



City of Nedlands

Minutes

Special Council Meeting 20 October 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.

Table of Contents

Declaration of Opening	3
Present and Apologies and Leave of Absence (Previously Approved)	3
1. Public Question Time	4
1.1 Mrs Robyn Hancock, 66 Kingsway, Nedlands.....	4
2. Addresses by Members of the Public.....	5
3. Disclosures of Financial Interest	5
4. Disclosures of Interests Affecting Impartiality.....	5
4.1 Councillor Smyth – Item 6 - Responsible Authority Report for a Mixed Use Development (29 Multiple Dwellings and Office use) at 137 and 139 Broadway, Nedlands	5
4.2 Councillor Wetherall – Item 6 - Responsible Authority Report for a Mixed Use Development (29 Multiple Dwellings and Office use) at 137 and 139 Broadway, Nedlands.....	6
5. Declarations by Members That They Have Not Given Due Consideration to Papers.....	6
6. Responsible Authority Report for a Mixed Use Development (29 Multiple Dwellings and Office use) at 137 and 139 Broadway, Nedlands	7
Declaration of Closure	12

City of Nedlands

Minutes of a Special Meeting of Council held at 5:30 pm on Tuesday 20 October 2020 at Adam Armstrong Pavilion, Beatrice Road, Dalkeith for the purpose of considering Responsible Authority Report for a Mixed Use Development (29 Multiple Dwellings and Office use) at 137 and 139 Broadway, Nedlands and any available Responsible Authority Reports.

Declaration of Opening

The Presiding Member declared the meeting open at 5.30 pm and drew attention to the disclaimer below.

Present and Apologies and Leave of Absence (Previously Approved)

Councillors	Deputy Mayor L J McManus	(Presiding Member)
	Councillor K A Smyth (from 5.39 pm)	Coastal Districts Ward
	Councillor F J O Bennett	Dalkeith Ward
	Councillor A W Mangano	Dalkeith Ward
	Councillor N R Youngman (from 5.37 pm)	Dalkeith Ward
	Councillor B G Hodsdon	Hollywood Ward
	Councillor P N Poliwka	Hollywood Ward
	Councillor J D Wetherall	Hollywood Ward
	Councillor R A Coghlan	Melvista Ward
	Councillor R Senathirajah	Melvista Ward

Staff	Mr M A Goodlet	Chief Executive Officer
	Mr P L Mickleson	Director Planning & Development
	Mr J Duff	Director Technical Services
	Mrs N M Ceric	Executive Assistant to CEO & Mayor

Public There were 28 members of the public present and 2 online.

Press Nil.

Leave of Absence (Previously Approved)	Mayor, C M de Lacy	
	Councillor N B J Horley	Coastal Districts Ward

Apologies	Councillor G A R Hay	Melvista Ward
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Disclaimer

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

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1. Public Question Time

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

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

1.1 Mrs Robyn Hancock, 66 Kingsway, Nedlands

Question

The community is at a complete loss as to what more we can do to try and save what is left of the Nedlands's suburb can you please advise what more we can do as a community? We have made submissions, we have campaigned we have had meetings with everyone who will listen to us and still nothing has been achieved Over the last 18 months, we are hindered at every turn. Are we wasting our time because that is how it feels?

Answer

As indicated in the Local Planning Strategy the Council of the day preferred that the additional dwellings required by the State Government should be concentrated adjacent to transport corridors rather than spread throughout the whole City. This wish of Council was reflected in LPS3 in that up-coded areas represent a minor proportion of "developable" land within the City and are, in the main, located on transport corridors.

The Council met with the Chair of the WAPC in late September where he stated " LPS3 is fundamentally appropriate to guide future development and land use in the City." The Chair invited the City to work with the Department of Planning, Lands and Heritage to develop a program of work to support the implementation of LPS3. This work has begun with an initial brief held with Council prior to formal consideration in November.

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

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

Mr Ian Love, 70 Kingsway, Nedlands
(spoke in opposition to the recommendation)

Item 6

Councillor Youngman joined the meeting at 5.37 pm.

Councillor Smyth joined the meeting at 5.39 pm.

3. **Disclosures of Financial Interest**

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

There were no disclosures affecting impartiality.

4. **Disclosures of Interests Affecting Impartiality**

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

4.1 **Councillor Smyth – Item 6 - Responsible Authority Report for a Mixed Use Development (29 Multiple Dwellings and Office use) at 137 and 139 Broadway, Nedlands**

Councillor Smyth disclosed an impartiality interest in Item 6- Responsible Authority Report for a Mixed Use Development (29 Multiple Dwellings and Office use) at 137 and 139 Broadway, Nedlands. Councillor Smyth disclosed that she is a Ministerial appointee and paid member of the MINJDAP that will be considering this item at a meeting scheduled for 20th October 2020. As a consequence, there may be a perception that her impartiality on the matter may be affected. In accordance with recent legal advice from McLeods released to the local government sector in relation to a recent Supreme Court ruling, Councillor Smyth advised she would not stay in the room and debate the item, or vote on the matter.

4.2 Councillor Wetherall – Item 6 - Responsible Authority Report for a Mixed Use Development (29 Multiple Dwellings and Office use) at 137 and 139 Broadway, Nedlands

Councillor Wetherall disclosed an impartiality interest in Item 6 - Responsible Authority Report for a Mixed Use Development (29 Multiple Dwellings and Office use) at 137 and 139 Broadway, Nedlands. Councillor Wetherall disclosed that he is a Ministerial appointee and paid member of the MINJDAP that will be considering this item at a meeting scheduled for 27th October 2020. As a consequence, there may be a perception that his impartiality on the matter may be affected. In accordance with recent legal advice from McLeods released to the local government sector in relation to a recent Supreme Court ruling, Councillor Wetherall advised he would not stay in the room and debate the item, or vote on the matter.

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

Nil.

6. Responsible Authority Report for a Mixed Use Development (29 Multiple Dwellings and Office use) at 137 and 139 Broadway, Nedlands

Council	Special Council Meeting 20 October 2020
Applicant	Element Advisory Pty Ltd
Landowner	97 SPE Pty Ltd and Great Oneness Pty Ltd
Director	Peter Mickleson – Director Planning & Development
Employee Disclosure under section 5.70 Local Government Act 1995	Nil
Report Type	Item provided to Council for information purposes.
Information Purposes	
Reference	DA20-50855 (DAP/20/01819)
Previous Item	Nil
Delegation	Not applicable – Joint Development Assessment Panel application.
Attachments	1. Responsible Authority Report and Attachments – available at: https://www.dplh.wa.gov.au/about/development-assessment-panels/daps-agendas-and-minutes

Councillor Smyth & Councillor Wetherall left the meeting at 5.45 pm.

Councillor Smyth – Impartiality Interest

Councillor Smyth disclosed that she is a Ministerial appointee and paid member of the MINJDAP that will be considering this item at a meeting scheduled for 20th October 2020. As a consequence, there may be a perception that her impartiality on the matter may be affected. In accordance with recent legal advice from McLeods released to the local government sector in relation to a recent Supreme Court ruling, Councillor Smyth advised she would not stay in the room and debate the item, or vote on the matter.

Councillor Wetherall – Impartiality interest

Councillor Wetherall disclosed that he is a Ministerial appointee and paid member of the MINJDAP that will be considering this item at a meeting scheduled for 27th October 2020. As a consequence, there may be a perception that his impartiality on the matter may be affected. In accordance with recent legal advice from McLeods released to the local government sector in relation to a recent Supreme Court ruling, Councillor Wetherall advised he would not stay in the room and debate the item, or vote on the matter.

Regulation 11(da) - Council determined that it believed the application should be refused for the reasons set out in the resolution.

Moved – Councillor Coghlan

Seconded – Councillor Youngman

Council Resolution

That Council:

- 1. notes the Responsible Authority Report for the proposed mixed-use development comprising 29 multiple dwellings and an office at Lots 685 and 686 (Nos 137 and 139) Broadway, Nedlands;**
- 2. agrees to appoint Councillor Youngman and Councillor Mangano to coordinate Council's submission and presentation to the Metro Inner-North JDAP at 9am on 27 October 2020;**
- 3. does not support approval of the development and recommends refusal; and**
- 4. provides the following reasons for the Council's position on the application:**
 - a. the proposal is out of character with the locality, would cause unacceptable adverse amenity impacts and the building design is sub-optimal;**
 - b. the proposal does not satisfy the aims of the Scheme nor the matters to be considered under the Deemed Provisions clause 67;**
 - c. the proposal exceeds the intent of the City's Local Planning Strategy, does not satisfy the City's adopted *Local Planning Policy: Interim Built Form Design Guidelines, Broadway Mixed Use Zone*, is inconsistent with the City's proposed *Scheme Amendment No. 7*, and the City's *local distinctiveness study, context analysis and built form modelling* work has not been taken into account;**
 - d. a large number of 133 submissions objecting to the proposal were received, which are relevant, valid and have not been adequately taken into consideration;**
 - e. overall, the proposal is contrary to orderly and proper planning and to the direction being pursued by the City to address the local planning framework to better guide and manage development outcomes;**

- f. **the building as presently designed exceeds the default height for buildings of this zoning;**
 - g. **the design is not sufficient to justify the additional storey; and**
 - h. **impact of the dewatering on the stormwater system.**
5. **in the event of approval that the balustrades be made of frosted glass or other opaque materials.**

CARRIED UNANIMOUSLY 8/-

Recommendation to Council

That Council:

1. notes the Responsible Authority Report for the proposed Mixed Use development comprising of 29 multiple dwelling and office use at Lots 685 and 686 (Nos. 137 and 139) Broadway, Nedlands;
2. agrees to appoint Councillor (insert names) and Councillor (insert names) to coordinate the Council's submission and presentation to the Metro Inner-North JDAP;
3. does/does not (remove one) support approval of the development; and
4. provides the following reasons for the Council's position on the application:
 - a. ...
 - b. ...

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 mixed use development at Lots 685 and 686 (Nos. 137 and 139) Broadway, Nedlands (the subject site) received on 13 July 2020.

Revised plans were received on 17 September 2020 addressing landscaping, waste management and the acoustic report.

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

Background

On 13 July 2020, the City received a development application for mixed use development comprising of 29 multiple dwellings and an office use at Lots 685 and 686 (Nos. 137 and 139) Broadway, Nedlands which is to be determined by the Metro-Inner North Joint Development Assessment Panel. The subject site is zoned 'Mixed Use' and has a density coding of R-AC3.

The City submitted the Responsible Authority Report (RAR) on 16 October 2020, recommending that the JDAP approve the application. A copy of the RAR and associated documents are attached to this report.

Consideration of the RAR by the JDAP is scheduled for 27 October 2020.

Application Details

Development approval is sought for the construction of a six (6) storey mixed use development comprising 29 residential apartments and an office tenancy located at the subject site. The proposal can be summarised as follows:

- 29 multiple dwellings broken down as follows:
 - 14 x two-bedroom apartments
 - 15 x three-bedroom apartments
- A total of 67 resident car parking bays, 6 visitor car parking bays and 4 office car parking bays.
- 84m² commercial office tenancy fronting Broadway.
- 73.8m² resident communal space

Consultation

The application was advertised in accordance with the requirements of a 'Complex' application as per City's Local Planning Policy – Consultation of Planning Proposals which included the following:

- 405 letters were sent to all City of Nedlands and City of Perth landowners and occupiers within a 200m radius of the subject site;
- A sign on site was installed at the frontage of the site for the advertising period;
- An advertisement was uploaded to 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;
- A notice was affixed to the City's Noticeboard at the City's Administration Offices; and
- A community information session was held on 10 August 2020 and attended by 10 residents.

Administration received a total of 136 submissions during the public consultation period, of which 3 submissions were in support of the application and the remaining 133 submissions objected to the proposal. A total of 38 submissions (38 objections and 0 support) were received from within a 200m radius of the site.

A comprehensive list of issues raised during advertising including an officer and applicant response, is contained as Attachment 1.

Recommendation to JDAP

The proposed mixed use development is considered to be consistent with the local planning framework and the relevant elements of the R-Codes Volume 2. For this reason, Administration is recommending the application be approved subject to conditions.

Conclusion

Administration have prepared a RAR to the Metro Inner-North Joint Development Assessment Panel recommending conditional approval for the mixed use development at Lots 685 and 686 (Nos. 137 and 139) Broadway, Nedlands.

Council may wish to make a submission on the application to the Panel. This submission will be presented to the Panel for consideration at its meeting on 27 October 2020.

Declaration of Closure

There being no further business, the Presiding Member declared the meeting closed at 6.24 pm.