



City of Nedlands

# ***Minutes***

## ***Special Council Meeting***

***19 May 2020***

### **Attention**

**These Minutes are subject to confirmation.**

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

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## City of Nedlands

### Minutes of a Special Meeting of Council held online via Teams on Tuesday 19 May 2020 at 5.30 pm for the purpose of considering Responsible Authority Report for Lot 689 (5) Hillway, Nedlands – 10 Multiple Dwellings.

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#### Declaration of Opening

The Presiding Member declared the meeting open at 5.35 pm and drew attention to the disclaimer below.

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

<b>Councillors</b>	Her Worship the Mayor, C M de Lacy	(Presiding Member)
	Councillor F J O Bennett	Dalkeith Ward
	Councillor A W Mangano	Dalkeith Ward
	Councillor B G Hodsdon	Hollywood Ward
	Councillor P N Poliwka	Hollywood Ward
	Councillor J D Wetherall	Hollywood Ward
	Councillor R A Coghlan	Melvista Ward
	Councillor G A R Hay	Melvista Ward
	Councillor R Senathirajah	Melvista Ward
	Councillor N B J Horley	Coastal Districts Ward
	Councillor L J McManus	Coastal Districts Ward
	Councillor K A Smyth	Coastal Districts Ward

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

**Public** A maximum of 4 persons logged into the live stream of the proceedings. Two members of the public attended to give their public addresses in person.

**Leave of Absence (Previously Approved)** Councillor W R B Hassell Dalkeith Ward

**Apologies** None at distribution of this agenda.

## **Disclaimer**

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

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### **1. Public Question Time**

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

Nil.

### **2. Addresses by Members of the Public**

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

Mr Simon Edis & Mrs Jenny Edis, 72 Kingsway, Nedlands Item 6  
(spoke in support of the recommendation)

Mr Ian Love, 70 Kingsway, Nedlands Item 6  
(spoke in support of the recommendation)

### **3. Disclosures of Financial and/or Proximity Interest**

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

There were no disclosures of financial interest.

**4. Disclosures of Interests Affecting Impartiality**

The Presiding Member to remind Councillors and Staff of the requirements of Council's Code of Conduct in accordance with Section 5.103 of the *Local Government Act*.

**4.1 Councillor Smyth – Item 6 – Lot 689 (5) Hillway, Nedlands – 10 Multiple Dwellings**

Councillor Smyth disclosed an impartiality interest in Items 6 - Lot 689 (5) Hillway, Nedlands – 10 Multiple Dwellings. Councillor Smyth disclosed that these matters will be before the Metro Inner North JDAP Meetings of which she is a member, as appointed by Council, and as a consequence, there may be a perception that her impartiality on the matters may be affected. Councillor Smyth declared that she would consider this matter on its merits and vote accordingly.

**4.2 Councillor Bennett – Item 6 – Lot 689 (5) Hillway, Nedlands – 10 Multiple Dwellings**

Councillor Bennett disclosed an impartiality interest in Item 6 - Lot 689 (5) Hillway, Nedlands – 10 Multiple Dwellings. Councillor Bennett disclosed that he is a family friend of Mr & Mrs Edis who are neighbours of the development, and as a consequence, there may be a perception that his impartiality on the matter may be affected. Councillor Bennett declared that he would consider this matter on its merits and vote accordingly.

**4.3 Mayor de Lacy – Item 6 – Lot 689 (5) Hillway, Nedlands – 10 Multiple Dwellings**

Mayor de Lacy disclosed an impartiality interest in Items 6 - Lot 689 (5) Hillway, Nedlands – 10 Multiple Dwellings. Mayor de Lacy disclosed that these matters will be before the Metro Inner North JDAP Meetings of which she is a member, as appointed by Council, and as a consequence, there may be a perception that her impartiality on the matters may be affected. Councillor Mayor de Lacy that she would consider this matter on its merits and vote accordingly.

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

Nil.

6. **Lot 689 (5) Hillway, Nedlands – 10 Multiple Dwellings**

<b>Council</b>	19 May 2020
<b>Applicant</b>	Element
<b>Landowner</b>	Yi-Jin Kuok
<b>Director</b>	Peter Mickleson – Director Planning & Development
<b>Employee Disclosure under section 5.70 Local Government Act 1995</b>	Nil
<b>Report Type</b>  Information Purposes	Item provided to Council for information purposes.
<b>Reference</b>	DA 20-43894 (DAP/20/01741)
<b>Previous Item</b>	Nil
<b>Delegation</b>	Not applicable – Joint Development Assessment Panel application.
<b>Attachments</b>	1. Responsible Authority Report and Attachments – available at: <a href="https://www.dplh.wa.gov.au/about/development-assessment-panels/daps-agendas-and-minutes">https://www.dplh.wa.gov.au/about/development-assessment-panels/daps-agendas-and-minutes</a>

**Councillor Smyth – Impartiality Interest**

Councillor Smyth disclosed that these matters will be before the Metro Inner North JDAP Meetings of which she is a member, as appointed by Council, and as a consequence, there may be a perception that her impartiality on the matters may be affected. Councillor Smyth declared that she would consider this matter on its merits and vote accordingly.

**Councillor Bennett – Impartiality Interest**

Councillor Bennett disclosed that he is a family friend of Mr & Mrs Edis who are neighbours of the development, and as a consequence, there may be a perception that his impartiality on the matter may be affected. Councillor Bennett declared that he would consider this matter on its merits and vote accordingly.

**Mayor de Lacy – Impartiality Interest**

Mayor de Lacy disclosed that these matters will be before the Metro Inner North JDAP Meetings of which she is a member, as appointed by Council, and as a consequence, there may be a perception that her impartiality on the matters may be affected. Councillor Mayor de Lacy that she would consider this matter on its merits and vote accordingly.

**Regulation 11(da) – Not Applicable – Recommendation adopted with additional reasons for refusal being included as agreed by Council.**

Moved – Councillor Coghlan  
Seconded – Councillor Mangano

**That the Recommendation to Council be adopted subject to:**

- 1. Amends clause 2 as follows:**
- 2. after the words “agrees to” add the words “appoints Councillor Coghlan be appointed to coordinate the Council’s submission and presentation to the Metro Inner-North JDAP and”;**
- 3. Amends clause 2a as follows:**  
  
**after the word “Framework” add the words “as applicable to this particular Development Application.”**
- 4. Amends clause 2c as follows:**  
  
**after the words “refusal” add the words “including excessive overshadowing of R60 zoned property to the south, significant visual privacy impacts internal and external to the site, lack of building separation at Level 6 and poor public domain interface with car parking prioritised over dwellings at Levels 1 and 2, lack of comprehensive context analysis and lack of deep soil landscaping.”; and**
- 5. Councillor Coghlan be appointed to coordinate the Council’s submission and presentation to the MINJDAP.**
- 6. removes the words “and conditions in the case of approval”**

Amendment

Moved - Councillor Horley  
Seconded - Councillor Mangano

**That the additional reasons for refusal be added as follows:**

- 1. inappropriate bulk and scale;**
- 2. impact on street scape and amenity of the surrounding neighbourhood; and**
- 3. does not meet the objectives of the mixed use zone.**

**The AMENDMENT was PUT and was**

**CARRIED UNANIMOUSLY 12/-**

**The Substantive Motion was PUT and was  
CARRIED UNANIMOUSLY 12/-**

### **Council Resolution**

**That Council:**

- 1. notes the Responsible Authority Report for the proposed 10 Multiple Dwelling development at Lot 689 (No.5) Hillway, Nedlands; and**
- 2. agrees to appoint Councillor Coghlan to be appointed to coordinate the Council's submission and presentation to the Metro Inner-North JDAP that will:**
  - a. inform the Panel of the current status of the City's Planning Framework as applicable to this particular Development Application;**
  - b. express the view of Council majority, regarding the current development application at 5 Hillway, Nedlands; and**
  - c. provide specific reasons in the case of refusal, including excessive overshadowing of R60 zoned property to the south, significant visual privacy impacts internal and external to the site, lack of building separation at Level 6, poor public domain interface with car parking prioritised over dwellings at Levels 1 and 2, lack of comprehensive context analysis, lack of deep soil landscaping, inappropriate bulk and scale, impact on street scape and amenity of the surrounding neighbourhood and does not meet the objectives of the mixed use zone.**

### **Recommendation to Council**

**That Council:**

- 1. notes the Responsible Authority Report for the proposed 10 Multiple Dwelling development at Lot 689 (No.5) Hillway, Nedlands;**
- 2. agrees to send a submission letter to the Metro Inner-North JDAP that will:**
  - a. inform the Panel of the current status of the City's Planning Framework;**
  - b. express the view of Council majority, regarding the current development application at 5 Hillway, Nedlands; and**
  - c. provide specific reasons in the case of refusal, and conditions in the case of approval.**



## **1.0 Executive Summary**

In accordance with the Planning and Development (Development Assessment Panels) Regulations 2011, Administration have prepared a Responsible Authority Report (RAR) in relation to the revised plans received on 4 May 2020 for the Joint Development Assessment Panel (JDAP) Form 1 Application at 5 Hillway, Nedlands. The application proposes the development of a six storey building comprising ten apartments.

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

## **2.0 Background**

The City originally received the JDAP application for 5 Hillway, Nedlands on 15 January 2020. The 6 storey building will comprise 10 multiple dwellings (apartments) of 2-3 bedrooms. The first two levels of the building are utilised for vehicle parking and utilities. The site is located at the edge of the Mixed Use R-AC3 zone and abuts Residential R60 zoned land on two sides to the southwest and northwest.

Revised plans were received in April and again on 4 May 2020 that take into account the recommendations of the applicant-arranged Design Review Panel. This approach was taken by the applicant to respond to the comments received during the City's architectural Design Review. Administration has not completed the RAR, with this lodged on 14 May 2020. The Metro Inner-North Joint Development Assessment Panel will consider the application on 22 May 2020.

## **3.0 Application Details**

The applicant seeks development approval for a residential development comprising 10 multiple dwellings over 4 storeys, with 2 parking levels. The building is proposed as follows:

Basement (Level 1)

- Entry lobby
- Eight (8) resident parking bays
- One (1) visitor bicycle space
- Two (2) visitor parking bays
- Two bin storage rooms and hard/bulky waste storage
- Four (4) 8m<sup>2</sup> storerooms
- Pump room and tanks

#### Level 2

- Fourteen (14) resident parking bays
- 15m<sup>2</sup> bicycle storeroom
- Three (3) 7m<sup>2</sup> storerooms
- One (1) 9m<sup>2</sup> storeroom
- Two (2) 11m<sup>2</sup> storerooms
- Toilet and cleaner room

#### Level 3

- Two (2) 2 Bedroom apartments
- One (1) 3 Bedroom apartment meeting Silver Level standard of the Liveable Housing Design Guidelines with private courtyard and swimming pool
- 82m<sup>2</sup> deep soil planting area
- Landscaping areas over the Level 3 slab

#### Level 4

- Two (2) 2 Bedroom apartments
- One (1) 3 Bedroom apartment meeting Silver Level standard of the Liveable Housing Design Guidelines

#### Levels 5 and 6

- Two (2) 3 Bedroom apartments on each floor

### **4.0 Consultation**

The City's Local Planning Policy – Consultation of Planning Proposals states that the development proposal for mixed use development including multiple dwellings is classified as a Complex Application. In accordance with the policy, the original application was advertised for a period of 21 days commencing on 31 January 2020 and concluding 21 February 2020. At the conclusion of advertising, the City received 167 submissions, being 165 objections to the proposal, 1 submission in support and 1 submission providing conditional support.

As per the requirements of the City's Local Planning Policy – Consultation of Planning Proposals, the amended plans received in April 2020 were not publicly advertised as they proposed minor changes only that did not impact on the overall development intent or effect on adjoining properties.

## **5.0 Recommendation to JDAP**

The assessment of the development against the element objectives of the R-Codes Volume 2 identified a significant number of non-conformances. These are outlined below:

- Building height
- Setbacks
- Plot ratio / bulk
- Building separation
- Overshadowing
- Visual privacy
- Solar access / daylight
- Natural ventilation
- Public domain interface
- Pedestrian access and entries
- Car and bicycle parking
- Façade design
- Roof design

In addition to the above, the development is considered not to meet a number of aims and objectives of Local Planning Scheme No.3 (LPS 3). It is also considered not to meet a number of objectives of the Mixed Use zone.

Consequently, the proposal was recommended for refusal.

## **6.0 Conclusion**

The proposed development at 5 Hillway, Nedlands is located on the outer edge of the Mixed-Use R-AC3 zone. It abuts Residential R60 properties to the southwest (side) and northwest (rear). The building as proposed does not allow for appropriate transitioning to the lower density code. The impacts on the property to the southwest are considered to be significant, particularly in relation to overshadowing and height and bulk.

It is recommended that Council supports the Administration's recommendation of refusal.

**Declaration of Closure**

There being no further business, the Presiding Member declared the meeting closed at 6.47 pm.