**Minutes**

**Special Council Meeting**

**31 January 2023**

**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.

**Information**

Special Council Meetings are run in accordance with the City of Nedlands Standing Orders Local Law. If you have any questions in relation to items on the agenda, procedural matters, public question time, addressing Council or attending meetings please contact the Executive Officer on 9273 3500 or [council@nedlands.wa.gov.au](mailto:council@nedlands.wa.gov.au)

**Public Question Time**

Public question time at a Special Council Meeting is available for members of the public to ask a question about items on the agenda. Questions asked by members of the public are not to be accompanied by any statement reflecting adversely upon any Council Member or Employee.

Questions should be submitted as early as possible via the online form available on the City’s website: [Public question time | City of Nedlands](https://www.nedlands.wa.gov.au/public-question-time)

Questions may be taken on notice to allow adequate time to prepare a response and all answers will be published in the minutes of the meeting.

**Addresses by Members of the Public**

Members of the public wishing to address Council in relation to an item on the agenda must complete the online registration form available on the City’s website: [Public Address Registration Form | City of Nedlands](https://www.nedlands.wa.gov.au/public-address-registration-form)

The Presiding Member will determine the order of speakers to address the Council and the number of speakers is to be limited to 2 in support and 2 against any particular item on a Special Council Meeting Agenda. The Public address session will be restricted to 15 minutes unless the Council, by resolution decides otherwise.

**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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# Declaration of Opening

The Presiding Member declared the meeting open at 6.30pm and drew attention to the disclaimer below and advised the meeting is livestreamed.

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

**Councillors** Mayor F E M Argyle (Presiding Member)

Councillor B Brackenridge Melvista Ward

Councillor R A Coghlan (online) Melvista Ward

Councillor R Senathirajah Melvista Ward

Councillor H Amiry Coastal Districts Ward

Councillor L J McManus Coastal Districts Ward

Councillor K A Smyth Coastal Districts Ward

Councillor F J O Bennett Dalkeith Ward

Councillor A W Mangano Dalkeith Ward

Councillor N R Youngman Dalkeith Ward

Councillor O J Basson Hollywood Ward

Councillor O Combes Hollywood Ward

Councillor B G Hodsdon Hollywood Ward

**Online Attendance Approval**

Councillor Coghlan was granted authorisation by the Mayor to attend the meeting by electronic means in accordance with reg. 14C(2)(b).

**Staff** Mr W R Parker Chief Executive Officer

Mr M R Cole Director Corporate Services

Mr T G Free Director Planning & Development

Mr M K MacPherson Director Technical Services

Mrs N M Ceric Executive Officer

Ms L J Kania Coordinator Governance & Risk

**Public** There were 27 members of the public present and 6 online.

**Press** The Post Newspaper representative.

**Leave of Absence** Nil.

**(Previously Approved)**

**Apologies** Nil.

# Public Question Time

Public questions submitted were read at this point.

* 1. **Mr Kenneth Perry**

Question 1

As the Council serves the community of Nedlands, can the Council improve the notice available to the community prior to the Council meeting to review important agenda items? For the consideration of the Woolworths project at this meeting and the prior meeting to discuss the Williams Stirling project, the Agenda and RAR became available on the Friday morning prior to the lunchtime Monday deadline for submissions. In the case of Woolworths the previous information dates back 30 months and it was over 6 months for Williams Stirling. There was only one submission to Williams Stirling despite this being a highly controversial project in the community.

Answer 1

The City’s Governance Framework Policy adopted by Council sets out the requirements for agendas for Special Council Meetings. The Governance Framework Policy states “Agendas for Special Council Meetings shall be made available to Council Members via the Councillor Portal and to the public via the City’s website no less than 24 hours prior to the meeting, unless, in extenuating circumstances, agreed upon by CEO and the Presiding Member.” Every effort is taken to provide agendas as soon as practicable to give Council and the public time to read the papers prior to the meeting. In this instance the agenda was available to Councillors and members of the public on Friday, 20 January 2023, 10 days prior to the meeting day.

With respect to the Responsible Authority Report (RAR), these are prepared for consideration by the Joint Development Assessment Panel (JDAP), which is the decision maker. Community members have the opportunity to attend the JDAP meetings and have the opportunity to request to make a short presentation at the meeting. These meetings are generally held a week after the Council meeting.

Question 2

Given the paucity of information after the lodgement of the original DA's for Woolworths and Williams Stirling, can the Council provide an update on the Aldi project? What powers does the Council have to influence or control the pace of development of this site and in particular the ability to have a straight lane across Florence Road?

Answer 2

The ALDI site has a current approval over it. It’s unclear to the City the intentions of ALDI in terms of acting on that approval. The decision to act on the approval rests with ALDI. In terms of the creation of a straight lane across Florence Road, firstly the three landowners involved (Woolworths, ALDI and the City) would need to agree and then for approvals to be granted to that effect.

Question 3

Given the paucity of information after the lodgement of the original DA's for Woolworths and Williams Stirling, can the Council provide an update on the Chellingworth project?

Answer 3

The City is waiting to receive amended plans following mediation between the applicant and JDAP in the State Administrative Tribunal.

Question 4

Given the recommendation of the City RAR for the Williams Stirling project which was unanimously rejected by Council and passed by the JDAP independent majority members, what action has the Council taken to ensure the recommendations of the City are more aligned with the interests of the community, and consistent with the requirements of the planning codes and the City planning regulations adopted by Council.

Answer 4

The responsibility of the City in terms of the RAR is to prepare a report based on the plans submitted by the applicant. The Plans are assessed against the existing Planning Framework with the RAR making a recommendation, based on sound planning principles for the JDAP to consider. This is what occurred this with the William Stirling application and will continue to occur with future applications.

Question 5

The Woolworths RAR recommends the traffic plan proposed by the developer. Can the Council confirm there will be ongoing monitoring of traffic that can be used to adjust traffic controls to minimize negative impacts on the surrounding streets?

Answer 5

The City will remain responsible for the local streets and this will include monitoring those street in terms of traffic impacts and responding where necessary.

# Addresses by Members of the Public

Addresses by members of the public who had completed Public Address Registration Forms were made at this point.

Mr Luke Bishop, Swanbourne Nedlands Surf Life Saving Club, spoke in support of the recommendation for item 9 - TS01.01.23 Budget Amendment – Swanbourne Nedlands Surf Life Saving Club.

Ms Kate Hutchinson, President, Swanbourne Nedlands Surf Life Saving Club, spoke in support of the recommendation for item 9 - TS01.01.23 Budget Amendment – Swanbourne Nedlands Surf Life Saving Club.

Councillor Youngman left the room at 6.43 pm.

Mr Michael Britnell, Residential Building WA, spoke in support of the recommendation for item 10 - PD01.01.23 Consideration of Development Application – Single House at 37B Kinninmont Avenue, Nedlands.

Mr Barry Nunn, spoke in opposition to the recommendation for item 11 - PD02.01.23 Consideration of Responsible Authority Report – Shopping Centre (Shops, Offices, Restaurant/Café, Medical Centre, Liquor Store – Small) at No. 80 (Lot 1) Stirling Highway, Nos. 2 (Lot 21), 4 (Lot 22) and 6 (Lot 23) Florence Road and Nos. 7 (Lot 33) and 9 (Lot 32) Stanley Street, Nedlands (Woolworths).

Councillor Youngman returned to the room at 6.45 pm.

Ms Margaret Brophy, spoke in opposition to the recommendation for item 11 - PD02.01.23 Consideration of Responsible Authority Report – Shopping Centre (Shops, Offices, Restaurant/Café, Medical Centre, Liquor Store – Small) at No. 80 (Lot 1) Stirling Highway, Nos. 2 (Lot 21), 4 (Lot 22) and 6 (Lot 23) Florence Road and Nos. 7 (Lot 33) and 9 (Lot 32) Stanley Street, Nedlands (Woolworths).

Mr Tayne Evershed, spoke in support of the recommendation for item 11 - PD02.01.23 Consideration of Responsible Authority Report – Shopping Centre (Shops, Offices, Restaurant/Café, Medical Centre, Liquor Store – Small) at No. 80 (Lot 1) Stirling Highway, Nos. 2 (Lot 21), 4 (Lot 22) and 6 (Lot 23) Florence Road and Nos. 7 (Lot 33) and 9 (Lot 32) Stanley Street, Nedlands (Woolworths).

Suspension of Standing Orders

Moved - Councillor Youngman

Seconded - Councillor Mangano

**That Standing Order No. 3.4(4) & 3.4(5) be suspended for the purpose of allowing additional speakers against item 11 and extend public address session.**

**CARRIED UNANIMOUSLY 13/-**

Mr Wally Daly spoke in opposition to the recommendation for item 11 - PD02.01.23 Consideration of Responsible Authority Report – Shopping Centre (Shops, Offices, Restaurant/Café, Medical Centre, Liquor Store – Small) at No. 80 (Lot 1) Stirling Highway, Nos. 2 (Lot 21), 4 (Lot 22) and 6 (Lot 23) Florence Road and Nos. 7 (Lot 33) and 9 (Lot 32) Stanley Street, Nedlands (Woolworths).

Mr Nathan Blackburn, spoke in support of the recommendation for item 11 - PD02.01.23 Consideration of Responsible Authority Report – Shopping Centre (Shops, Offices, Restaurant/Café, Medical Centre, Liquor Store – Small) at No. 80 (Lot 1) Stirling Highway, Nos. 2 (Lot 21), 4 (Lot 22) and 6 (Lot 23) Florence Road and Nos. 7 (Lot 33) and 9 (Lot 32) Stanley Street, Nedlands (Woolworths).

# Disclosures of Financial / Proximity Interest

The Presiding Member reminded Council Members 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.

* 1. **Mayor Argyle – Item 10 - PD01.01.23 Consideration of Development Application – Single House at 37B Kinninmont Avenue, Nedlands**

Mayor Argyle disclosed a financial interest in Item 10 – PD01.01.23 Consideration of Development Application – Single House at 37B Kinninmont Avenue, Nedlands, her interest being that she owns 39 Kinninmont Avenue, and the development will affect the value of her property. Mayor Argyle declared that she would leave the room during discussion on this item.

# Disclosures of Interests Affecting Impartiality

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

* 1. **Councillor Basson – Item 11 - Responsible Authority Report - PD02.01.23 - Shopping Centre (Shops, Offices, Restaurant/Café, Medical Centre, Liquor Store – Small) at No. 80 (Lot 1) Stirling Highway, Nos. 2 (Lot 21), 4 (Lot 22) and 6 (Lot 23) Florence Road and Nos. 7 (Lot 33) and 9 (Lot 32) Stanley Street, Nedlands (Woolworths)**

Councillor Basson disclosed an impartiality interest in Item 11 - Responsible Authority Report - PD02.01.23 - Shopping Centre (Shops, Offices, Restaurant/Café, Medical Centre, Liquor Store – Small) at No. 80 (Lot 1) Stirling Highway, Nos. 2 (Lot 21), 4 (Lot 22) and 6 (Lot 23) Florence Road and Nos. 7 (Lot 33) and 9 (Lot 32) Stanley Street, Nedlands (Woolworths). Councillor Basson disclosed that he works for Planning Solutions who has previously done work for Fabcot, who is associated with Woolworths however, Planning Solutions is not employed on this project therefore, as a consequence, there may be a perception that his impartiality on the matter may be affected. Councillor Basson declared that he would consider this matter on its merits and vote accordingly.

* 1. **Councillor Smyth – Item 9 - TS01.01.23 Budget Amendment – Swanbourne Nedlands Surf Life Saving Club**

Councillor Smyth disclosed an impartiality interest in Item 9 - TS01.01.23 Budget Amendment – Swanbourne Nedlands Surf Life Saving Club . Councillor Smyth disclosed that she is a Vice Patron of the Swanbourne Nedlands Life Saving Club, and as a consequence, there may be a perception that her impartiality on the matter may be affected. Councillor Smyth declared that she would consider this matter on its merits and vote accordingly.

* 1. **Councillor Smyth – Item 11 - Responsible Authority Report - PD02.01.23 - Shopping Centre (Shops, Offices, Restaurant/Café, Medical Centre, Liquor Store – Small) at No. 80 (Lot 1) Stirling Highway, Nos. 2 (Lot 21), 4 (Lot 22) and 6 (Lot 23) Florence Road and Nos. 7 (Lot 33) and 9 (Lot 32) Stanley Street, Nedlands (Woolworths)**

Councillor Smyth disclosed an impartiality interest in Item 11 - Responsible Authority Report - PD02.01.23 - Shopping Centre (Shops, Offices, Restaurant/Café, Medical Centre, Liquor Store – Small) at No. 80 (Lot 1) Stirling Highway, Nos. 2 (Lot 21), 4 (Lot 22) and 6 (Lot 23) Florence Road and Nos. 7 (Lot 33) and 9 (Lot 32) Stanley Street, Nedlands (Woolworths). Councillor Smyth disclosed that she is an appointed alternate member of the Metro Inner North JDAP that will be considering this on 10th February 2023. As a consequence, there may be a perception that her impartiality on the matter may be affected. Councillor Smyth declared that today, in her Elected Member role she will consider this application entirely on its merits as presented to the Council and vote on the recommendation. However, Councillor Smyth made it known that 'Under clause 2.1.2 of the DAP Code of Conduct, she acknowledged that she is not bound by any previous decision or resolution of the local government. Councillor Smyth advised she would undertake to exercise independent judgment in relation to any DAP application before her, which she will consider on its planning merits.

* 1. **Councillor Smyth – Item 12 - Responsible Authority Report - PD03.01.23 - Sporting Facility at 100 Stephenson Avenue, Mt Claremont**

Councillor Smyth disclosed an impartiality interest in Item 12 - Responsible Authority Report - PD03.01.23 - Sporting Facility at 100 Stephenson Avenue, Mt Claremont. Councillor Smyth disclosed that she is an appointed alternate member of the Metro Inner North JDAP that will be considering this on 10th February 2023. As a consequence, there may be a perception that her impartiality on the matter may be affected. Councillor Smyth declared that today, in her Elected Member role she will consider this application entirely on its merits as presented to the Council and vote on the recommendation. However, Councillor Smyth made it known that 'Under clause 2.1.2 of the DAP Code of Conduct, she acknowledged that she is not bound by any previous decision or resolution of the local government. Councillor Smyth advised she would undertake to exercise independent judgment in relation to any DAP application before her, which she will consider on its planning merits.

* 1. **Councillor McManus – Item 9 - TS01.01.23 Budget Amendment – Swanbourne Nedlands Surf Life Saving Club**

Councillor McManus disclosed an impartiality interest in Item 9 - TS01.01.23 Budget Amendment – Swanbourne Nedlands Surf Life Saving Club . Councillor McManus disclosed that he is a Vice Patron of the Swanbourne Nedlands Life Saving Club, 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.

* 1. **Mayor Argyle – Item 9 - TS01.01.23 Budget Amendment – Swanbourne Nedlands Surf Life Saving Club**

Mayor Argyle disclosed an impartiality interest in Item 9 - TS01.01.23 Budget Amendment – Swanbourne Nedlands Surf Life Saving Club. Mayor Argyle disclosed that she is a Patron of the Swanbourne Nedlands Surf Life Saving Club, and as a consequence, there may be a perception that her impartiality on the matter may be affected. Mayor Argyle declared that she would consider this matter on its merits and vote accordingly.

* 1. **Mayor Argyle – Item 11 - Responsible Authority Report - PD02.01.23 - Shopping Centre (Shops, Offices, Restaurant/Café, Medical Centre, Liquor Store – Small) at No. 80 (Lot 1) Stirling Highway, Nos. 2 (Lot 21), 4 (Lot 22) and 6 (Lot 23) Florence Road and Nos. 7 (Lot 33) and 9 (Lot 32) Stanley Street, Nedlands (Woolworths)**

Mayor Argyle disclosed an impartiality interest in Item 11 - Responsible Authority Report - PD02.01.23 - Shopping Centre (Shops, Offices, Restaurant/Café, Medical Centre, Liquor Store – Small) at No. 80 (Lot 1) Stirling Highway, Nos. 2 (Lot 21), 4 (Lot 22) and 6 (Lot 23) Florence Road and Nos. 7 (Lot 33) and 9 (Lot 32) Stanley Street, Nedlands (Woolworths). Mayor Argyle disclosed that she is an acquaintance of Alicia Jones, the State Development Manager for Woolworths and as a consequence, there may be a perception that her impartiality on the matter may be affected. Mayor Argyle declared that she would consider this matter on its merits and vote accordingly.

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

Nil.

# CR01.01.23 Motion to Amend Council Resolution 13 December 2022 – Governance Framework Policy – Council Meeting Agenda Forum and Ordinary Council Meeting start times

Councillor Youngman, supported in writing by six Councillors as listed below has advised of his intention to move a motion to rescind Council’s decision of 13 December 2022 relating to Item 19.1 (CEO15.12.2022) Governance Framework Policy Review, as follows:

Supported by:

1. Councillor Youngman

2. Councillor Basson

3. Councillor Hodsdon

4. Councillor Combes

5. Councillor Brackenridge

6. Councillor Senathirajah

7. Councillor McManus

Moved – Councillor Youngman

Seconded – Councillor Hodsdon

**Council Resolution**

**That Council resolves to:**

**Amend its decision of 13 December 2022, Item 19.1 Governance Framework Policy Review and Meeting Schedule 2023 by deleting the words in clause 1 of that resolution that states “subject to Ordinary Council Meetings and Agenda Forums commencing at 7pm to apply from 1 January 2023”;**

**and**

**Replaces it with the words all “Ordinary Council Meetings and Council Meeting Agenda Forums to commence at 6pm to apply from 1 February 2023.”**

**CARRIED 7/6**

**(Against: Mayor Argyle Crs. Coghlan Amiry Smyth Bennett & Mangano)**

**Reasons for the Proposed Change**

1. Meetings can easily run very late where Councillor performance is affected by tiredness.
2. Complex Council Meetings can require postponement when they run past midnight.  By starting 1 hour earlier there is extra time for a meeting to be concluded in a single sitting.
3. Members of the Public responded well to the earlier start times.  It was very unusual for a member of the public to arrive late.  No requests have been made to accommodate a missed public speaking time slot.
4. Children attending a Council Meeting are particularly disadvantaged by starting at 7pm. On one occasion a football club brought in a number of Auskickers to demonstrate their argument.  There were no children left in the chamber by the time the item was debated.
5. Administration staff work a normal working day commencing at 8am.  Then ask them to wait around an extra hour for a meeting is unfair.
6. Numerous other LGA meetings start at 6pm.

**Officer Comment**

Administration generally supports the Notice of Motion and the reasoning provided by Cr Youngman.

1. **Meetings may run late**

An audit was undertaken of the start and finish times of Ordinary Council Meetings conducted at the City of Nedlands during 2022. The average length of a meeting in 2022 was just over 4 hours.

**Table 1 – Duration of City of Nedlands Ordinary Council Meetings (2022)**

|  |  |  |  |
| --- | --- | --- | --- |
| **Ordinary Council Meeting Date** | **Time commenced** | **Time finished** | **Duration** |
| February 2022 | 6.00pm | 9.44pm | 3.44 hrs |
| March 2022 | 6.00pm | 10.07pm | 4.07 hrs |
| April 2022 | 6.00pm | 11.55pm | 5.55 hrs |
| May 2022 | 6.00pm | 9.54pm | 3.54 hrs |
| June 2022 | 6.00pm | 10.25pm | 4.25 hrs |
| July 2022 | 6.00pm | 8.51pm | 2.51 hrs |
| August 2022 | 6.00pm | 9.28pm | 3.28 hrs |
| September 2022 | 6.00pm | 12.20am | 6.20 hrs |
| October 2022 | 6.00pm | 8.50pm | 2.50 hrs |
| November 2022 | 6.00pm | 9.45pm | 3.45 hrs |
| December 2022 | 6.00pm | 9.39pm | 3.39 hrs |

It is likely that meetings will continue to run at the same duration in 2023. This will mean that meetings will finish after 10.00pm on average when the new start time of 7.00pm is implemented. This will lead to late evenings on Council sitting days for not only Councillors but also officers. This will have implication under the new Workplace, Health and Safety legislation and may run contrary to the WHS Policy Statement endorsed on 15 December 2022 by the CEO. On these days members of the Executive and governance officers may expect work times in excess of 14 hours, with limited breaks in-between. There is limited opportunity for these roles to have a staggered start time on these days to mitigate the potential impact of lengthy work hours.

According to Safe Work Australia, workplace fatigue is an issue that persons conducting a business or undertaking (PCBUs), such as employers, must eliminate or minimize the risk of, as far as is reasonably practicable. Fatigue, both mental and physical, reduces a person’s ability to perform their work safely and effectively. In the case of officers, that is the provision of advice to Council, and in the case of Councillors, discharging their decision-making duty under the Act. Officers at Council meetings will also need to factor in their drive home and the impact of fatigue on their ability to do so safely. The CEO and the local government have a duty of care to Councillors and officers to ensure that their health and well-being are a priority.

1. **Meetings to be held in one sitting**

It is unlikely that the duration of a meeting would impact the decision to adjourn at the City of Nedlands, given that previous meetings that have run past 11.00pm at night have not been adjourned. That, however, has been based on the exception and should meetings continue to run later due to a later start time, it may lead to adjournment being an option in the future in order for the City to comply with WHS obligations.

1. **Meetings open to the public**

The Act clearly states that meetings should generally be open to members of the public and be accessible to all members of the public. Meetings held during general business hours (8.00am – 5.00pm) or later in the evening (7.00pm onwards) tend to preclude participation from particular sectors of the community, such as workers, youth and older residents.

Local government should be transparent and accountable to their community. Residents should be afforded the opportunity to address their community representatives through open forum at a council meeting.

Starting Council meetings later in the evening may be disadvantageous for some groups such as children and older residents, thereby reducing Council’s openness, precluding some groups from participating in meetings. While live streaming assists in transparency of decision-making, it does not allow for the public to ask questions or make deputations in the open Council forum, nor sit and wait for a decision to be resolved.

1. **Usual start times – metropolitan local governments**

An audit of 24 metropolitan local governments found 10 had a 6.00pm start time. Only the City of Gosnells commenced their Council meetings later than 7.00pm (7.30pm) of which they have two per month and which tend to be short in duration.

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Start Time** | | | | | | |
| No. of local governments | 5.00pm | 5.30pm | 6.00pm | 6.30pm | 7.00pm | 7.30pm |
| 1 | 2 | 10 | 4 | 6 | 1 |

1. **Maintenance of 7.00pm start time**

If Council were to maintain the 7.00pm start time, consideration would need to be made concerning the implications for Councillors and officers under the WHS legislation. Meetings that continued longer than a designated time period might realistically need to be adjourned to ensure compliance with safe work practices.

**Conclusion**

Administration, having considered the proposed amendment, is supportive of the notice of motion, on the basis that it would allow in part, for the City to discharge its obligations under the WHS legislation, provide for greater participation by the public at Council meetings, and reduce the potential for meetings to be adjourned.

# TS01.01.23 Budget Amendment – Swanbourne Nedlands Surf Life Saving Club

|  |  |
| --- | --- |
| **Meeting & Date** | Special Council Meeting – 31 January 2023 |
| **Applicant** | City of Nedlands |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | Nil. |
| **Report Author** | Neil Brown - Coordinator City Projects and Programs |
| **Director** | Matthew MacPherson - Director Technical Services |
| **Attachments** | 1. Confidential Attachment - Reroofing Quote |

**Councillor Smyth – Impartiality Interest**

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

**Councillor McManus – Impartiality Interest**

Councillor McManus disclosed that he is a Vice Patron of the Swanbourne Nedlands Life Saving Club, 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.

**Mayor Argyle – Impartiality Interest**

Mayor Argyle disclosed that she is a Patron of the Swanbourne Nedlands Surf Life Saving Club, and as a consequence, there may be a perception that her impartiality on the matter may be affected. Mayor Argyle declared that she would consider this matter on its merits and vote accordingly.

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

Moved – Councillor Smyth

Seconded – Councillor McManus

**That the Recommendation be adopted.**

(Printed below for ease of reference)

**CARRIED 12/1**

**(Against: Cr. Mangano)**

**Council Resolution / Recommendation**

**That Council:**

1. **amend the 2022/23 Budget for the Swanbourne Nedlands Surf Life Saving Club redevelopment project to reflect the following:**
   1. **$80,000 income to be received as a financial contribution from the Swanbourne Nedlands Surf Life Saving Club,**
   2. **$66,000 in expenditure to address the shortfall in budget resultant from unsuccessful additional funding from State and Federal grant funding partners, and**
   3. **$140,000 expenditure (inclusive of on costs) to re-roof the existing building, in addition to the building works within the current construction contract.; and**
2. **lists the additional $206,000 for inclusion in the Mid-Year Budget review to be considered by Council in February 2023.**

**Purpose**

The purpose of the report is to request an additional funding allocation for the Swanbourne Surf Life Saving Club following:

* + the unsuccessful requests to increase funding from grant funding partners, and
  + The need and opportunity to replace the existing roof as part of the project.

**Voting Requirement**

Absolute Majority.

**Background**

1. **Funding**

At the Special Council meeting on 16th June 2022 (TS09.06.22 refers), Council awarded the construction of the Swanbourne Nedlands Surf Life Saving Club to the Swan Group Pty Ltd (TS09.063.22). The tender submissions received were marginally higher than the original construction due to the increasing demands and costs of construction at the time. To address the shortfall and continue project delivery, Council resolved to instruct “the CEO to formally request additional funding from the project’s Grant Funding partners” to cover the shortfall.

The current funding commitment from external parties is as follows:

P487#yIS1

The same external funding parties were approached for increased contribution toward the project, however all except the Club rejected the requests. Grounds for rejection were that cost overruns must be covered by the building owner, the City. The Club supported the increase and subsequently increased their support by $80,000. This increases the Club contribution from $248,400 to $328,000.

As such, with the rejection of the additional funding requested, Administration now seeks to increase municipal funding of the shortfall within the Mid-year budget review to allow the project to be completed.

1. **Reroofing Works**

Construction works have commenced, and it has been identified that the existing roof sheeting, flashings, and guttering are beyond useful life and should be replaced at the earliest convenience to mitigate water ingress into the building. The metal sheeting is showing damage because of rust and corrosion caused by being in a coastal environment. Patching has already been undertaken in several locations in the past, however these areas are now showing further signs of failure.

If left unattended there is a possibility that water ingress into the building would occur leading to damage. Furthermore, the City’s awareness of the situation now may impact the ability to claim any incident on insurance in full.

Administration seeks to include reroofing into the current scope of works, with the roof replacement proposed the new roof extension. This will allow the build to look seamless and represents a significant reduction in disruption to the Club and costs should the works be undertaken at a later stage.

**Discussion**

1. **Funding**

The current funding for the project is $2,418,900 with a total project cost of $2,564,929 inclusive of overheads, design fees, and construction contingency. Administration requested an additional $160,000 from the 4 funding partners to bridge this shortfall. With the rejection from Federal, State and Lotterywest, a shortfall in funding remains of $66,029 after the Club’s additional $80,000 funding is provided.

1. **Reroofing Works**

In order to determine the most cost effective timeline to undertake the re-roofing works (whether to replace the existing roofing as part of these works or at later stage), Administration approached the engaged Builder (Swan Group Pty Ltd) to provide a quote to replace the existing roofing, flashing, gutters and downpipes; effectively providing a new roof to match the new extension.

The Builder provided a quote of $77,160 (ex gst). When compared to other roofing projects recently tendered this is considered a competitive price consistent with quotes for similar works received by the City. The provided quote excluded scaffolding, disposal, barge ends and additional framing timbers which will be required for replacement and have been estimated to cost $30,000.

The total estimate for the reroofing works is approximately $107,160 in total with no contingency. Contingency on construction projects is typically between 5-10% and thus a provisional sum of $5,000 would provide reasonable allowance in the currently fluctuating prices of the construction sector.

Administration requests that an additional $140,000 be allocated to the project to allow for the roofing to be replaced whilst current construction is underway. The difference of approximately $28,000 between the roofing estimate provided ($112,000) and the amount requested ($140,000) is a result of the City’s overheads on municipal funding components.

The cumulative impact of the requested amendments are found tabled within the Budget/Financial Implications section of the report.

**Consultation**

Nil.

**Strategic Implications**

This item relates to the following elements from the City’s Strategic Community Plan.

**Vision** Our city will be an environmentally-sensitive, beautiful and inclusive place.

**Values** **High standard of services**

We have local services delivered to a high standard that take the needs of our diverse community into account.

**Great Communities**

We enjoy places, events and facilities that bring people together. We are inclusive and connected, caring and support volunteers. We are strong for culture, arts, sport and recreation. We have protected amenity, respect our history and have strong community leadership.

**Priority Area**

* Renewal of community infrastructure such as roads, footpaths, community and sports facilities
* Providing for sport and recreation

**Budget/Financial Implications**

The current allocated budget for these works is $2,418,900. The following table outlines the financial implications of the components and a proposed amended allocation.

P548#yIS1

The estimated (budgeted) balance of the Major Projects reserve at the end of June 2023 is $210,000, which is sufficient to cover the additional budget requested in this report. However, given the time of year, final determination on sourcing funds can be made as part of the Mid-year budget review process and forms part of this recommendation.

The roof proposed to be replaced is estimated to be between 20-30 years old and in line with its coastal location is at or beyond the end of its useful life. As the asset component is proposed to be renewed like for like, there should be no increase in depreciation or operational expenditure beyond the capital investment which would be required in the near future in any case.

**Legislative and Policy Implications**

The works to be delivered under this contract are in line with the City of Nedlands Asset Management Policy.

The works were previously awarded under a tender as required by the [*Local Government Act* *1995*](https://www.legislation.wa.gov.au/legislation/prod/filestore.nsf/FileURL/mrdoc_43454.pdf/$FILE/Local%20Government%20Act%201995%20-%20%5B07-t0-00%5D.pdf?OpenElement)(the Act) and the City’s [*Procurement of Goods and Services Policy*](https://www.nedlands.wa.gov.au/documents/608/procurement-of-good-and-services-council-policy) (the Procurement Policy). Whilst there are no policy implications on the top-up funding allocation, the additional re-roofing works constitute a variation to the contract. Part 10 of the Procurement Policy outlines the Council’s position regarding variation to tender contracts in accordance with Regulation 20 & 21A of the Act.

As the contract is already on foot, Regulation 20 dealing with variation prior to entering into a contract does not apply. Regulation 21A. refers to variations to contracts already entered into, and whereby they must not be varied unless:

“(a) the variation is necessary in order for the goods or services to be supplied and does not change the scope of the contract; or

(b)the variation is a renewal or extension of the term of the contract as described in regulation 11(2)(j).*”*

In this instance, avariation would be considered possible in accordance with clause (a) in that for the project to be delivered in totality, and the scope does not fundamentally change, as the original contract included roofing – however the scale of the roofing works would increase.

**Decision Implications**

By endorsing the Officer recommendations to increase funding as a result of not receiving additional grant contributions, this project will continue delivery, reaching completion in May 2023. Should the endorsement not be provided a deep review of the project will be required to reduce the scope and costs further to what was undertaken prior to tender award. This would likely lead to a facility that is not fit for purpose for the end users’ requirements. To undertake these works at a later stage will likely result in increased expenditure beyond the present requirements and lead to additional disruption to the user groups.

By endorsing the Officer recommendations to include reroofing works into the current construction contract, the building can be remediated and further damage to the ceilings, walls and floor can be avoided. Should endorsement not be provided, the costs to tender the roofing works, remobilise construction and remediate the roof would see increased costs beyond the present requirements. Commencing these works at a later stage will significantly impact the ability of the Club to use the facility as they will not be able to operate out of it whilst the works are completed.

**Conclusion**

By endorsing the above recommendations, the Council will be completing a public building improvement to a high level, providing a fit for purpose facility for the Swanbourne Nedlands Surf Life Saving Club to operate from and continue to grow. Doing the reroofing works at the same time represents best value for money and offers the least disruption to the Club and their operations for the wider community.

**Further Information**

Nil.

# PD01.01.23 Consideration of Development Application – Single House at 37B Kinninmont Avenue, Nedlands

|  |  |
| --- | --- |
| **Meeting & Date** | Special Council Meeting - 31 January 2023 |
| **Applicant** | Residential Building WA |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | 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 involved in the preparation of this report and the proponents or their consultants. |
| **Report Author** | Benedict McCarthy – Planning Horizons |
| **Director** | Tony Free – Director Planning and Development |
| **Attachments** | 1. Aerial Image and Zoning Map 2. Development Plans 3. CONFIDENTIAL ATTACHMENT - Submissions |

**Financial Interest – Mayor Argyle**

Mayor Argyle disclosed that she owns 39 Kinninmont Avenue, and the development will affect the value of her property. Mayor Argyle declared that she would leave the room during discussion on this item.

Mayor Argyle left the room at 7.33 pm and the Deputy Mayor assumed the chair.

Councillor Senathirajah left the room at 7.33 pm.

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

Moved – Councillor Hodsdon

Seconded – Councillor Combes

**That the Recommendation be adopted.**

(Printed below for ease of reference)

**CARRIED 9/2**

**(Against: Crs. Bennett & Mangano)**

Mayor Argyle returned the room at 7.35 pm and resumed the chair.

**Council Resolution / Recommendation**

**That Council In accordance with Clause 68(2)(b) of the Deemed Provisions of the Planning and Development (Local Planning Schemes) Regulations 2015, approves the development application in accordance with the plans date stamped 28 October 2022 for a Single House at 37B Kinninmont Avenue, Nedlands, subject to the following conditions:**

1. **This approval relates only to the development as indicated on the approved plans dated 28 October 2022. It does not relate to any other development on this lot and must substantially commence within 2 years from the date of the decision letter.**
2. **All works indicated on the approved plans shall be wholly located within the lot boundaries of the subject site.**
3. **Prior to occupation, walls on or adjacent to lot boundaries are to be finished externally to the same standard as the rest of the development in:**
4. **Face brick;**
5. **Painted render;**
6. **Painted brickwork; or**
7. **Other clean finish as specified on the approved plans.**

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

1. **Prior to occupation, the privacy screens as annotated in red on the approved plans shall be screened in accordance with the Residential Design Codes by either;**
2. **fixed and obscured glass to a height of 1.6 metres above finished floor level; or**
3. **fixed screening devices to a height of 1.6 meters above finished floor level that are at least 75% obscure and made of a durable material; or**
4. **a minimum sill height of 1.6 metres above the finished floor level; or**
5. **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.**

1. **Prior to the issue of a demolition permit and a building permit, a Demolition or Construction Management Plan (as appropriate) shall be submitted and approved to the satisfaction of the City. The approved Demolition and Construction Management Plans shall be observed at all times throughout the construction and demolition processes to the satisfaction of the City.**
2. **The street tree(s) within the verge in front of the lot are to be protected and maintained through the duration of the demolition and construction processes to the satisfaction of the City of Nedlands. Should the tree(s) die or be damaged, they are to be replaced with a specified species at the owner’s expense and to the satisfaction of the City of Nedlands.**
3. **All stormwater discharge from the development shall be contained and disposed of on-site unless otherwise approved by the City of Nedlands.**

**Purpose**

The purpose of this report is for Council to consider a development application for a single house at 37B Kinninmont Avenue, Nedlands.

**Voting Requirement**

Simple Majority.

This report is of a quasi judicial nature as it is a matter that directly affects a person’s rights 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.

The decision must be made in a manner that is impartial, free from bias, and in accordance with the principles of natural justice. The decision must be made having regard to the facts of the matter under consideration, and in accordance with the relevant laws and policies as they apply to that matter.

Discretionary considerations and judgments in the decision must be confined to those permitted to be considered under the laws and polices applicable to the matter and given such weight in making the decision as the relevant laws and polices permit them to be given.

**Background**

**Land Details**

|  |  |
| --- | --- |
| **Metropolitan Region Scheme Zone** | Urban |
| **Local Planning Scheme Zone** | Residential |
| **R-Code** | R60 |
| **Land area** | 338m2 |
| **Land Use** | Residential – Single House |
| **Use Class** | ‘P’ – Permitted Use |

The site is located at 37B Kinninmont Avenue, Nedlands, 170m north of Stirling Highway. The lot is rectangular with an 8.5m frontage and an area of 338m2. The land is relatively flat, with a 0.2m fall from east to west. The lot is currently vacant.

**Application Details**

The application seeks development approval for the construction of a two-storey single house at 37B Kinninmont Avenue, Nedlands.

**Discussion**

**Assessment of Statutory Provisions**

If a proposal does not satisfy the deemed to-comply provisions of the State Planning Policy 7.3: Residential Design Codes (R-Codes), Council is required to exercise a judgement of merit to determine the proposal against the design principles of the R-Codes. The R-Codes require the assessment to consider the relevant design principle only and to not apply the corresponding deemed-to-comply provisions. It is recommended that the application be approved by Council as it is considered to satisfy the design principles of the R-Codes. Further, it is considered unlikely that the development will have a significant adverse impact on the local amenity and character of the locality.

**Local Planning Scheme No. 3**

Schedule 2, Clause 67(2) (Consideration of application by Local Government) – identifies those matters that are required to be given due regard to the extent relevant to the application. Where relevant, these matters are discussed in the following sections. Overall, the development is considered to meet these objectives, particularly in regard to height, scale, bulk and appearance, and the potential impact it will have on the local amenity.

**State Planning Policy 7.3 - Residential Design Codes – Volume 1**

The R-Codes apply to all single and grouped dwelling developments. An approval under the R-Codes can be obtained in one of two ways. This is by either meeting the deemed-to-comply provisions or via a design principle assessment pathway.

The proposed development is seeking a design principle assessment pathway for parts of this proposal relating to lot boundary setback, garage width, visual privacy and solar access. As required by the R-Codes, Council, in assessing the proposal against the design principles, should not apply the corresponding deemed-to-comply provisions.

**Clause 5.1.3 – Lot boundary setbacks**

The design principles for lot boundary setbacks consider the impact of building bulk on adjoining properties, providing adequate sun and ventilation and minimising overlooking.

The following lot boundary setbacks seek a design principle assessment:

* The southern wall proposes a minimum 1.3m setback on the ground floor.
* The northern wall proposes a minimum 1.2m setback on the ground and upper floors.

South

The southern setbacks achieve the design principles as:

* Due to the narrow width of the lot, reduced setbacks are necessary to provide a suitable dwelling that is functional with good liveability.
* The wall is articulated to break up its bulk. The setbacks vary from 1.9m to 1.3m on the ground floor.
* The natural ground level of the subject lot is similar to the adjoining lots. As such, overlooking from the proposed ground floor living and dining room windows will be minimised by a standard 1.8m dividing fence.
* Similar lot boundary setbacks have been approved on the southern lot at 37C Kinninmont Avenue.

North

The northern setbacks achieve the design principles as:

* The wall is articulated to break up its bulk. The setbacks vary from 1.2m to 2.7m on the ground floor and 1.2m to 2.3m on the upper floor.
* Overshadowing is not applicable in this instance as the abutting lot is to the north of the subject lot.
* The ground floor windows will not result in any overlooking as they will be screened by a standard height dividing fence. As the wall faces north, larger windows to internal habitable rooms, especially internal living areas, are included to achieve passive solar principles.
* Overlooking from the upper floor is minimised as there are no major openings.
* Due to the narrow 8.5m width of the lot, it is difficult to provide deemed-to-comply upper floor lot boundary setbacks while providing adequately sized, functional habitable rooms. As the proposal satisfies the design principles, the setbacks are supported.

**Clause 5.2.2 – Garage width**

The proposed garage is 5.9m in width, occupying 69% of the lot frontage. The design principle for garage width requires sightlines and visual connectivity be maintained in the street. The proposal satisfies the design principle as:

* The garage is not dominant as the porch is forward of the garage, drawing the eye to the front entry of the dwelling, and not the garage. This reduces the predominance of the garage within the streetscape.
* The garage is setback 5.0m This will have minimal impact on the rear yard of the proposed dwelling but will now allow a passenger vehicle to park in the driveway without obstructing the footpath. It will also improve sightlines for abutting lots and be more consistent with setbacks to other existing dwellings within the street.
* The design results in the retention of the existing street tree which will assist in screening and reducing the visible impact of the garage.

**Clause 5.4.1 – Visual privacy**

The design principles for visual privacy consider minimal overlooking of active habitable spaces and outdoor living areas of adjacent dwellings and maximum visual privacy to side and rear boundaries.

The proposal meets the design principles as the overlooking from the front balcony falls over the front yards of the two lots either side of the dwelling. As these will be areas visible to the public when each lot is developed, further screening of the balcony is not required. The current proposal is acceptable.

**Clause 5.4.2 – Solar access for adjoining sites**

The development proposes to overshadow 57% of the southern lot at 37C Kinninmont Avenue. The design principles for solar access consider effective solar access for the development and the impact of solar access for neighbouring properties particularly relating to existing outdoor living areas, major openings to habitable rooms and solar collectors on adjoining sites.

Consideration must be given to the lot constraints. The relatively small lot size, lot width and east-west orientation makes it difficult for a two-storey house to achieve deemed-to-comply solar access without compromising liveability and amenity for residents. The application meets the design principles as:

* The ground floor primary living area of the approved dwelling on the southern adjoining lot at 37C Kinninmont Avenue is located in the middle of the site. It would be difficult to design a dwelling that avoided overshadowing this area.
* Due to the two-storey height, the shadow from the proposal will not affect any future roof mounted solar collectors.
* The shadow that falls over the future adjoining outdoor living area is minimised as it is cast by a single storey wall.
* It is acknowledged that a single storey house would result in less shadow to the south. However, altering the design to a single storey house in an attempt to meet the deemed-to-comply provision for overshadowing would likely result in a building that occupies a substantial portion of the site with less corresponding open space and landscaping potential. Whilst a two-storey dwelling creates greater overshadowing, it provides a better overall level of amenity for residents.

**Consultation**

The application is seeking assessment under the design principles of the R-Codes for lot boundary setbacks, garage width, overshadowing and visual privacy.

The development application was advertised twice in accordance with the City’s Local Planning Policy - Consultation of Planning Proposals. The application was initially advertised for 14 days from 5 May 2022 to 19 May 2022 to the two immediate adjoining landowners.

The second round of advertising was conducted for a period of 14 days from 13 July 2022 to 29 July 2022 to 50 adjoining landowners and occupiers. At the close of both advertising periods, one submission expressing support and three objections were received. A statement of no objection was obtained from an adjoining landowner.

The following is a summary of the concerns raised and the response and action taken in relation to each issue:

1. Lot boundary setbacks should be increased

The proposed setbacks are consistent with the immediate development context and are unlikely to negatively impact the amenity of adjoining landowners or the streetscape. See clause 5.1.3 assessment above.

1. The street setback should be increased to be consistent with adjoining properties.

The primary street setback achieves the deemed-to-comply provision for the R60 code.

1. The dwelling design will result in overlooking of adjoining properties

The balcony satisfies the design principles as it avoids overlooking of habitable spaces and outdoor living areas on adjoining lots behind the street setback line. See clause 5.4.1 assessment above.

1. The width of the garage is dominant and will have an adverse effect on the streetscape.

Amended plans have been received which relocate the porch forward of the garage to reduce its dominance as viewed from the street. See clause 5.2.2 assessment above.

**Strategic Implications**

This item relates to the following elements from the City’s Strategic Community Plan.

**Vision** Our city will be an environmentally-sensitive, beautiful and inclusive place.

**Values** **Great Natural and Built Environment**

We protect our enhanced, engaging community spaces, heritage, the natural environment and our biodiversity through well-planned and managed development.

**Priority Area** Urban form - protecting our quality living environment

**Budget/Financial Implications**

N/A.

**Legislative and Policy Implications**

Council is requested to make a decision in accordance with clause 68(2) of the [Deemed Provisions](https://www.dplh.wa.gov.au/getmedia/6e4785e3-d40f-45cd-95e8-85d3115ee32e/PD_LPS_Deemed_Provisions). Council may determine to approve the development without conditions (cl.68(2)(a)), approve with development with conditions (cl.68(2)(b)), or refuse the development (cl.68(2)(c)).

**Decision Implications**

If Council resolves to approve the proposal, development can proceed after receiving a Building Permit and necessary clearances.

In the event of a refusal, the applicant will have a right of review to the State Administrative Tribunal. The Tribunal will have regard to the R-Codes as a State Planning Policy. Similarly, should an applicant be aggrieved by one or more conditions of approval, this can be reviewed by the Tribunal.

**Conclusion**

The application for a single house at 37B Kinninmont Avenue, Nedlands has been presented for Council consideration due to objections being received. The proposal is considered to meet the key amenity related elements of R-Codes Volume 1 and, as such, is unlikely to have a significant adverse impact on adjoining lots. The proposal has been assessed and satisfies the design principles of the R-Codes in relation to being consistent with the immediate locality and streetscape character.

Accordingly, it is recommended that the application be approved by Council, subject to the conditions contained in the recommendation.

**Further Information**

Nil.

# PD02.01.23 Consideration of Responsible Authority Report – Shopping Centre (Shops, Offices, Restaurant/Café, Medical Centre, Liquor Store – Small) at No. 80 (Lot 1) Stirling Highway, Nos. 2 (Lot 21), 4 (Lot 22) and 6 (Lot 23) Florence Road and Nos. 7 (Lot 33) and 9 (Lot 32) Stanley Street, Nedlands (Woolworths)

|  |  |
| --- | --- |
| **Meeting & Date** | Special Council Meeting – 31 January 2023 |
| **Applicant** | Urbis |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | 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 involved in the preparation of this report and the proponents or their consultants. |
| **Report Author** | Roy Winslow – Manager Urban Planning |
| **Director** | Tony Free – Director Planning and Development |
| **Attachments** | * 1. Responsible Authority Report and Attachments |

**Councillor Basson – Impartiality Interest**

Councillor Basson disclosed that he works for Planning Solutions who has previously done work for Fabcot, who is associated with Woolworths however, Planning Solutions is not employed on this project therefore, as a consequence, there may be a perception that his impartiality on the matter may be affected. Councillor Basson declared that he would consider this matter on its merits and vote accordingly.

**Councillor Smyth – Impartiality Interest**

Councillor Smyth disclosed that she is an appointed alternate member of the Metro Inner North JDAP that will be considering this on 10th February 2023. As a consequence, there may be a perception that her impartiality on the matter may be affected. Councillor Smyth declared that today, in her Elected Member role she will consider this application entirely on its merits as presented to the Council and vote on the recommendation. However, Councillor Smyth made it known that 'Under clause 2.1.2 of the DAP Code of Conduct, she acknowledged that she is not bound by any previous decision or resolution of the local government. Councillor Smyth advised she would undertake to exercise independent judgment in relation to any DAP application before her, which she will consider on its planning merits.

**Mayor Argyle – Impartiality Interest**

Mayor Argyle disclosed that she is an acquaintance of Alicia Jones, the State Development Manager for Woolworths and as a consequence, there may be a perception that her impartiality on the matter may be affected. Mayor Argyle declared that she would consider this matter on its merits and vote accordingly.

Councillor Senathirajah returned to the room at 7.36 pm.

Moved – Councillor Youngman

Seconded – Councillor Mangano

It is recommended that the Metro Inner North JDAP resolves to:

1. Refuse DAP Application reference DAP/19/01651 and accompanying plans dated 20 December 2022 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 for the following reasons:

Reasons

1. The development is inconsistent with the objectives of the zone within the City’s Scheme as it does not provide for a significant residential component.
2. The development is inconsistent with clause 67(2)(s), (t) and (x) of the *Deemed provisions* as inadequate provision is provided for deliveries, loading and parking of vehicles, and the amount of traffic likely to be generated by the development will detrimentally impact traffic flow, safety, and the amenity of the nearby residential properties.
3. The development is inconsistent with the Element Objectives of clause 3.3 of Volume 2 of the R-Codes in that it does not include sufficient deep soil areas to maintain healthy plant and tree growth, and does not improve tree canopy (long term) or offset the reduction of tree canopy from pre-development condition.
4. The development does not meet the design principles of State Planning Policy 7.0 for Context and Character, Landscape Quality, or Sustainability, and is not consistent with the greater Town Centre ambitions for the locality.
5. The development is inconsistent with clause 67(2)(m) of the *Deemed provisions* as the setbacks of the development are incompatible with adjoining residential properties.

Rationale

One of the objectives of the Mixed use zone within the Scheme is to provide for significant new residential component as part of any new development. The current proposal provides no residential component, and only a very small potential future residential component. The site is located within the area identified as the Town Centre within the City’s Local Planning Strategy. Lack of a significant residential component onsite is detrimental to creating a high-density urban centre as intended and makes it more difficult for the City to achieve expected infill targets.

The shopping centre does not provide sufficient bays for deliveries, nor does it provide an adequate plan to ensure deliveries will not impede traffic. This is likely to result in delivery trucks impeding traffic by stopping in inopportune places.

The development generates a level of traffic that will be detrimental to the amenity of nearby residential properties. The increased traffic will reduce pedestrian safety and introduce unacceptable noise, safety and other amenity impacts down local roads.

The development removes the majority of the existing trees on site and fails to replace the canopy coverage, which is so important to the Nedlands community. The majority of the deep soil area is provided within the Main Roads reserve and may have to be removed in the future. The net result is a significant loss in tree cover that will not be recovered.

The design of the building has not garnered support from the SDRP and has not demonstrated that it achieves all the design principles of SPP 7.0. The development could be better designed to work with the Captain Stirling Hotel and be of a high standard befitting its Town Centre location.

Insufficient buffer zone between the development and properties to the south.

Councillor Amiry left the room at 7.38 pm and returned at 7.42 pm.

Suspension of Standing Orders

Moved - Councillor Bennett

Seconded - Councillor Mangano

**That Standing Order No. 9.7 be suspended for the purpose of allowing Councillor Youngman an additional 3.5 minutes to speak.**

**CARRIED 12/1**

**(Against: Mayor Argyle)**

Councillor Mangano left the room at 8.08pm and returned at 8.10pm.

The Motion was PUT and was

Lost 6/7

(Against: Mayor Argyle Crs. Senathirajah McManus

Smyth Basson Combes & Hodsdon)

**Regulation 11(da) - Council considered that it was important to minimise the impact on the surrounding streets and this was appropriately done via the preparation of a Local Area Traffic Treatment Plan, prior to a building permit being issued.**

Moved – Councillor Hodsdon

Seconded – Councillor Combes

**That the Recommendation be adopted with the following condition being added under Traffic, Parking and Waste:**

**Prior to issue of a Building Permit the applicant is to develop in consultation with the City, a Local Area Traffic Treatment Plan that will minimise the adverse impact of the additional traffic generated by the development on the residents of neighbouring streets, namely Stanley Street, Florence Road and Edward Street.**

Amendment

Moved - Councillor Youngman

Seconded - Councillor Mangano

That Condition 31. be amended by replacing “4 star Green Star” to “6 star Green Star”

The AMENDMENT was PUT and was

Lost 5/8

(Against: Mayor Argyle Crs. Brackenridge Senathirajah

Amiry McManus Basson Combes & Hodsdon)

**The Motion was PUT and was**

**CARRIED 9/4**

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

**Council Resolution**

**That Council adopts as the Responsible Authority the Officer Recommendation contained in the Responsible Authority Report for a shopping centre development at 80 Stirling Highway, Nedlands as follows:**

**It is recommended that the Metro Inner North JDAP resolves to:**

1. **approve DAP Application reference DAP/19/01651 and accompanying plans dated 20 December 2022 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 conditions:**

**Conditions**

1. **Pursuant to clause 26 of the Metropolitan Region Scheme, this approval is deemed to be an approval under clause 24(1) of the Metropolitan Region Scheme.**
2. **This decision constitutes planning approval only and is valid for a period of 4 years from the date of approval. If the subject development is not substantially commenced within the specified period, the approval shall lapse and be of no further effect.**
3. **The indicative residential does not form part of this approval and is hereby deleted.**
4. **All works indicated on the approved plans shall be wholly located within the lot boundaries of the subject site. Works within the road reserve and verge do not form part of this approval and require separate approval from the relevant City or State agency.**
5. **Prior to occupation, No. 80 (Lot 1) Stirling Highway, Nos. 2 (Lot 21), 4 (Lot 22) and 6 (Lot 23) Florence Road, and Nos. 7 (Lot 33) and 9 (Lot 32) Stanley Street, Nedlands are to be legally amalgamated or alternatively the owner may enter into a legal agreement with the City of Nedlands, drafted by the City’s solicitors at the expense of the owner and be executed by all parties concerned prior to the commencement of the works, to ensure that that the development and use approved on the lots operate concurrently at all times.**

**Building and Engineering**

1. **Prior to occupation, suitable arrangements are to be made to provide for public access over the vehicle accessway at the south of the site in perpetuity, in accordance with the approved plans, at the landowner/applicants cost and to the satisfaction of the City of Nedlands. Care and maintenance of the accessway is to be carried out by the applicant/owner and to the satisfaction of the City for the life of the development.**
2. **Prior to occupation, the acoustic wall along the southern boundary is to be constructed, and the laneway at the rear of the site is to be constructed, drained and line marked to its full width, all at the landowner/applicant’s expense and to the satisfaction of the City.**
3. **Prior to the issue of a demolition permit and a building permit, a Demolition or Construction Management Plan (as appropriate) shall be submitted and approved to the satisfaction of the City. The approved Demolition and Construction Management Plans shall be observed at all times throughout the construction and demolition processes to the satisfaction of the City.**
4. **Prior to the commencement of excavation works, a Dilapidation Report shall be submitted to the City of Nedlands and the owners of the adjoining properties listed below detailing the current condition and status of all buildings (both internal and external together with surrounding paved areas and rights of ways), including ancillary structures located upon these properties:**

**Lots 1-5 (No. 74) Stirling Highway, Nedlands**

**Lot 7 (No. 2) Stanley Street, Nedlands**

**Lot 40 (No. 4) Stanley Street, Nedlands**

**Lot 41 (No. 6 Stanley Street, Nedlands**

**Lot 42 (No. 8) Stanley Street, Nedlands**

**Lot 43 (No. 10) Stanley Street, Nedlands**

**Lot 31 (No. 11) Stanley Street, Nedlands**

**Lot 88 (No. 1) Florence Road, Nedlands**

**Lot 89 (No. 1A) Florence Road, Nedlands**

**In the event that access for undertaking the dilapidation survey is denied by an adjoining owner, the applicant must demonstrate in writing to the satisfaction of the City of Nedlands that all reasonable steps have been taken to obtain access and advise the affected property owner of the reason for the survey and that these steps have failed.**

1. **All stormwater generated on site is to be retained on site. An onsite storage/infiltration system is to be provided within the site for a 1% AEP. No stormwater will be permitted to enter the City of Nedlands’ stormwater drainage system unless otherwise approved.**

**Design**

1. **Prior to the issue of a building permit, the timber-look fins and glazing of the Commercial tenancies along the eastern façade are to permit a minimum of 75% visual permeability to the street to the satisfaction of the City.**
2. **Prior to the issue of a building permit, the applicant shall submit a final schedule of materials, colours, finishes and textures for the development to the satisfaction of the City of Nedlands.**
3. **Prior to occupation, all air-conditioning plant, satellite dishes, antennae and any other plant and equipment to the roof of the building shall be located or screened to the satisfaction of the City of Nedlands.**
4. **All signage is to be installed and maintained for the life of the development in accordance with the signage plan dated received 20 December 2022, including any modifications agreed to in writing by the City, to the satisfaction of the City of Nedlands.**
5. **Prior to occupation, utilities to be integrated into the building and landscape design so they are not visually obtrusive from the street or civic spaces in the development, to the satisfaction of the City of Nedlands.**

**Traffic, Parking and Waste**

1. **Prior to occupation, a Loading, Servicing and Delivery Management Plan shall be provided to and approved by the City. The Plan will include details on:**
2. **how the servicing of the proposed development will occur including service, delivery and rubbish collection vehicle routes;**
3. **times of deliveries and numbers of daily deliveries; and**
4. **agreement that delivery vehicles will turn off engines, freezer and fridge compressor units of trucks while unloading.**

**The approved plan (and any amendments approved by the City in writing) is required to be adhered to for the life of the development to the satisfaction of the City of Nedlands.**

1. **Prior to the issue of a building permit, dynamic parking availability signage shall be shown at entry points to clearly communicate the number of available bays available in each car park, and to minimise the demand for recirculation between parking levels to the satisfaction of the City of Nedlands. Signage is to be installed prior to occupation of the development.**
2. **Prior to occupation, the 19 public bicycle racks, and 7 internal bicycle racks and associated end of trip facilities as shown on the plans shall be provided in accordance with Australian Standard for AS 2890.3 to the satisfaction of the City of Nedlands. The bicycle racks shall remain in place for the duration of the development.**
3. **Prior to occupation, all car parking bays are to be clearly line marked, drained and with visitor/staff parking clearly marked or signage provided, and maintained thereafter by the landowner to the satisfaction of the City of Nedlands.**
4. **All car parking dimensions (including associated wheel stops and headroom clearance), manoeuvring areas, ramps, crossovers and driveways shall comply with Australian Standard 2890.1-2004 - Off-street car parking and Australian Standard 2890.6:2009 - Off-street parking for people with disabilities (where applicable) to the satisfaction of the City of Nedlands.**
5. **Prior to the issue of a building permit, plans are to show all crossovers shall have a clear zone of 2m x 2.5x at the property boundary to ensure sufficient sight distance for pedestrians crossing as per AS/NZS 2890.1:2004 to the satisfaction of the City of Nedlands. Clear zones are to be provided on-site prior to the occupation of the development and maintained for the life of the development.**
6. **Prior to the issue of a building permit, an amended Waste Management Plan is to be submitted that updates the figures to match the approved plans to the satisfaction of the City of Nedlands. The amended Waste Management Plan is to be adhered to for the life of the development to the satisfaction of the City.**
7. **Prior to the issue of a Building Permit, a Road Safety Audit of the engineering design(s) is to be prepared and approved by the City at the 15% design stage. Particular regard is to be had to the safe manoeuvrability of 12.5m delivery vehicles into and out of the rear accessway at both Florence Road and Stanley Street. The Road Safety Audit is to determine whether the proposed development will compromise the safety of road users, and if so, make recommendations for corrective actions. Any recommended corrective actions are to be implemented to the satisfaction of the City of Nedlands and at the applicant’s expense.**
8. **In the event that the laneway between Dalkeith Road and Florence Road is constructed, a Road Safety Audit of the engineering designs is to be prepared and approved by the City prior to use of the laneway by 12.5m delivery vehicles from this site. Particular regard is to be had to 12.5m delivery trucks exiting the subject site and entering the Dalkeith-Florence laneway. The Road Safety Audit is to determine whether the proposed development will compromise the safety of road users, and if so, make recommendations for corrective actions. Any recommended corrective actions are to be implemented to the satisfaction of the City of Nedlands and at the applicant’s expense.**
9. **Prior to issue of a Building Permit the applicant is to develop in consultation with the City, a Local Area Traffic Treatment Plan that will minimise the adverse impact of the additional traffic generated by the development on the residents of neighbouring streets, namely Stanley Street, Florence Road and Edward Street.**

**Environmental Health**

1. **Prior to occupation, an external lighting plan must be submitted and approved by the City of Nedlands. The lighting is to be designed and located to prevent any increase in light spill onto the adjoining properties and shall comply with the requirements of Australian Standard 4282 – Control of Obtrusive Effects of Outdoor Lighting and is to be adhered to for the life of the development to the satisfaction of the City of Nedlands.**
2. **Prior to the issue of a building permit, the Herring Storer Acoustic Report dated received 9 January 2023 is to be amended as follows to the satisfaction of the City of Nedlands:**

* Unless approved under Regulation 14A of the Environmental Protection (Noise) Regulations 1997, any activity associated with waste collection including bin movement between a bin store to a collection location is to occur between 0700 hours and 1900 hours on any day that is not a Sunday or a public holiday; or 0900 hours and 1900 hours on a Sunday or public holiday.
* Noise from the gym must demonstrate compliance with assigned levels in relation to the other commercial tenancies.
* An engine or a refrigeration unit of any vehicle is to be turned off when undertaking any loading or unloading activity within the loading area of the development.

**The amended acoustic report is to be adhered to for the life of the development to the satisfaction of the City.**

1. **Prior to the issue of a building permit, an acoustic report is to be submitted and approved by the City demonstrating that the mechanical services, and the construction and operational phase of the development, will comply with the Environmental Protection (Noise) Regulations 1997. Any recommendations within the report are to be implemented for the duration of construction and the life of the development to the satisfaction of the City.**

**Landscaping**

1. **Prior to occupation, landscaping shall be completed in accordance with the approved plans prepared SeeDesign dated received 20 December 2022, or any approved modifications to the satisfaction of the City of Nedlands. All landscaped areas are to be maintained on an ongoing basis for the life of the development on the site to the satisfaction of the City of Nedlands.**
2. **Prior to the issue of a building permit, a tree relocation plan is to be submitted by a suitably qualified arborist detailing the process by which the trees proposed to be relocated are prepared and moved. This plan is to be approved and adhered to to the satisfaction of the City of Nedlands. Should the trees not survive the process, suitable replacements are to be planted to the satisfaction of the City.**
3. **The street tree(s) within the verge are to be protected and maintained through the duration of the demolition and construction processes to the satisfaction of the City of Nedlands. Should the tree(s) die or be damaged, they are to be replaced with a specified species at the owner’s expense and to the satisfaction of the City of Nedlands.**

**Sustainability**

1. **Prior to issue of a building permit, evidence from a suitably qualified assessor is to demonstrate that the design achieves a 4 star Green Star or better rating. Any actions arising from the assumptions and requirements within the evidence are to be carried out and adhered to for the life of the development to the satisfaction of the City.**

**Main Roads WA**

1. **Prior to occupation of the development, the land required for the widening of Stirling Highway, as shown on the plan 1.7138/1, must be set aside as a separate lot and is to be ceded free of cost to Main Roads.**
2. **No part of the building/development (e.g. structures, car parking, dining area, services, utilities, significant landscaping etc.) shall be located or remain within the land requirement as detailed in the attached Land Protection Plan 1.7138/1.**
3. **Prior to the issue of the Building Permit, the applicant must submit a revised Landscape Plan to Main Roads requirements and the satisfaction of the City of Nedlands for temporary landscaping and pedestrian access located within the widened road reservation/land requirement as detailed in the attached Land Protection Plan 1. 7138/1. Sight lines must be maintained at all times to ensure driver safety. Permanent landscaping must be limited and maintained to a mature height of 1 metre.**
4. **The maximum length of heavy vehicles accessing the site shall not exceed 12.5m.**
5. **Stormwater discharge (if any) shall not exceed pre-development discharge to the Stirling Highway Road Reserve or the widened road reservation.**
6. **The applicant is to repair any damage to the existing kerb and channel, footpath or roadway (including removal of concrete slurry from footways, roads, kerb and channel and stormwater gullies and drain lines) and reinstate existing traffic signs and pavement markings that have been removed or damaged during any works carried out in association with the approved development.**
7. **No works are permitted within the Stirling Highway Road Reservation unless Main Roads has issued a Working on Roads Permit.**
8. **Prior to applying for a Building Permit, the applicant must submit engineering drawings and specifications demonstrating that a 12.5m vehicle can access the site via Stirling Highway to the satisfaction of Main Roads. Approval by Main Roads is required prior to the construction of modifications to Stirling Highway. The landowner/applicant is responsible for all costs associated with any land acquisition, design, drainage and construction of the road upgrade works. This includes signage, road markings, re-location of services, street lighting, design checks and inspections.**
9. **Private infrastructure contained within the widened road reservation/land requirement as detailed in the attached Land Protection Plan 1.7138/1 is to be removed and the verge made good at the applicant’s expense.**
10. **No waste collection is permitted from the Stirling Highway Road Reserve or widened road reservation.**
11. **The signs and sign structures must not over hang or encroach upon the existing or widened road reserve.**
12. **Any proposed illumination of the sign must not exceed 300cd.m2 (candela per square metre) during the hours of night, and not flash, pulsate or chase during all hours.**
13. **The signs must not be electronic/digital format.**
14. **The signs must not contain fluorescent, reflective or retro reflective colours or materials.**
15. **Prior to the submission of a building permit, a Traffic Management Plan (for construction) must be submitted and approved by the City of Nedlands on advice of Main Roads. The Traffic Management Plan must detail how traffic shall be managed at all times and must be implemented and maintained throughout the construction of this development.**

**State Heritage Office**

1. **A Heritage Agreement between the proponent and the Heritage Council shall be executed prior to the issue of a Building Permit to the satisfaction of the City on advice from the Heritage Council.**
2. **Conservation works shall be completed prior to the issue of Occupancy Permit for the whole development to the satisfaction of the City on advice from the Heritage Council.**
3. **A program of monitoring any structural movement and potential vibration impacts on Captain Stirling Hotel building shall be implemented at the commencement of works. Should any impact occur, the Heritage Council is to be notified immediately by the proponent and advised on a recommended course of action by a suitably qualified structural engineer to be undertaken at the proponent’s expense.**
4. **Prior to the application for a Building Permit, the following items shall be submitted to the satisfaction of the City of Nedlands on advice from the Director Historic Heritage Conservation at the Heritage Council:** 
   * 1. **Construction Management Plan that provides for the protection methodology and foundation underpinning of the heritage building;**
     2. **Details of the proposed treatment of the walls where fabric is proposed for removal;**
     3. **Colour palette, material schedule and the lighting strategy for the Captain Stirling Hotel building;**
     4. **Detailed Landscape Plan.**

Recommendation

That Council adopts as the Responsible Authority the Officer Recommendation contained in the Responsible Authority Report for a shopping centre development at 80 Stirling Highway, Nedlands as follows:

It is recommended that the Metro Inner North JDAP resolves to:

1. approve DAP Application reference DAP/19/01651 and accompanying plans dated 20 December 2022 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 conditions:

Conditions

1. Pursuant to clause 26 of the Metropolitan Region Scheme, this approval is deemed to be an approval under clause 24(1) of the Metropolitan Region Scheme.
2. This decision constitutes planning approval only and is valid for a period of 4 years from the date of approval. If the subject development is not substantially commenced within the specified period, the approval shall lapse and be of no further effect.
3. The indicative residential does not form part of this approval and is hereby deleted.
4. All works indicated on the approved plans shall be wholly located within the lot boundaries of the subject site. Works within the road reserve and verge do not form part of this approval and require separate approval from the relevant City or State agency.
5. Prior to occupation, No. 80 (Lot 1) Stirling Highway, Nos. 2 (Lot 21), 4 (Lot 22) and 6 (Lot 23) Florence Road, and Nos. 7 (Lot 33) and 9 (Lot 32) Stanley Street, Nedlands are to be legally amalgamated or alternatively the owner may enter into a legal agreement with the City of Nedlands, drafted by the City’s solicitors at the expense of the owner and be executed by all parties concerned prior to the commencement of the works, to ensure that that the development and use approved on the lots operate concurrently at all times.

Building and Engineering

1. Prior to occupation, suitable arrangements are to be made to provide for public access over the vehicle accessway at the south of the site in perpetuity, in accordance with the approved plans, at the landowner/applicants cost and to the satisfaction of the City of Nedlands. Care and maintenance of the accessway is to be carried out by the applicant/owner and to the satisfaction of the City for the life of the development.
2. Prior to occupation, the acoustic wall along the southern boundary is to be constructed, and the laneway at the rear of the site is to be constructed, drained and line marked to its full width, all at the landowner/applicant’s expense and to the satisfaction of the City.
3. Prior to the issue of a demolition permit and a building permit, a Demolition or Construction Management Plan (as appropriate) shall be submitted and approved to the satisfaction of the City. The approved Demolition and Construction Management Plans shall be observed at all times throughout the construction and demolition processes to the satisfaction of the City.
4. Prior to the commencement of excavation works, a Dilapidation Report shall be submitted to the City of Nedlands and the owners of the adjoining properties listed below detailing the current condition and status of all buildings (both internal and external together with surrounding paved areas and rights of ways), including ancillary structures located upon these properties:

Lots 1-5 (No. 74) Stirling Highway, Nedlands

Lot 7 (No. 2) Stanley Street, Nedlands

Lot 40 (No. 4) Stanley Street, Nedlands

Lot 41 (No. 6 Stanley Street, Nedlands

Lot 42 (No. 8) Stanley Street, Nedlands

Lot 43 (No. 10) Stanley Street, Nedlands

Lot 31 (No. 11) Stanley Street, Nedlands

Lot 88 (No. 1) Florence Road, Nedlands

Lot 89 (No. 1A) Florence Road, Nedlands

In the event that access for undertaking the dilapidation survey is denied by an adjoining owner, the applicant must demonstrate in writing to the satisfaction of the City of Nedlands that all reasonable steps have been taken to obtain access and advise the affected property owner of the reason for the survey and that these steps have failed.

1. All stormwater generated on site is to be retained on site. An onsite storage/infiltration system is to be provided within the site for a 1% AEP. No stormwater will be permitted to enter the City of Nedlands’ stormwater drainage system unless otherwise approved.

Design

1. Prior to the issue of a building permit, the timber-look fins and glazing of the Commercial tenancies along the eastern façade are to permit a minimum of 75% visual permeability to the street to the satisfaction of the City.
2. Prior to the issue of a building permit, the applicant shall submit a final schedule of materials, colours, finishes and textures for the development to the satisfaction of the City of Nedlands.
3. Prior to occupation, all air-conditioning plant, satellite dishes, antennae and any other plant and equipment to the roof of the building shall be located or screened to the satisfaction of the City of Nedlands.
4. All signage is to be installed and maintained for the life of the development in accordance with the signage plan dated received 20 December 2022, including any modifications agreed to in writing by the City, to the satisfaction of the City of Nedlands.
5. Prior to occupation, utilities to be integrated into the building and landscape design so they are not visually obtrusive from the street or civic spaces in the development, to the satisfaction of the City of Nedlands.

Traffic, Parking and Waste

1. Prior to occupation, a Loading, Servicing and Delivery Management Plan shall be provided to and approved by the City. The Plan will include details on:
2. how the servicing of the proposed development will occur including service, delivery and rubbish collection vehicle routes;
3. times of deliveries and numbers of daily deliveries; and
4. agreement that delivery vehicles will turn off engines, freezer and fridge compressor units of trucks while unloading.

The approved plan (and any amendments approved by the City in writing) is required to be adhered to for the life of the development to the satisfaction of the City of Nedlands.

1. Prior to the issue of a building permit, dynamic parking availability signage shall be shown at entry points to clearly communicate the number of available bays available in each car park, and to minimise the demand for recirculation between parking levels to the satisfaction of the City of Nedlands. Signage is to be installed prior to occupation of the development.
2. Prior to occupation, the 19 public bicycle racks, and 7 internal bicycle racks and associated end of trip facilities as shown on the plans shall be provided in accordance with Australian Standard for AS 2890.3 to the satisfaction of the City of Nedlands. The bicycle racks shall remain in place for the duration of the development.
3. Prior to occupation, all car parking bays are to be clearly line marked, drained and with visitor/staff parking clearly marked or signage provided, and maintained thereafter by the landowner to the satisfaction of the City of Nedlands.
4. All car parking dimensions (including associated wheel stops and headroom clearance), manoeuvring areas, ramps, crossovers and driveways shall comply with Australian Standard 2890.1-2004 - Off-street car parking and Australian Standard 2890.6:2009 - Off-street parking for people with disabilities (where applicable) to the satisfaction of the City of Nedlands.
5. Prior to the issue of a building permit, plans are to show all crossovers shall have a clear zone of 2m x 2.5x at the property boundary to ensure sufficient sight distance for pedestrians crossing as per AS/NZS 2890.1:2004 to the satisfaction of the City of Nedlands. Clear zones are to be provided on-site prior to the occupation of the development and maintained for the life of the development.
6. Prior to the issue of a building permit, an amended Waste Management Plan is to be submitted that updates the figures to match the approved plans to the satisfaction of the City of Nedlands. The amended Waste Management Plan is to be adhered to for the life of the development to the satisfaction of the City.
7. Prior to the issue of a Building Permit, a Road Safety Audit of the engineering design(s) is to be prepared and approved by the City at the 15% design stage. Particular regard is to be had to the safe manoeuvrability of 12.5m delivery vehicles into and out of the rear accessway at both Florence Road and Stanley Street. The Road Safety Audit is to determine whether the proposed development will compromise the safety of road users, and if so, make recommendations for corrective actions. Any recommended corrective actions are to be implemented to the satisfaction of the City of Nedlands and at the applicant’s expense.
8. In the event that the laneway between Dalkeith Road and Florence Road is constructed, a Road Safety Audit of the engineering designs is to be prepared and approved by the City prior to use of the laneway by 12.5m delivery vehicles from this site. Particular regard is to be had to 12.5m delivery trucks exiting the subject site and entering the Dalkeith-Florence laneway. The Road Safety Audit is to determine whether the proposed development will compromise the safety of road users, and if so, make recommendations for corrective actions. Any recommended corrective actions are to be implemented to the satisfaction of the City of Nedlands and at the applicant’s expense.

Environmental Health

1. Prior to occupation, an external lighting plan must be submitted and approved by the City of Nedlands. The lighting is to be designed and located to prevent any increase in light spill onto the adjoining properties and shall comply with the requirements of Australian Standard 4282 – Control of Obtrusive Effects of Outdoor Lighting and is to be adhered to for the life of the development to the satisfaction of the City of Nedlands.
2. Prior to the issue of a building permit, the Herring Storer Acoustic Report dated received 9 January 2023 is to be amended as follows to the satisfaction of the City of Nedlands:

* Unless approved under Regulation 14A of the Environmental Protection (Noise) Regulations 1997, any activity associated with waste collection including bin movement between a bin store to a collection location is to occur between 0700 hours and 1900 hours on any day that is not a Sunday or a public holiday; or 0900 hours and 1900 hours on a Sunday or public holiday.
* Noise from the gym must demonstrate compliance with assigned levels in relation to the other commercial tenancies.
* An engine or a refrigeration unit of any vehicle is to be turned off when undertaking any loading or unloading activity within the loading area of the development.

The amended acoustic report is to be adhered to for the life of the development to the satisfaction of the City.

1. Prior to the issue of a building permit, an acoustic report is to be submitted and approved by the City demonstrating that the mechanical services, and the construction and operational phase of the development, will comply with the Environmental Protection (Noise) Regulations 1997. Any recommendations within the report are to be implemented for the duration of construction and the life of the development to the satisfaction of the City.

Landscaping

1. Prior to occupation, landscaping shall be completed in accordance with the approved plans prepared SeeDesign dated received 20 December 2022, or any approved modifications to the satisfaction of the City of Nedlands. All landscaped areas are to be maintained on an ongoing basis for the life of the development on the site to the satisfaction of the City of Nedlands.
2. Prior to the issue of a building permit, a tree relocation plan is to be submitted by a suitably qualified arborist detailing the process by which the trees proposed to be relocated are prepared and moved. This plan is to be approved and adhered to to the satisfaction of the City of Nedlands. Should the trees not survive the process, suitable replacements are to be planted to the satisfaction of the City.
3. The street tree(s) within the verge are to be protected and maintained through the duration of the demolition and construction processes to the satisfaction of the City of Nedlands. Should the tree(s) die or be damaged, they are to be replaced with a specified species at the owner’s expense and to the satisfaction of the City of Nedlands.

Sustainability

1. Prior to issue of a building permit, evidence from a suitably qualified assessor is to demonstrate that the design achieves a 4 star Green Star or better rating. Any actions arising from the assumptions and requirements within the evidence are to be carried out and adhered to for the life of the development to the satisfaction of the City.

Main Roads WA

1. Prior to occupation of the development, the land required for the widening of Stirling Highway, as shown on the plan 1.7138/1, must be set aside as a separate lot and is to be ceded free of cost to Main Roads.
2. No part of the building/development (e.g. structures, car parking, dining area, services, utilities, significant landscaping etc.) shall be located or remain within the land requirement as detailed in the attached Land Protection Plan 1.7138/1.
3. Prior to the issue of the Building Permit, the applicant must submit a revised Landscape Plan to Main Roads requirements and the satisfaction of the City of Nedlands for temporary landscaping and pedestrian access located within the widened road reservation/land requirement as detailed in the attached Land Protection Plan 1. 7138/1. Sight lines must be maintained at all times to ensure driver safety. Permanent landscaping must be limited and maintained to a mature height of 1 metre.
4. The maximum length of heavy vehicles accessing the site shall not exceed 12.5m.
5. Stormwater discharge (if any) shall not exceed pre-development discharge to the Stirling Highway Road Reserve or the widened road reservation.
6. The applicant is to repair any damage to the existing kerb and channel, footpath or roadway (including removal of concrete slurry from footways, roads, kerb and channel and stormwater gullies and drain lines) and reinstate existing traffic signs and pavement markings that have been removed or damaged during any works carried out in association with the approved development.
7. No works are permitted within the Stirling Highway Road Reservation unless Main Roads has issued a Working on Roads Permit.
8. Prior to applying for a Building Permit, the applicant must submit engineering drawings and specifications demonstrating that a 12.5m vehicle can access the site via Stirling Highway to the satisfaction of Main Roads. Approval by Main Roads is required prior to the construction of modifications to Stirling Highway. The landowner/applicant is responsible for all costs associated with any land acquisition, design, drainage and construction of the road upgrade works. This includes signage, road markings, re-location of services, street lighting, design checks and inspections.
9. Private infrastructure contained within the widened road reservation/land requirement as detailed in the attached Land Protection Plan 1.7138/1 is to be removed and the verge made good at the applicant’s expense.
10. No waste collection is permitted from the Stirling Highway Road Reserve or widened road reservation.
11. The signs and sign structures must not over hang or encroach upon the existing or widened road reserve.
12. Any proposed illumination of the sign must not exceed 300cd.m2 (candela per square metre) during the hours of night, and not flash, pulsate or chase during all hours.
13. The signs must not be electronic/digital format.
14. The signs must not contain fluorescent, reflective or retro reflective colours or materials.
15. Prior to the submission of a building permit, a Traffic Management Plan (for construction) must be submitted and approved by the City of Nedlands on advice of Main Roads. The Traffic Management Plan must detail how traffic shall be managed at all times and must be implemented and maintained throughout the construction of this development.

State Heritage Office

1. A Heritage Agreement between the proponent and the Heritage Council shall be executed prior to the issue of a Building Permit to the satisfaction of the City on advice from the Heritage Council.
2. Conservation works shall be completed prior to the issue of Occupancy Permit for the whole development to the satisfaction of the City on advice from the Heritage Council.
3. A program of monitoring any structural movement and potential vibration impacts on Captain Stirling Hotel building shall be implemented at the commencement of works. Should any impact occur, the Heritage Council is to be notified immediately by the proponent and advised on a recommended course of action by a suitably qualified structural engineer to be undertaken at the proponent’s expense.
4. Prior to the application for a Building Permit, the following items shall be submitted to the satisfaction of the City of Nedlands on advice from the Director Historic Heritage Conservation at the Heritage Council:
   * 1. Construction Management Plan that provides for the protection methodology and foundation underpinning of the heritage building;
     2. Details of the proposed treatment of the walls where fabric is proposed for removal;
     3. Colour palette, material schedule and the lighting strategy for the Captain Stirling Hotel building;
     4. Detailed Landscape Plan.

**Purpose**

The purpose of this report is for Council to consider a Development Assessment Panel application for a shopping centre at 80 Stirling Highway, Nedlands (Captain Stirling Hotel site). Council is requested to make its recommendation to the Metro Inner-North Joint Development Assessment Panel (JDAP) as the Responsible Authority. Council’s recommendation will be incorporated into the Responsible Authority Report and lodged with the DAP Secretariat by 2 February 2023.

**Voting Requirement**

Simple Majority.

**Background**

**Land Details**

|  |  |
| --- | --- |
| **Metropolitan Region Scheme Zone** | Urban |
| **Local Planning Scheme Zone** | Residential |
| **R-Code** | R-AC1 |
| **Land area** | 12,678m2 |
| **Land Use** | Shop, Restaurant/café, Office, Liquor Store – Small, Recreation-Private |
| **Use Class** | Shop – P  Restaurant/Café – P  Office – P  Medical Centre – D  Liquor Store – Small – P  Recreation – Private – A |

The application is for a proposed shopping centre comprising Shops (including a Woolworths), Restaurant/Café, Office, Medical Centre, Liquor Store – Small, Recreation-Private and the existing Captain Stirling Hotel.

The development application was originally lodged in August 2019. During the review process, comments were sought from Main Roads and the State Heritage Office. Additionally, the application was referred to the State Design Review Panel on two separate occasions.

In June 2020, the JDAP resolved to defer the application for 90 days to allow the applicant to respond to the following:

* To provide greater certainty on the traffic, transport and access issues
* To provide further information on heritage issues
* To address the integration of the project in the Nedlands Town Centre

The applicant subsequently chose to take a ‘deemed refusal’ under clause 75 of the Deemed provisions within the Planning and Development (Local Planning Schemes) Regulations 2015 and applied to the State Administrative Tribunal (SAT) for a review. SAT mediations have been ongoing since 2020, culminating in amended plans and documentation being submitted on 4 November 2022 for a S.31 reconsideration.

**Discussion**

The proposal has been assessed against all relevant legislative requirements including Local Planning Scheme No.3 (LPS3), Residential Design Codes Volume 2 – Apartments (R-Codes), Local Planning Policies, and the Local Planning Strategy. The matters below have been identified as key considerations for the determination of this application.

* Traffic generation
* Onsite parking
* Landscaping
* Land use
* Zone objectives

These matters are briefly addressed below. Full discussion is within the Responsible Authority Report (RAR).

**Traffic generation**

Existing traffic volumes along Florence Road, Dalkeith Road, Stanley Street and Edward Street will increase. However, according to the Transport Impact Assessment (Attachment 7 within the RAR) the anticipated increase in vehicles is below or only slightly above that recommended for the respective road hierarchy. The exception is Dalkeith Road between Stirling Highway and Carrington Street, which is anticipated to have 787 vehicles per day above the Access Road threshold of 3,000 vehicles per day. The existing traffic volume already slightly exceeds the Access Road threshold, which indicates that this section of road performs more as a Local Distributor. The increase is only for a short section of Dalkeith Road and is not expected to significantly impact the road network. Minor modifications may be made in the future in order to ease traffic congestion, such as limitations or removal of on-street parking should it become necessary.

City Officers concur with the results of the TIA that the existing road network can cater for the expected trip generation from this development without significant impacts on traffic flow.

The applicant has opted to keep the vehicle accessway at the southern boundary of the subject site. Therefore, there are no negotiations underway for construction of laneway 1 at this time.

At the 23 August 2022 Ordinary Council Meeting, Council resolved that the CEO begin investigations to create one way cul-de-sacs on Florence Road and Stanley Street as a way to reduce traffic down side streets. It is proposed that a Discussion Paper will be prepared addressing this matter, prior to a report being presented to Council. The Discussion Paper will need to consider / outline the traffic assessment (the Integrated Transport Strategy will be relevant), the process to be followed in terms of the requirements under the Local Government Act, the role of community consultation and of the State Government and potential legal implications to the City.

**Onsite parking**

The City’s Parking Local Planning Policy recommends that 405 car bays be provided. The applicant proposes 382 car bays provided onsite.

The parking shortfall is supported for the following reasons:

* Visitors are likely to visit more than one tenancy in the shopping centre, which is not captured in the above calculations. This reciprocal usage reduces the actual number of bays likely to be utilised at any one time.
* The development includes 29 bays along the laneway that will likely be used for shopping centre staff as permanent bays.
* The applicant has demonstrated that the parking provision is equivalent to similar sized shopping centre developments and sufficient to cater for expected demand.
* The development is located on Stirling Highway and in close proximity to four high-frequency bus routes that may reduce parking demand.
* The development includes 19 public bicycle racks and 7 racks for employees, along with end of trip facilities to encourage alternate forms of transportation.

**Landscaping**

The Acceptable Outcomes of the R-Codes calls for 10% deep soil area or 20% planting on structure. The development achieves 7.2% deep soil, though most of that is within the Stirling Highway road reservation. Given that the entire development is non-residential, there are limited opportunities for additional landscaping. R-Codes Acceptable Outcomes for landscaping are not necessarily appropriate or feasible for non-residential development. However, the Element Objectives have been used to guide a design assessment.

The applicant proposes removing 72 existing trees. An assessment of the trees was carried out by an arborist (Attachment 11) who determined that only 24 of the trees were considered to have moderate retention value due to the age, condition or species. Of these, 2 are proposed to be retained and relocated. In the event of approval, a condition is recommended to ensure relocation is carried out appropriately under the supervision of a suitably qualified professional.

Trees within the road widening are located close to the boundary, with the intention that they may be able to remain when the road widening and footpath works occur. Any road widening would potentially result in the loss of 6 new trees and 6 retained trees. That would still leave 40 trees onsite (excluding proposed new verge trees) of which 4 are medium sized trees. These new trees are consistent with the objectives of maximising appropriate trees and offsetting the existing appropriate and healthy tree canopy.

**Land use**

The use of Medical Centre is a ‘D’ use and Recreation-Private an ‘A’ use within the scheme. A Hotel is also an ‘A’ use, however, the Hotel is existing and is not intended to be significantly altered through this application. The remaining uses are ‘P’ (Permitted).

A Medical Centre and a Recreation-Private are supported for the following reasons:

* The mix of land uses is complementary to the uses within the proposed shopping centre.
* Both uses are compatible with the type of local retail opportunities envisaged by the City’s Local Planning Strategy.
* Both uses provide for local convenience consistent with the aims of the strategy.
* The scale of the tenancies is appropriate to the context and provide for street activation to Florence Road and the pedestrian paths through the development.
* Parking provision is sufficient to cater for needs, considering that visitors are likely to visit multiple tenancies in the same trip.

**Zone objectives within the Scheme**

The proposed development is consistent with the zone objectives for the following reasons:

* The development does not directly provide a residential component. However, a shopping centre that includes a major supermarket and a variety of other retail and commercial opportunities provides for significant residential development by being an attractor for higher density residential developments in the immediate locality.
* The development is consistent with the City’s Local Planning Strategy, which envisages a retail capacity of approximately 8,000 m2 NLA within this Town Centre location and a mix of uses to support nearby higher density residential development.
* The proposed shopping centre provides retail opportunities that are lacking within the City and is an appropriate scale for its context within the Town Centre.
* The Residential Design Codes allow for four storey boundary walls, but the proposal sets back the 2 storey shopping centre over 6 metres from the nearest residences to the south, thereby minimising impact of bulk and scale to adjoining residential development.
* The development presents a predominantly two storey bulk to the residential streets to the east and west, which is broadly consistent with the historic height patterns within the immediate locality. It is noted that the current planning framework of an R-AC1 and R160 coding allows for a greater height to residential properties than is currently displayed along either street.
* A variety of active uses are provided to all three street fronts. These active uses are compatible with nearby residential development.

A significant residential component on this particular development site would be highly welcome. However, the strategic significance of a local convenience retail site here outweighs the lack of a residential component. The proposed retail will be a critical component in delivering density to the surrounding areas.

**Consultation**

In accordance with the City’s Local Planning Policy – Consultation of Planning Proposals, the development was advertised for a period of 28 days, from 11 November 2022 to 9 December 2022.

* Letters sent to all City of Nedlands landowners and occupiers within a 200m radius of the site (letters);
* A sign on site was installed at the site’s three street frontages 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 11 November 2022; and
* A community information session was held by City Officers on 23 November 2022.

At the close of the advertising period, the City received 118 submissions; 72 opposing the proposal, 39 in support (most with concerns also raised) and 7 providing comments only. The key concerns in the objections related to:

* Traffic generation down side streets
* Lack of sufficient onsite parking
* Lack of information on parking and traffic
* Request for further road modifications
* Lack of laneway connection
* Noise from delivery trucks
* Consistency with the draft Town Centre policy

These matters have been addressed within the RAR. All submissions on this proposal have been given due regard in this assessment in accordance with Clause 67(y) of the *Planning and Development (Local Planning Schemes Regulations) 2015.*

Amended plans and supporting documents for the proposal were submitted to the City on 20 December 2022 that differ from the advertised plans and documents in the following manner:

* Increase in the number of bike racks
* Additional medium tree within the civic plaza
* Sustainability briefing note
* Additional information as request by City Officers regarding the various technical reports.

The amendments did not trigger the need for formal re-advertising of the proposal as they were minor and of a technical nature.

**Design Review Panel Advice**

The State Design Review Panel (SDRP) considered the original application in September 2019 and the amended March 2020 version in March 2020. The March 2020 version is broadly similar to the current 2022 version.

A summary of the SDRP advice is included in the Table below:

|  |  |  |  |
| --- | --- | --- | --- |
| **Table 1: SDRP Design Quality Evaluation** | | | |
|  | *Supported* | | |
|  | *Pending further attention* | | |
|  | *Not yet supported* | | |
|  | *Yet to be addressed* | | |
|  | | Original Plans  April 2019 | Amended Plans  March 2020 |
| 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 March 2020, the Panel commented that:

Whilst there are noted improvements in this latest proposal, to the permeability of the site, the mixture of retail and commercial uses, the architectural language (south of the Hotel and the Florence Road colonnade), the project has not responded adequately to the first SDRP report.

The Panel considers the following 4 recommendations as essential in establishing both the fundamental aspects and supporting the long-term viability of a Nedlands Neighbourhood Centre.

1. Inclusion of a significant, well-designed residential component as part of any stage 1, to ensure optimised density, diversity and housing choice for this landmark location and the effective functioning of a mixed-use Town Centre precinct.

2. Implementation of appropriate adaptive reuse of the Captain Stirling Hotel and pursuit of evidence-based conservation strategies for the heritage listed building including confirmation of future uses, to ensure design outcomes are optimised and integrated at this important early stage of project design.

3. Improved design of the Nedlands Square central public realm to deliver civic character and more effective, connected spaces and contextual landscape outcomes befitting an emerging Centre. Required improvements include increased tree canopy, revision of the proposed playground, and development of an urbane, generous and clearly public Town Square.

4. Improved Main Street qualities for Florence Road so as to support the greater masterplan ambitions for the Centre with retail, commercial and residential uses fronting a high-quality pedestrian-oriented street based public realm.

Due to the strict timeframes as part of the SAT process, there was no time to refer the application back to the SDRP. However, the current set of plans mostly addresses the four comments above, with the exception of the lack of residential use. There is ability to approve the development even without a residential component, and such a decision would still be consistent with the City’s Local Planning Strategy.

**Strategic Implications**

This item relates to the following elements from the City’s Strategic Community Plan.

**Vision** Our city will be an environmentally-sensitive, beautiful and inclusive place.

**Values** **Great Natural and Built Environment**

We protect our enhanced, engaging community spaces, heritage, the natural environment and our biodiversity through well-planned and managed development.

**Priority Area** Urban form - protecting our quality living environment

**Budget/Financial Implications**

Nil.

**Legislative and Policy Implications**

Council is requested to make a recommendation to the JDAP in accordance with Regulation 12(5) of the [*Planning and Development (Development Assessment Panels) Regulations 2011*](https://www.legislation.wa.gov.au/legislation/statutes.nsf/law_s42531.html)*.* Council may recommend to approve, refuse or defer the application.

**Decision Implications**

Council’s recommendation will be incorporated into the RAR and lodged with the JDAP Secretariat on or before 2 February 2023. The recommendation noted above is the officer recommendation that is also included in the RAR. In the event that Council does not adopt the officer recommendation, Council’s recommendation will be located at the front of the RAR as the Responsible Authority Recommendation and the officer recommendation will be contained in the rear of the report. In the event that Council does not make a recommendation, the RAR will be forwarded to DAP with the Officer Recommendation only.

**Conclusion**

Council is requested to consider the proposed development as the Responsible Authority. It is requested that Council makes a recommendation to the JDAP to either approve, defer or refuse the application.

The proposed development is of a scale and use consistent with the expected pattern of development and the significance of the Town Centre site in which it is located as identified within the Local Planning Strategy. The development provides local convenience retail that caters for the existing population and facilitates future nearby residential growth through the close proximity of services and shopping. Though the development will result in an increase in traffic through local roads, this increase is expected as part of the overall development of the City and, in particular, this strategically important section of Stirling Highway. The existing road network can cater for the expected traffic increase without significant changes. The application is recommended for conditional approval.

For the above reasons, it is recommended Council adopt the Officer Recommendation contained in the RAR to approve the development.

**Further Information**

Nil.

# PD03.01.23 Consideration of Responsible Authority Report for Sporting Facility at 100 Stephenson Avenue, Mt Claremont

|  |  |
| --- | --- |
| **Meeting & Date** | Special Council Meeting – 31 January 2023 |
| **Applicant** | Element Advisory Pty Ltd |
| **Employee Disclosure under section 5.70 Local Government Act 1995** | 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 involved in the preparation of this report and the proponents or their consultants. |
| **Report Author** | Roy Winslow – Manager Urban Planning |
| **Director** | Tony Free – Director Planning and Development |
| **Attachments** | 1. Responsible Authority Report and Attachments |

**Councillor - Impartiality Interest**

Councillor Smyth disclosed that she is an appointed alternate member of the Metro Inner North JDAP that will be considering this on 10th February 2023. As a consequence, there may be a perception that her impartiality on the matter may be affected. Councillor Smyth declared that today, in her Elected Member role she will consider this application entirely on its merits as presented to the Council and vote on the recommendation. However, Councillor Smyth made it known that 'Under clause 2.1.2 of the DAP Code of Conduct, she acknowledged that she is not bound by any previous decision or resolution of the local government. Councillor Smyth advised she would undertake to exercise independent judgment in relation to any DAP application before her, which she will consider on its planning merits.

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

Moved – Councillor Smyth

Seconded – Councillor McManus

**That the Recommendation be adopted.**

(Printed below for ease of reference)

**CARRIED UNANIMOUSLY 13/-**

**Council Resolution / Recommendation**

**That Council adopts as the Responsible Authority the Officer Recommendation contained in the Responsible Authority Report for the development of Sporting Facility at 100 Stephenson Avenue, Mt Claremont as follows:**

**It is recommended that the Metro Inner-North JDAP resolves to:**

1. **approve DAP Application reference DAP/22/02377 and accompanying plans date stamped 16 January 2023 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 conditions.**

**Conditions**

**General**

1. **Pursuant to clause 26 of the Metropolitan Region Scheme, this approval is deemed to be an approval under clause 24(1) of the Metropolitan Region Scheme.**
2. **This decision constitutes planning approval only and is valid for a period of 4 years from the date of approval. If the subject development is not substantially commenced within the specified period, the approval shall lapse and be of no further effect.**
3. **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.**

**Building**

1. **Prior to the issue of a demolition permit and a building permit, a Demolition or Construction Management Plan (as appropriate) shall be submitted and approved to the satisfaction of the City. The approved Demolition and Construction Management Plans shall be observed at all times throughout the construction and demolition processes to the satisfaction of the City.**
2. **All stormwater discharge from the development shall be contained and disposed of on-site unless otherwise approved by the City of Nedlands.**

**Landscaping**

1. **Prior to occupation, landscaping shall be completed in accordance with the approved plans prepared by Landscape Architects (Rev F) date stamped 16 January 2023, or any approved modifications to the satisfaction of the City of Nedlands. All landscaped areas are to be maintained on an ongoing basis for the life of the development on the site to the satisfaction of the City of Nedlands.**

**Waste**

1. **The development shall comply with the approved Waste Management Plan prepared by Talis Consultants, date stamped 16 January 2023, to the satisfaction of the City of Nedlands. Any modification to the approved Waste Management Plan will require further approval by the City.**
2. **The development shall at all times comply with the application and the approved plans, subject to any modifications required as a consequence of any condition(s) of this approval.**

**Advice Notes**

1. **The applicant is advised that the proposed development is located adjacent to the odour buffer of the Subiaco Waste Water Treatment Plant. Under normal operating conditions there will be minimal odour emanating from the plant. However, during maintenance and abnormal operating or weather conditions, an increased level of odour may occur that will be of nuisance to persons within the odour buffer area. For further information, please contact the Water Corporation.**
2. **The applicant is advised that the proposal will require separate approval from the Water Corporation (Building Services section) prior to commencement of works. In addition, infrastructure contributions and fees may be required to be paid prior to approval being issued. For further information, please contact the Water Corporation.**

**Purpose**

The purpose of this report is for Council to consider the Development Assessment Panel application for a Sporting Facility at the UWA Sports Park, located at 100 Stephenson Avenue, Mt Claremont. Council is requested to make its recommendation to the Metro Inner-North Joint Development Assessment Panel as the Responsible Authority. Council’s recommendation will be incorporated into the Responsible Authority Report and lodged with the DAP Secretariat on 10 February 2023.

**Voting Requirement**

Simple Majority.

This report is of a quasi judicial nature as it is a matter that directly affects a person’s rights 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 subject to an appeal to the State Administrative Tribunal.

The decision must be made in a manner that is impartial, free from bias, and in accordance with the principles of natural justice. The decision must be made having regard to the facts of the matter under consideration, and in accordance with the relevant laws and policies as they apply to that matter.

Discretionary considerations and judgments in the decision must be confined to those permitted to be considered under the laws and polices applicable to the matter and given such weight in making the decision as the relevant laws and polices permit them to be given

**Background**

|  |  |
| --- | --- |
| **Metropolitan Region Scheme Zone** | Urban |
| **Local Planning Scheme Zone** | Urban Development |
| **Land area** | 4.9ha |
| **Land Use** | Club Premises |
| **Use Class** | N/A |
| **Proposed No. Storeys** | 2 |

This application seeks approval for a two (2) storey sports pavilion & function centre at 100 Stephenson Avenue, Mt Claremont. The site is commonly referred to as the UWA Sports Park.

**Discussion**

The proposal has been assessed against all relevant legislative requirements including Local Planning Scheme No.3 (LPS3), State Planning Policies and Local Planning Policies. The matters below have been identified as key considerations for the determination of this application.

* Objectives of the zone & strategic intent for the site
* Parking

**Objectives of the zone & strategic intent for the site**

There are currently no approved structures plans, activity centre plans or local development plans that have been approved by the Western Australian Planning Commission as part of LPS3, which would ordinarily provide a coordinated response to this development area.

On that basis, the development is assessed on the merits and intent for the site as per the objectives of the “Urban Development” zone.

|  |  |
| --- | --- |
| **Zoning - Urban Development** | |
| **Objective** | **Assessment** |
| To provide an intention of future land use and a basis for more detailed structure planning in accordance with the provisions for this Scheme. | **Satisfied**    The proposed development is consistent with the established built form and the intended future use of the land and the surrounding area for active recreation. The City’s Local Planning Strategy highlights that land uses and development within the Mt Claremont east area, in which the site is located, shall not conflict with the urban character being predominantly of sporting, research and educational facilities. The proposal provides a replacement sporting facility for the users of UWA Sports Park.  The proposal is consistent with the now revoked Outline Development Plan – UWA Sports Hockey Precinct which intended the site to be used for sporting facilities. |
| To identify areas that require comprehensive planning in order to provide for the coordination of subdivision, land use and development. | **Satisfied**  The proposed land use is consistent with the existing land use and the overall intent of the site to be used as a sporting precinct. |

It is acknowledged that an internal Masterplan has been prepared by UWA. This plan sets out the strategy for development over the site for the next 10 years. The Masterplan identifies a building footprint in the proposed location and to facilitate a new sports pavilion. Although the Masterplan is an internal document not approved by the WAPC, it demonstrates that the proposed pavilion is consistent with the outcomes and a coordinated approach to development and use is considered.

**Parking**

The existing parking supply provided on site is estimated to be 440-475 (hardstand existing carpark and grassed overflow area) bays. The proposed development is adjacent to an existing sealed car park accommodating 141 car parking bays, with 4 bays proposed to be removed as part of this application to accommodate access to the new sports pavilion.

The traffic associated with the primary use of the building is associated with the existing sporting activities occurring on the playing fields and clubs, rather than the attraction to the pavilion itself. The redevelopment of the existing sports pavilion to house the proposed development will not have an increased effect on the demand of parking over and above that which is existing.

The below assessment is based on the supply and demand that exists currently with the existing sports pavilion. The existing demand has taken the worst-case scenario with games being undertaken at; 2 hockey pitches, 3 rugby pitches and 2 football ovals.

|  |  |  |  |
| --- | --- | --- | --- |
| **Land use** | **Ratio** | **Existing/Proposed Demand** | **Supply** |
| Club Premises | 1 per 2 persons | 270 bays | 437-471 (sealed and ad-hoc) |
|  | **Total** | **270 bays** | **437-471 bays** |

The external hire of the function room is proposed when the club premises is not being used by the UWA Football Club or other affiliated clubs and therefore there is not expected to be an overlap with respect to parking demands for sporting events. The loss of 4 car parking bays is considered insignificant given the overall level of supply.

All other matters have been addressed within the Responsible Authority Report.

**Consultation**

**Public Consultation**

In accordance with the deemed provisions and the City’s Local Planning Policy – Consultation of Planning Proposals, the development was advertised for a period of 28 days from 25 November 2022 to 23 December 2022. The public consultation consisted of:

* A total of 11 letters were sent to all City of Nedlands landowners and occupiers within a 200m radius of the development area;
* A sign on site was installed at the site’s street frontage;
* A notice was published on the City’s website with all documents relevant to the application made available for viewing during the advertising period;
* A notice was placed in The Post newspaper published on 2 December 2022;
* 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 7 December 2022, where nil residents were present.

At the conclusion of advertising, the City received no submissions.

**Design Review Panel**

The proposed development was subject to an independent design review process undertaken by the UWA Design Review Panel. A summary of the DRP advice is provided in Table 1 below.

|  |  |  |
| --- | --- | --- |
| **Table 1: DRP Design Quality Evaluation** | | |
|  | Supported | |
|  | Further Information / Condition Required | |
|  | Not supported | |
| SPP 7.0 Principles | 21 July 2022 | 28 September 2022 |
| 1. Context and Character |  |  |
| 1. Landscape Quality |  |  |
| 1. Built Form and Scale |  |  |
| 1. Functionality and Built Quality |  |  |
| 1. Sustainability |  |  |
| 1. Amenity |  |  |
| 1. Legibility |  |  |
| 1. Safety |  |  |
| 1. Community |  |  |
| 1. Aesthetics |  |  |

The UWA DRP undertakes design reviews in accordance with the model process as outlined in the States Design WA: Design Review Guide and uses the ten design principles from the State Planning Policy 7.0 Design of the Built Environment.

The development proposal saw the UWA DRP on 21 July 2022 and 28 September 2022 with general support for most principles. With the development proposal having been undertaken by the independent UWA DRP twice and given that they hold a similar term of reference to the City of Nedlands DRP with common members, it is considered that the proposal has been appropriately reviewed.

The City supports the proposed design in its current form and justification provided by the applicant.

**Strategic Implications**

This item relates to the following elements from the City’s Strategic Community Plan.

**Vision** Our city will be an environmentally-sensitive, beautiful and inclusive place.

**Values** **Great Natural and Built Environment**

We protect our enhanced, engaging community spaces, heritage, the natural environment and our biodiversity through well-planned and managed development.

**Priority Area** Urban form - protecting our quality living environment

**Budget/Financial Implications**

N/A

**Legislative and Policy Implications**

Council is requested to make a recommendation to the JDAP in accordance with Regulation 12(5) of the [*Planning and Development (Development Assessment Panels) Regulations 2011*](https://www.legislation.wa.gov.au/legislation/statutes.nsf/law_s42531.html)*.* Council may recommend to approve, refuse or defer the application.

**Decision Implications**

Council’s recommendation will be incorporated into the Responsible Authority Report (RAR) and lodged with the DAP Secretariat on or before 10 February 2023. The recommendation noted above is the officer recommendation that is also included in the RAR. In the event that Council does not adopt the officer recommendation, Council’s recommendation will be located at the front of the RAR as the Responsible Authority Recommendation and the officer recommendation will be contained in the rear of the report. In the event that Council does not make a recommendation, the RAR will be forwarded to DAP with the Officer Recommendation only.

**Conclusion**

Council is requested to consider the proposed development as the Responsible Authority. It is requested that Council makes a recommendation to the JDAP to either approve, defer or refuse the application.

The application is consistent with the City’s statutory and strategic planning framework and will have minimal undue adverse impact upon adjoining properties.

It is recommended Council adopt the Officer Recommendation contained in the Responsible Authority Report to approve the development.

**Further Information**

Nil.

# Declaration of Closure

There being no further business, the Presiding Member declared the meeting closed at 8.47 pm.