



City of Nedlands

Minutes

Special Council Meeting

20 August 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
2. Addresses by Members of the Public.....	4
3. Disclosures of Financial and/or Proximity Interest	4
4. Disclosures of Interests Affecting Impartiality.....	5
5. Declarations by Members That They Have Not Given Due Consideration to Papers.....	5
6. Lot 531 (No. 79) and Lot 532 (No. 81) Broadway, Nedlands	6
Declaration of Closure	12

City of Nedlands

Minutes of a Special Meeting of Council held online via Teams and livestreamed for the public and onsite in the Council Chambers, 71 Stirling Highway, Nedlands (Councillors Only) on Thursday 20 August 2020 at 6.00 pm for the purpose considering the Responsible Authority Report for 79-81 Broadway, Nedlands.

Declaration of Opening

The Presiding Member declared the meeting open at 6.04 pm and drew attention to the disclaimer below.

Present and Apologies and Leave of Absence (Previously Approved)

Councillors	Her Worship the Mayor, C M de Lacy	(Presiding Member)
	Councillor F J O Bennett	Dalkeith Ward
	Councillor A W Mangano	Dalkeith Ward
	Vacant	Dalkeith
	Councillor B G Hodsdon	Hollywood Ward
	Councillor P N Poliwka	Hollywood Ward
	Councillor J D Wetherall	Hollywood Ward
	Councillor R A Coghlan (from 6.14 pm)	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

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

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

Leave of Absence (Previously Approved) Nil.

Apologies Nil.

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 acting on any matter that they may have before Council.

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

1. Public Question Time

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

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

Nil.

2. Addresses by Members of the Public

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

Mr Tom Blackwell, 10 Kingsway, Nedlands
(spoke in support of the recommendation)

Item 6

3. Disclosures of Financial and/or Proximity Interest

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

There were no disclosures of financial interest.

4. Disclosures of Interests Affecting Impartiality

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

4.1 Councillor Smyth – Item 6- Lot 531 (No. 79) and Lot 532 (No. 81) Broadway, Nedlands

Councillor Smyth disclosed an impartiality interest in Item 6, Lot 531 (No. 79) and Lot 532 (No. 81) Broadway, Nedlands. 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 these matters on their merits and vote accordingly.

4.2 Councillor Mayor de Lacy – Item 6- Lot 531 (No. 79) and Lot 532 (No. 81) Broadway, Nedlands

Mayor de Lacy disclosed an impartiality interest in Item 6 - Item 6- Lot 531 (No. 79) and Lot 532 (No. 81) Broadway, Nedlands. 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. Mayor de Lacy declared that she would consider these matters on their merits and vote accordingly.

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

Nil.

6. Lot 531 (No. 79) and Lot 532 (No. 81) Broadway, Nedlands

Council	20 August 2020
Applicant	Element
Landowner	Bhy Holdings Pty Ltd
Director	Peter Mickleson – Director Planning & Development
Employee Disclosure under section 5.70 Local Government Act 1995	Nil
Report Type	
Information Purposes	Item provided to Council for information purposes.
Reference	DAP/20/01783
Previous Item	Nil
Delegation	Not applicable – Joint Development Assessment Panel application.
Attachments	1. Responsible Authority Report and Attachments – available at: https://www.dplh.wa.gov.au/about/development-assessment-panels/daps-agendas-and-minutes

Regulation 11(da) – Not Applicable – Recommendation Adopted with minor change to provide reasons for Council not supporting the development.

Moved – Councillor Mangano
Seconded – Councillor Hay

Council Resolution

That Council:

1. notes the Responsible Authority Report for the proposed 34 Mixed Use Development comprising of 34 Multiple Dwellings and a Shop at Lot 531 (No.79) and Lot 532 (No.81) Broadway, Nedlands;
2. agrees to appoint Councillor Hay and Councillor Coghlan to coordinate the Council's submission and presentation to the Metro Inner-North JDAP;
3. does not support approval of the development; and

- 4. provides the following reasons for the Council's position on the application;**
- a. The reasons listed in the RAR report; and**
 - b. Significant amenity impacts on the neighbours.**

Councillor Coghlan joined the meeting at 6.14 pm.

Amendment

Moved - Councillor McManus

Seconded - Councillor Hay

That clause 2 & 4 be deleted and in clause 3 after the word "and" add the words "fully supports the RAR from the City's Administration."

The AMENDMENT was PUT and was

Lost on the Casting Vote 6/7
(Against: Mayor de Lacy Crs. Horley Smyth
Bennett Mangano & Coghlan)

Put Motion

Moved - Councillor Hay

Seconded - Councillor McManus

That the Motion be put.

CARRIED ON THE CASTING VOTE 7/6
(Against: Crs. Horley Smyth Bennett Mangano Wetherall & Coghlan)

The Original Motion was PUT and was

CARRIED UNANIMOUSLY 12/-

Recommendation to Council

That Council:

1. notes the Responsible Authority Report for the proposed 34 Mixed Use Development comprising of 34 Multiple Dwellings and a Shop at Lot 531 (No.79) and Lot 532 (No.81) Broadway, Nedlands;
2. agrees to appoint Councillor and Councillor to coordinate the Council's submission and presentation to the Metro Inner-North JDAP;

3. does / Does not (delete one) support approval of the development; and
4. provides the following reasons for the Council's position on the application;
 - a. The reasons listed in the RAR report;
 - b.
 - c.

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 24 July 2020 for the Metro-Inner North Joint Development Assessment Panel (JDAP) Form 1 Application at Lots 531 (No.79) and Lot 532 (No.81) Broadway, Nedlands. The application proposes the development of a seven storey multiple dwelling development, comprising of 34 apartments and a shop tenancy at ground level.

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

2.0 Background

The City received the JDAP application for Lot 531 (No.79) and Lot 532 (No.81) Broadway, Nedlands on 19 May 2020. The subject lot is zoned 'Mixed Use' and has a density code of R-AC3.

During the assessment period, the City Administration raised several concerns with the applicant regarding the design of the development primarily related to height, bulk, scale, building separation at Levels 4,5 & 6, visual privacy considerations and setbacks and its response to the local area and neighbouring R60 coded sites to the west. The applicant prepared amended plans and revised technical documents on the 24 July 2020, however, for the large part have remained unchanged.

In addition to the above, the applicant has provided another set of amended plans on the 12 & 13 August 2020. These modifications primarily relate to additional screening measures to address visual privacy concerns. Due to the timing, the City was unable to adequately assess these revisions in detail and they have therefore not been considered as the final attachment. It is generally noted however, that the screening measures are secondary to the City's primary concerns regarding height, plot ratio, building separation and setbacks.

The City submitted the RAR on the 17 August 2020, recommending that the JDAP refuse the application. A copy of the revised RAR and revised plans are attached to this report for your reference.

3.0 Application Details

Development approval is sought for the construction of a seven (7) storey mixed use development comprising 34 residential apartments and a shop tenancy located at Lot 531 (No.79) and Lot 532 (No.81) Broadway, Nedlands. The proposal can be summarised as follows:

- The proposed dwelling mix includes 20 x three-bedroom apartments and 14 x two-bedroom apartments. Apartment sizes vary from 93m² to 139m² in addition to balcony areas ranging from 19m² to 68m² for each apartment;
- The development proposes seven (7) storeys with an additional roof top terrace for communal amenities for residents. The height from the top of the seventh storey is 24.6m and a total height of 27.9m measured from the top of the roof top terrace at the relative natural ground level;
- 1 shop tenancy comprising of 90m² and located at ground level. The length of the tenancy parallel to Broadway is 14m with a maximum depth of 7m;
- Vehicle access is via Broadway located north-east of the subject lot;
- Parking is provided within the basement level, lower ground and upper ground levels and includes a total of 77 residential parking bays and 7 bays allocated for both visitors and commercial tenancy in a reciprocal arrangement and 1 ACROD bay;
- A total of 34 bicycle racks are proposed for each apartment and located within each storeroom, with an additional 20 bicycle racks located at the lower ground level designated for resident and commercial visitors and an additional 2 bicycle bays provided for the commercial tenancy outside the tenancy; and
- A total of 5 motorcycle bays are proposed within the basement level; and
- Deep soil area and landscaping is proposed predominately to the rear of the subject site with planting on structure throughout the development

4.0 Consultation

The City's Local Planning Policy – Consultation of Planning Proposals states that the

development proposal for multiple dwellings is classified as a “Complex” Application. In accordance with this policy, the application was advertised for a period of 21 days from 6 June 2020 until 27 June 2020. At the conclusion of advertising the City received a total of 228 submissions, with 14 in support, 213 objecting and 1 whom neither supports or objects.

As per the requirements of the City’s Local Planning Policy – Consultation of Planning Proposals, the amended plans received on the 24 July 2020 and 13 & 14 August 2020 were not publicly advertised as they proposed no additional impacting modifications to the original plans. However, the plans were placed on the City’s Your Voice page for the information of interested residents, providing an opportunity for review with comments likely to be presented via deputations to the JDAP.

5.0 Amendments to the Development Application Plans

The applicant submitted revised plans and technical information on 24 July 2020 that differed from the plans as advertised. Those modifications to plans are summarised below:

- The car parking space adjacent to the front lot boundary at ground level has been removed and replaced with a low-level planter;
- The gate into the car parking area at ground level has been relocated west to address queuing issues and potential conflict with pedestrians at peak hours;
- One (1) additional car parking bay is proposed to be allocated to the commercial tenancy and residential visitor car parking bay. A total of 8 bays have been proposed inclusive of one (1) ACROD bay. Car parking bay widths have been increased to 2.6m;
- Signage zone is shown on the plans and has been incorporated within the aesthetics of the building; and
- Modification to Level 6 (Storey 7) roof material and darker colour has been incorporated to reduce its visual prominence as viewed from the street.

Additional and/or amended technical and supporting information was also provided:

1. Revised Development Application Report, Justification and Plans (version 2)
2. Additional Photomontage renders of the development as viewed from the rear and primary street
3. Long range views from inside the apartments (version 1)
4. Setback Average Sectional Detail (version 1)
5. Overshadowing Diagrams (version 1)
6. Revised Solar Access Diagrams (version 2)
7. Revised Landscape Plan (version 2)
8. Revised Traffic Impact Statement (version 2)
9. Revised Acoustic Assessment (version 3)

10. Revised Waste Management Plan (version 2)

6.0 Recommendation to JDAP

The City considers that several Element Objectives and Acceptable Outcomes are not achieved and has a number of concerns regarding the development and its provision of amenity for surrounding landowners and future residents. The cumulative impact of the unresolved elements of the proposed development primarily include:

- The height of 7-storeys is inconsistent with the future scale of an R-AC3. The height presents as a 6-storey interface to the adjoining R60 coded lots and between 7-8 storeys as viewed from Broadway;
- The minimum nil street setbacks from Upper Ground onwards does not adequately align with the future character expectations;
- Reduced building separation from Levels 4,5 & 6 does not provide for adequate setbacks that adequately align with the future character expectations and protection of internal and external amenity;
- The plot ratio of 2.49 does not align with an R-AC3 code or 'mid-rise urban centre'. It is representative of a R-AC2 or 'high density urban centre'; and
- Subsequent impacts to visual privacy, extent of overshadow and amenity.

This indicates that the proposal does not fit comfortably within the building envelope (to the extent this can be determined); that the massing of the buildings is not suitable, and as such the proposal is considered to represent over development of the site. Consequently, it is considered that the overall bulk and scale of development is not appropriate for the existing or planned character of the area.

7.0 Conclusion

The City received the JDAP application for Lot 531 (No.79) and Lot 532 (No.81) Broadway, Nedlands on 19 May 2020. The subject lot is zoned 'Mixed Use' and has a density code of R-AC3.

Administration is not satisfied that the applicant has adequately resolved the development issues discussed in this report.

Declaration of Closure

There being no further business, the Presiding Member declared the meeting closed at 6.43 pm.