows, materials and colours) and in particular, the location of circulation areas (open-access walkways on the southern elevation) does not align with the quality and character of the area; and
9. Element 4.12 (Landscape Design) - The development does not provide landscaping that is integrated into the overall design across all levels, that is visible from the public realm (Elizabeth Street and Broadway) that is consistent with the landscape character of the locality.

Council’s recommendation will be incorporated into the Responsible Authority Report (RAR) and lodged with the DAP Secretariat on 5 July 2021. In the event the JDAP approve this application, Administration have prepared an alternate recommendation for approval, with conditions. This is contained in **Attachment 2.**

**7.0 Conclusion**

Administration acknowledges the modifications made by the applicant in response to two preliminary reviews, the architectural and landscape architect reviews, and the City’s assessment as part of the application. However, the changes made continue not to materially address the concerns relating to façade design & landscaping, all of which have an impact on the character of the locality and streetscape. For the reasons cited in the report and Attachment 1, Administration recommends the application be refused.

# Development Assessment Panels – City of Nedlands Nomination of Replacement Alternate Members

|  |  |
| --- | --- |
| **Council** | 1 July 2021 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under *section 5.70 Local Government Act 1995*** | Nil. |
| **Officer** | Nicole Ceric, Executive Officer |
| **CEO** | Ed Herne – Acting Chief Executive Officer |
| **Attachments** | Nil. |
| **Confidential Attachments** | Nil. |

Nominations were received for Councillor Tyson & Mayor Argyle.

A ballot was taken, and Mayor Argyle was selected.

Mayor Argyle withdrew her nomination.

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

Moved – Councillor Smyth

Seconded – Councillor Bennett

**Council:**

1. **pursuant to Regulation 26 of the Planning and Development (Development Assessment Panels) Regulations 2011, nominates Councillor Tyson as the 2nd Alternate local member to sit on the City of Nedlands Development Assessment Panel; and**
2. **approves this nomination to be submitted to the Department of Planning.**

Councillor Tyson joined the meeting at 6.05pm.

Councillor Mangano joined the meeting at 6.24pm.

**CARRIED UNANIMOUSLY 9/-**

**Council Resolution**

**Council:**

1. **pursuant to Regulation 26 of the Planning and Development (Development Assessment Panels) Regulations 2011, nominates Councillor Tyson as the 2nd Alternate local member to sit on the City of Nedlands Development Assessment Panel; and**
2. **approves this nomination to be submitted to the Department of Planning.**

Recommendation to Council

Council:

1. pursuant to Regulation 26 of the Planning and Development (Development Assessment Panels) Regulations 2011, nominates Councillor (insert name) as the Alternate local members to sit on the City of Nedlands Development Assessment Panel; and
2. approves this nomination to be submitted to the Department of Planning.

**Executive Summary**

The Planning and Development (Development Assessment Panels) Regulations 2011 (DAP Regulations) requires Council to nominate four elected members of the Council, comprising two local members and two alternate local members to sit on the Joint Development Assessment Panel (JDAP).

The purpose of this report is for Council to nominate a replacement alternate nominee following the resignation of Councillor Paul Poliwka. The replacement nominees are required to be submitted to the Department of Planning, Lands and Heritage for approval.

Any new nominees will be considered by the Minister and will be appointed local government DAP members for the term ending 26 January 2022.

**Voting Requirement.**

Simple Majority.

**Discussion / Overview**

**Background**

Development Assessment Panels (DAP) were introduced by the (then) Department of Planning during 2011 to assist with decision making involved with complex development applications.

Each DAP consists of three specialist members, one of which is the presiding member, and two local government members.

Appointment of the City’s current DAP members, (Councillor Bennett and Councillor Smyth as local members, and Councillor Poliwka and Councillor Coghlan as alternate local members), expires on 26 January 2022.

The Council is being requested to nominate a replacement alternate nominee due to Councillor Poliwka’s resignation.

DAP members are entitled to be paid for their attendance at DAP meetings and training, unless they fall within a class of persons excluded from payment.

If Council nominates new alternate members, the nominee will be submitted to the Department of Planning and the Minister of Planning will consider and appoint the new alternate nominee for the remainder of the term ending 26 January 2022. All appointed members will be placed on the local government member register and advised of DAP training dates and times. Training is only required for those who have not had training already.

**Key Relevant Previous Council Decisions:**

In 2020, Council nominated Councillor Bennett as local member and Councillor Wetherall as 1st alternate and Councillor Poliwka as 2nd alternate member and noting that Councillor Smyth was the existing and continuing JDAP local government member 2.

In 2019, Council nominated Mayor de Lacy and Councillor Smyth as local members and Councillor Bennett and Councillor Wetherall as alternate members.

In 2017, Council nominated Mayor Hipkins and Councillor Shaw as local members and Councillor Smyth and Councillor Wetherall as alternate members.

In 2015, Council nominated Mayor Hipkins and Councillor Shaw as local members and Councillor Hassell and Councillor Smyth as alternate members.

In 2013, Council nominated Mayor Hipkins and Councillor Shaw as local members and Councillor Hassell and Councillor Somerville-Brown as alternate members.

In 2011, Council nominated Councillors Tan and Negus as local members and Mayor Frose and Cr Hodsdon as alternate members.

**Consultation**

Required by legislation: Yes  No

Required by City of Nedlands policy: Yes  No

**Legislation / Policy**

* Planning and Development (Development Assessment Panels) Regulations 2011 (DAP Regulations)
* Planning and Development (Development Assessment Panels) Amendment Regulations 2016 (DAP Amendment Regulations)

**Budget/Financial Implications**

Within current approved budget: Yes  No

Requires further budget consideration: Yes  No

**Risk Management**

If the Council fails to nominate members and submit nominations to the Department of Planning, the Minister has the power to appoint non-councillors from the community.

**Conclusion**

It is recommended that, as requested, Council nominate a replacement alternate DAP member for the consideration of the Minister.

# Declaration of Closure

There being no further business, the Presiding Member declared the meeting closed at 6.40pm.