



City of Nedlands

Minutes

Special Council Meeting

10 September 2020

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 be held electronically (livestreamed) / onsite (Council Chamber, 71 Stirling Hwy, Nedlands) (Councillors Only) on Thursday 10 September 2020 at 6:00 pm for the for the purpose considering the Responsible Authority Report for 11 Multiple Dwellings at 40 Portland Street, Nedlands.

Declaration of Opening

The Presiding Member declared the meeting open at 6.06 pm and drew attention to the disclaimer below.

Present and Apologies and Leave of Absence (Previously Approved)

Councillors	Her Worship the Mayor, C M de Lacy (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 N B J Horley	Coastal Districts Ward
	Councillor L J McManus	Coastal Districts Ward
	Councillor K A Smyth	Coastal Districts Ward

Staff	Mr M A Goodlet	Chief Executive Officer
	Mr R Jutras-Minett	A/Director Planning & Development
	Mrs N M Ceric	Executive Assistant to CEO & Mayor

Public A maximum of 5 persons logged into the live stream of the proceedings and 1 member of the public attended for the public address session only.

Leave of Absence (Previously Approved) Nil.

Apologies Councillor G A R Hay Melvista Ward

Disclaimer

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

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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

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

Mr Graham Cuckow, 39 Portland Street, Nedlands
(spoke in opposition to the recommendation)

Item 6

3. Disclosures of Financial/ 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*.

4.1 Councillor Smyth – Item 6 - Responsible Authority Report for 40 Portland Street, Nedlands – 11 Multiple Dwellings

Councillor Smyth disclosed an impartiality interest in Item 6 - Responsible Authority Report for 40 Portland Street, Nedlands – 11 Multiple Dwellings. Councillor Smyth disclosed that she is a paid member of the MINJDAP that will be considering this item at a meeting scheduled for 17th September. As a consequence, there may be a perception that her impartiality on the matter may be affected. In accordance with recent legal advice from McLeod's released to the local government sector in relation to a recent Supreme Court ruling, Councillor Smyth declared he will leave the meeting and not participate in the debate or vote on the matter.

4.2 Councillor Bennett – Item 6 - Responsible Authority Report for 40 Portland Street, Nedlands – 11 Multiple Dwellings

Councillor Bennett disclosed an impartiality interest in Item 6 - Responsible Authority Report for 40 Portland Street, Nedlands – 11 Multiple Dwellings. Councillor Bennett disclosed that he is a paid member of the MINJDAP that will be considering this item at a meeting scheduled for 17th September. As a consequence, there may be a perception that his impartiality on the matter may be affected. In accordance with recent legal advice from McLeod's released to the local government sector in relation to a recent Supreme Court ruling, Councillor Bennett declared he will leave the meeting and not participate in the debate or vote on the matter.

4.3 Councillor Wetherall – Item 6 - Responsible Authority Report for 40 Portland Street, Nedlands – 11 Multiple Dwellings

Councillor Wetherall disclosed an impartiality interest in Item 6 - Responsible Authority Report for 40 Portland Street, Nedlands – 11 Multiple Dwellings. Councillor Wetherall disclosed that he is a paid member of the MINJDAP, however he is an alternate and is not sitting for the meeting on the 17th September however should the need arise for him to attend the meeting he will make the necessary declaration and as a consequence, there may be a perception that his impartiality on the matter may be affected. Councillor Wetherall 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

Nil.

6. Responsible Authority Report for 40 Portland Street, Nedlands – 11 Multiple Dwellings

Council	10 September 2020
Applicant	Urbanista Town Planning
Landowner	Wesion Development Pty Ltd
Director	Peter Mickleson – Director Planning & Development
Employee Disclosure under section 5.70 Local Government Act 1995	Nil
Report Type	
Information Purposes	Item provided to Council for information purposes.
Reference	DA 20-48204 (DAP/20/01834)
Previous Item	Nil
Delegation	Not applicable – Joint Development Assessment Panel application.
Attachments	1. Responsible Authority Report and Attachments – available at: https://www.dplh.wa.gov.au/about/development-assessment-panels/daps-agendas-and-minutes

Regulation 11(da) – Council wished to add clarity around its conditional support for the development.

Moved – Councillor Hodsdon
 Seconded – Councillor Wetherall

Council Resolution

That Council:

- 1. notes the Responsible Authority Report for the proposed 11 Multiple Dwelling development at Lot 130 (No.40) Portland Street, Nedlands;**
- 2. agrees to appoint Councillor Poliwka and Councillor Hodsdon to coordinate the Council’s submission and presentation to the Metro Inner-North JDAP and to send a submission letter to the Metro Inner-North JDAP that will:**
 - a. inform the Panel of the current status of the City’s Planning Framework;**
 - b. express the view of Council majority, regarding the current development application at 40 Portland Street, Nedlands; and**

3. **supports approval of the development at two storeys, subject to the following conditions:**
 - a. **that the number of dwellings be reduced to 9 dwellings, to reduce the parking impacts and provide the opportunity to increase the setbacks; and**
 - b. **a dilapidation survey be carried out for the adjacent property at 42 Portland Street.**

**CARRIED 7/3
(Against: Crs. Mangano Youngman & Coghlan)**

Recommendation to Council

That Council:

1. notes the Responsible Authority Report for the proposed 11 Multiple Dwelling development at Lot 130 (No.40) Portland Street, Nedlands; and
2. agrees to appoint Councillor (insert name) and Councillor (insert name) to coordinate the Council's submission and presentation to the Metro Inner-North JDAP and to send a submission letter to the Metro Inner-North JDAP that will:
 - a. inform the Panel of the current status of the City's Planning Framework;
 - b. express the view of Council majority, regarding the current development application at 40 Portland Street, Nedlands; and
3. does / does not (delete one) support approval of the development; and
4. provide specific reasons in the case of refusal, and conditions in the case of approval:
 - a. ...
 - b. ...

1.0 Executive Summary

In accordance with the Planning and Development (Development Assessment Panels) Regulations 2011, Administration have prepared a Responsible Authority Report (RAR) in relation to the revised plans received on 1 September 2020 for the Joint Development Assessment Panel (JDAP) Form 1 Application at 40 Portland Street, Nedlands. The application proposes the development of a two-storey building comprising eleven apartments.

The purpose of this report is to inform Council of Administration's recommendation to the JDAP.

2.0 Background

The City originally received the JDAP application for 40 Portland Street, Nedlands on 19 May 2020. The 2 storey building will comprise 11 multiple dwellings (apartments) of 1-2 bedrooms. The site is zoned Residential with a density code of R60. All surrounding properties are coded R60.

The application was first advertised for public comment in June / July 2020. Subsequent to this, revised plans were received and re-advertised during August 2020. The assessment is based on the revised plans.

The Metro Inner-North Joint Development Assessment Panel will consider the application on 17 September 2020.

3.0 Application Details

The applicant seeks development approval for a residential development comprising 11 multiple dwellings over 2 storeys, with 2 parking levels. The building is proposed as follows:

Ground Floor

- Two 1 bedroom 1 bathroom units
- Three 2 bedroom 2 bathroom units
- 11 resident car parking spaces
- 1 visitor car parking space
- 7 bicycle spaces (6 resident / 1 visitor)
- Bin storeroom
- Communal open space

Upper Floor

- Two 1 bedroom 1 bathroom units
- Four 2 bedroom 2 bathroom units

4.0 Consultation

In accordance with the City's Local Planning Policy – Consultation of Planning Proposals, the development proposal is considered a Complex Application. The application was advertised for three weeks, commencing on 19 June 2020 and concluding on 10 July 2020.

Administration received a total of 124 submissions during the public consultation period, of which 1 submission was in support of the application and the remaining 125 submissions objected to the proposal.

Due to the receipt of revised plans, an additional 14-day advertising period was conducted between 13 August and 28 August 2020. An additional 87 submissions were received during this period. Of the submissions received, 1 was supportive of the proposal and 86 raised objections.

Recommendation to JDAP

The proposal was assessed against the element objectives of the Residential Design Codes Volume 2. This found that the development is generally compliant with the element objectives, with the exception of Visual Privacy. The non-compliance relates to the reliance of the development on screening to achieve visual privacy. The screening affects solar and daylight access, natural ventilation and outlook. The development is considered to still meet the relevant element objectives for solar and daylight access and natural ventilation. The only matter that cannot be resolved is outlook from habitable rooms due to the presence of the screening.

Given the high degree of compliance with the element objectives of the R-Codes and the aims and objectives of the Scheme, **Administration is recommending the application be approved with conditions.**

5.0 Conclusion

Administration has prepared a Responsible Authority Report to the Metro Inner-North Joint Development Assessment Panel recommending conditional approval for the development of 11 multiple dwellings at 40 Portland Street, Nedlands. Council may wish to make a submission to the Panel on the application. This submission will be presented to the Panel for consideration at its meeting on 17 September 2020.

Declaration of Closure

There being no further business, the Presiding Member declared the meeting closed at 7.03 pm.