



City of Nedlands

Minutes

Special Council Meeting

5 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 in the Council chambers, Nedlands on Tuesday 5 May 2020 at 5.30 pm for the purpose of considering Responsible Authority Reports for 17-19 Louise Street Nedlands, 13 Vincent Street Nedlands and any other Responsible Authority Reports.

Declaration of Opening

The Presiding Member declared the meeting open at 5.32 pm and drew attention to the disclaimer below.

Present and Apologies and Leave of Absence (Previously Approved)

Councillors	Her Worship the Mayor, C M de Lacy	(Presiding Member)
	Councillor F J O Bennett	Dalkeith Ward
	Councillor A W Mangano	Dalkeith Ward
	Councillor B G Hodsdon	Hollywood Ward
	Councillor P N Poliwka	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 K A Smyth	Coastal Districts 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 A maximum of 27 persons logged into the live stream of the proceedings.

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

Apologies Councillor L J McManus Coastal Districts Ward
Councillor J D Wetherall Hollywood Ward
Mrs L M Driscoll Director Corporate & Strategy

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.

1.1 Miss Katie Bourke, 14 Loftus Street, Nedlands

Questions re: 97-105 Stirling Highway development application:

Question 1

Why has this major proposal, which must be the biggest ever for Nedlands, been assigned such a low level of community consultation by the City?

Answer 1

Community consultation is carried out in accordance with Statutory requirements and the additional requirements set by Council in its Consultation Local Planning Policy.

Question 2

Does Council appreciate how large and complicated the proposal is and the huge impacts it would have over a wide area?

Answer 2

Yes.

Question 3

What is Council doing to deal effectively with this matter as a top priority?

Answer 3

Development applications are required to be assessed in accordance with statutory provisions and timeframes. This application will be processed in accordance with these requirements.

Question 4

What special arrangements will Council make to ensure that it has the planning controls, expertise and resources necessary to address the situation?

Answer 4

The Council currently has a planning framework, planning expertise and resources to process this application.

1.2 Mr Paul Sharman, 37 Boronia Avenue, Nedlands

Questions relating to 97-105 Stirling Highway development application:

Question 1

Is Council aware that this proposed mega development would be extremely disruptive to the locality, causing severe impacts over an extensive area?

Answer 1

Council is aware that a development application has been received.

Question 2

What will Council do to stop Stirling Highway becoming log-jammed, to cut down the domineering scale of the proposal and to prevent major amenity impacts including massive overshadowing and gross overlooking?

Answer 2

The decision maker for this application is the Joint Development Assessment Panel not the Council. The Mayor is meeting with the Minister for Transport to express her concerns with the development and its impacts.

Question 3

As the proposal is surely at odds with Council's strategic planning and with community expectations for the area, will Council begin immediate negotiations with the applicant and State Government bodies to halt the proposal and revisit the planning controls so that such out-of-keeping proposals do not arise?

Answer 3

This is a matter that the Council could consider. The Mayor is meeting with Hon Rita Saffioti on Wednesday 6 May 2020 in regard to this development.

Question 4

For example, will Council mount a much-needed Scheme Amendment to introduce height limits, a Local Development Plan for detailed site development requirements and a Local Planning Policy for design guidance and amenity protection?

Answer 4

The Department of Planning has, in the past, advised that it would not support planning controls to introduce a height limit in the Town Centre Precinct. However, the Town Centre Precinct can address further controls relating to site development and amenity. The Mayor is meeting with Hon Rita Saffioti on Wednesday 6 May 2020 in regard to height.

Question 5

If the application is not put on hold, will Council extend the advertising period to Friday 29 May 2020 and undertake other steps to ensure that the community is fully informed and has ample time to make submissions?

Answer 5

There is no mechanism available to Council to put the development "on hold".

1.3 Ms Emma Rose, 21 Mountjoy Road, Nedlands

Re application for 97 & 105 Stirling Highway:

Question 1

At 301 dwellings is this the largest development application the City of Nedlands has received?

Answer 1

It is the largest mixed-use development received under LPS3.

Question 2

How many days is this development application open for community comment?

Answer 2

The State mandated minimum is 14 days however Council's Consultation Local Planning Policy requires 21 days.

Question 3

How does the length of community comment period compare to other development applications such as 135 Broadway or 18 Cooper Street?

Answer 3

The comment period is the same for all three applications.

Question 4

Given the complexity and size of the application will the Council consider extending the comment period?

Answer 4

The consultation period can only be extended at the request of the applicant.

1.4 Ms Susan Warner, 29 Mountjoy Road, Nedlands

In relation to LPS3, 97-105 Stirling Highway development application and transport infrastructure:

Question 1

Is there any proposal for a new Light Rail system along Stirling Highway?

Answer 1

The City is not aware of any plans for this.

Question 2

If not, has any provision been made for a dedicated Public Transport Corridor along Stirling Highway?

Answer 2

These questions are probably best directed to State if not Federal Government given Stirling Highway is under the care control and management of Main Roads and any light rail proposals is most likely to be planned and funded by both.

Question 3

If not, how does the City propose that residents in the City of Nedlands (which I understand is targeted by LPS3 to increase by at least 50% by 2050) commute along Stirling Highway?

Answer 3

Unknown.

2. Addresses by Members of the Public

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

Mr Arthur Lim, 18 Vincent Street, Nedlands Item 6
(spoke in support of the recommendation)

Mr Andrew Jackson, Unit 3 / 114 Stirling Highway, Nedlands Item 6, 7 & 8
(spoke in support of the recommendations)

Mrs Adrienne Dukes, 15 Vincent Street, Nedlands Item 7
(spoke in support of the recommendation)

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 – Items 6, 7 & 8 - 17-19 Louise Street, Nedlands – 38 x Multiple Dwellings; Lot 17 (No.13) Vincent Street, Nedlands – 15 Multiple Dwellings; 95A Waratah Avenue, Dalkeith – Mixed use Development

Councillor Smyth disclosed an impartiality interest in Items 6, 7 & 8 - Items 6, 7 & 8 - 17-19 Louise Street, Nedlands – 38 x Multiple Dwellings; Lot 17 (No.13) Vincent Street, Nedlands – 15 Multiple Dwellings; 95A Waratah Avenue, Dalkeith – Mixed use Development. 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 Mayor de Lacy – Items 6, 7 & 8 - 17-19 Louise Street, Nedlands – 38 x Multiple Dwellings; Lot 17 (No.13) Vincent Street, Nedlands – 15 Multiple Dwellings; 95A Waratah Avenue, Dalkeith – Mixed use Development

Mayor de Lacy disclosed an impartiality interest in Items 6, 7 & 8 - Items 6, 7 & 8 - 17-19 Louise Street, Nedlands – 38 x Multiple Dwellings; Lot 17 (No.13) Vincent Street, Nedlands – 15 Multiple Dwellings; 95A Waratah Avenue, Dalkeith – Mixed use Development. 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 this matter on its merits and vote accordingly.

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

Nil.

6. 17-19 Louise Street, Nedlands – 38 x Multiple Dwellings

Council	5 May 2020
Applicant	Hillam Architects (Sean van der Poel)
Landowner	Mark Hillam and Ian Phipps
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	DA19-41990 / DAP/19/01699
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 – Impartiality Interest

Councillor Smyth disclosed that this matter 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.

Mayor de Lacy – Impartiality Interest

Mayor de Lacy disclosed that this matter 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 this matter on its merits and vote accordingly.

Regulation 11(da) – Council agree to expand on the recommendation from Administration by providing additional justification to the reasons for refusal.

Moved – Councillor Mangano
 Seconded – Councillor Coghlan

That the Recommendation to Council be adopted subject to the following additions:

That after the first Clause add the following additional clauses:

- 2. agrees to send a submission letter to the 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 particular Development Application (DA); and**
 - c. provide specific reasons in the case of refusal, and conditions in the case of approval.****

- 3. delegates Councillor Coghlan and Councillor Bennett with the assistance of a professional independent planner at approximately \$3000 to advise and coordinate the Council’s submission / presentation for the JDAP in time for the meeting on 12th May 2020; and**

- 4. provides the following Advice Notes listing reasons for refusal as per table below prepared by Councillor Coghlan in addition to those listed in the RAR.**

State Planning Policy 7.3: Residential Design Codes – Vol 2 – Apartments	17 –19 Louise St, Nedlands
-	LPS3 R Code R160
Context and Character	Does not consider the heritage value of the Peace Memorial Rose Gardens. This development could be considered to be more appropriate on Stirling Highway
Landscape Quality	Inadequate deep soil for trees over underground parking
Sustainability	
Functionality and Built Quality	
Community	There will be a roof top garden with a pool which is not ideal as the building is very high.
Amenity	Visual privacy concerns over the entire neighbourhood from the upper storeys, particularly the rooftop.

Legibility	
Built Form and Scale	High, large build in a predominantly single residential setting. Significant over shadowing to the south.
Safety	
Aesthetics	
Additional Points	<ul style="list-style-type: none"> • 38 units in this Apartment build. • No electric vehicle charger • Basement car park should be just to the footprint of the build to protect deep soil trees • Privacy on the west in Vincent street is not protected. • Due to the slope of the land the building particularly impacts' to the SW corner.
Objections	Over 110 objections received
Local Planning Policies	PMRG LPP approved and to be advertised

Amendment

Moved – Councillor Poliwka

Seconded – Mayor de Lacy

That the following words be removed from clause 3:

“with the assistance of a professional independent planner at approximately \$3000 to advise and”

The AMENDMENT was PUT and was

Lost 4/6

(Against: Crs. Bennett Coghlan Hay Horley Mangano Smyth)

The Original Motion was PUT and was

CARRIED UNANIMOUSLY 10/-

Council Resolution

That Council:

- 1. notes the Responsible Authority Report and the matters that must be considered in providing a recommendation to the JDAP for the development application dated 13 November 2019 for 38 x multiple dwellings at No. 17-19 Louise Street, Nedlands;**

2. agrees to send a submission letter to the 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 particular Development Application (DA); and
 - c. provide specific reasons in the case of refusal, and conditions in the case of approval.
3. delegates Councillor Coghlan and Councillor Bennett with the assistance of a professional independent planner at approximately \$3000 to advise and coordinate the Council’s submission / presentation for the JDAP in time for the meeting on 12th May 2020; and
4. provides the following Advice Notes listing reasons for refusal as per table below prepared by Councillor Coghlan in addition to those listed in the RAR.

State Planning Policy 7.3: Residential Design Codes – Vol 2 - Apartments	17 –19 Louise St, Nedlands
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Community	There will be a roof top garden with a pool which is not ideal as the building is very high.
Amenity	Visual privacy concerns over the entire neighbourhood from the upper storeys, particularly the rooftop.
Legibility	
Built Form and Scale	High, large build in a predominantly single residential setting. Significant over shadowing to the south.
Safety	
Aesthetics	
Additional Points	<ul style="list-style-type: none"> • 38 units in this Apartment build. • No electric vehicle charger

	<ul style="list-style-type: none"> • Basement car park should be just to the footprint of the build to protect deep soil trees • Privacy on the west in Vincent street is not protected. • Due to the slope of the land the building particularly impacts' to the SW corner.
Objections	Over 110 objections received
Local Planning Policies	PMRG LPP approved and to be advertised

Recommendation to Council

That Council notes the Responsible Authority Report and the matters that must be considered in providing a recommendation to the JDAP for the development application dated 13 November 2019 for 38 x multiple dwellings at No. 17-19 Louise Street, Nedlands.

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 the 22 April 2020 for the Joint Development Assessment Panel (JDAP) Form 1 Application at 17-19 Louise Street, Nedlands. The application proposes the development of a six storey, 38 x multiple dwelling development and basement parking.

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 17-19 Louise Street on 13 November 2019. The 38 multiple dwelling development is the first application lodged on Louise Street that seeks to develop to the Residential R160 density code requirements since rezoning occurred upon the gazettal of Local Planning Scheme No 3 in April 2019.

The City sought comment from the community during the advertising period which took place between 22 November 2019 and 13 November 2019. Based on the concerns raised during public consultation, internal referral and advice from external consultants the City sent a Request for Further to the applicant on 27 December 2019.

The City received amended plans on 10 March 2020. The City provided feedback on those amended plans which then resulted in a further set of amended plans being received on 22 April 2020. Based on revised plans and supporting information, the City has recommended that the application be refused. A copy of the revised RAR and revised plans are attached to this memo for your reference.

3.0 Application Details

The applicant seeks development approval for 38 multiple dwellings with parking provided at basement level. The building is proposed as follows:

Basement level 2

- 36 x resident car bays
- 8 x resident long bays
- 18 stores
- Rainwater storage
- Bicycle racks

Basement level 1

- 1x 2-bedroom apartment
- Bulk store
- 7 x visitor car bays
- 14 x resident bays
- 8 long resident bays
- 20 storeys
- Pump room bin stores
- Services room

Ground

- 2 x 1-bedroom apartments
- 4 x 2-bedroom apartments
- 3 x 3-bedroom apartments
- Mail room cool room
- Services room

First floor

- 1 x 1-bedroom apartment
- 3 x 2-bedroom apartments
- 5 x 3-bedroom apartments

Second floor

- 2 x 2-bedroom apartments
- 6 x 3-bedroom apartments

Third floor

- 1 x 1-bedroom apartment
- 6 x 3-bedroom apartments

Fourth floor

- 4 x 3-bedroom apartments

Fifth floor

- Gym
- Sauna and steam room
- Communal Dining and lounge rooms
- Raised Pool and deck area

4.0 Consultation

In accordance with the City's Local Planning Policy – Consultation of Planning Proposals, the development proposal is considered a Complex Application. The application was advertised for three weeks, commencing on 22 November 2019, and concluding on 13 December 2019, and consisted of:

- 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 street frontage 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 on 22 November 2019;
- A Social media post was made on one of the City's Social Media platforms on 23 November 2020;
- A notice was affixed to the City's Noticeboard at the City's Administration Offices;
- A community information session was held by City Officers on 5 December 2019, where approximately 80 residents and elected members were present.

Administration received a total of 134 submissions during the public consultation period, of which 24 submissions were in support of the application and the remaining 110 submissions objected to the proposal. Of the submitters who supported the proposal, two lived within a 200m radius of the site, three lived outside that range but within the City of Nedlands and the remaining 19 were not City of Nedlands residents. Of the respondents who objected to the proposal, 52 lived within 200m of the site, 56 lived outside that range but within the City of Nedlands and two lived outside of the City of Nedlands. A schedule of submissions is provided as **Attachment 1**. A summary of the key issues raised in public consultation are tabled below.

5.0 Recommendation to JDAP

That the Metro Inner North Joint Development Assessment Panel resolves to:

1. Refuse DAP Application reference DAP/19/01699 and accompanying plans (Attachment 1 – Development Plans) 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, and pursuant to clause 24(1) and 26 of the Metropolitan Region Scheme for the following reasons:

Reasons

1. In accordance with clause 67(m) Schedule 2 (deemed provisions) of the Planning and Development (Local Planning Schemes) Regulations 2015 (LPS Regulations) and having regard to State Planning Policy 7.3 Residential Design Codes Volume 2 – Apartments, clause 9(a)(c) – Aims of Scheme and clause 16 – Zone objectives in Local Planning Scheme No. 3, the form and scale of the proposed development is incompatible with its setting and future character of the area and will result in unreasonable adverse amenity impacts given that:
 - a. It does not achieve an appropriate building envelope or massing as the development does not adequately satisfy:
 - i. Element 2.2 (Building height) Element Objectives O 2.2.1 and O2.2.4 due to the wall height of the western elevation, extent of overshadowing to the adjoining southern property and location and massing of the fifth floor;
 - ii. Element 2.4 (Side and rear setbacks) Element Objectives O2.4.1, and O2.4.4 as there are insufficient side boundary setbacks provided to maintain proper separation between the proposal and adjoining properties, specifically in relation to the western and southern elevation.
 - iii. Element 2.5 (Plot ratio) Element Objective O2.5.1 as the wall height of the western elevation, wall height of the street interface and relatively blank southern façade all contribute to a bulk and scale that is not consistent with Residential R160; and
 - iv. Element 2.7 (Building separation) Element Objective O2.7.2 and O2.7.3 as further modifications are needed with respect to the western elevation to ensure that the development's separation is proportionate to its height, and the southern elevation requires modification to ensure visual privacy and adequate solar and daylight access at the southern adjoining property.

2. In accordance with clause 67(n) Schedule 2 (deemed provisions) of the Planning and Development (Local Planning Schemes) Regulations 2015 and having regard to State Planning Policy 7.3 Residential Design Codes Volume 2 – Apartments clause 9(a)(c) – Aims of Scheme and clause 16 – Zone objectives in Local Planning Scheme No. 3, the development proposal would negatively impact the streetscape given that the development does not achieve:
 - a. Element 2.2 (Building height) Element Objectives O 2.2.1 due to the five-storey interface to the street;
 - b. Element 2.3 (Street setbacks) Element Objective O2.3.1 as the proposed street setback, design of the building and landscape plan will not reinforce or complement the existing or future landscape character of the street; and
 - c. Element 4.12 (Landscape design) Element Objective O4.12.1 as the Landscape plan prepared by CAPA dated 20 April 2020 features relatively small trees which will not ameliorate the bulk associated with the façade and does not adequately enhance the streetscape.
3. Having regard to State Planning Policy 7.3 Residential Design Codes Volume 2 – Apartments, the development does not meet clause 9(a)(c) – Aims of Scheme and clause 16 – Zone objectives in Local Planning Scheme No. 3 as the development would unreasonably impact the amenity of the adjoining properties and does not achieve:
 - a. Element 3.2 (Orientation) Element Objectives O3.2.2 as the development has not demonstrated that it has minimised the extent of overshadowing of the southern adjoining site and will result in future development at 21 Louise Street having poorer amenity outcomes.
 - b. Element 3.5 – (Visual privacy) Element Objectives 3.5.1 – as the orientation and design of the building and its private open space/balconies do not minimise direct overlooking of the adjoining properties.
4. Having regard to State Planning Policy 7.3 Residential Design Codes Volume 2 – Apartments and clause 9(c) – Aims of Scheme in Local Planning Scheme 3, the development does not maximise the internal amenity of the internal dwellings and does not achieve:
 - a. Element 4.1 (Solar access and daylight) Element objectives O4.1.1 and O4.1.2 as the applicant has not demonstrated that the proposal optimises the number of dwellings receiving winter sunlight or daylight access to habitable rooms.

- b. Element 4.2 (Natural ventilation) Element objectives O4.2.1 and O4.2.2 as the development neither maximises the number of apartments with natural ventilation nor optimise natural ventilation to habitable rooms.
 - c. Element 3.5 (Visual Privacy) Element Objective O3.5.1 as Unit G06 has limited outlook opportunity as it relies on screening to mitigate the visual privacy shortfall.
5. In accordance with clause 67(s)(u) Schedule 2 (deemed provisions) of the Planning and Development (Local Planning Schemes) Regulations 2015 and having regard to State Planning Policy 7.3 Residential Design Codes Volume 2 – Apartments, the applicant has not demonstrated that the proposed circulation areas comply with the relevant Australian Standards to allow the City’s waste trucks to safely access and egress the site. Consequently, the development does not achieve:
- a. Element 3.9 (Car parking) Element objectives O3.9.3 – due to the vehicle access ramp grade being 1:4 in lieu of the required 1:6.5 and a lack of information provided with respect to the basement clearance.
 - b. Element 4.17 (Waste Management) Element objective O4.17.2 – the applicant has not demonstrated that the development can accommodate the City’s waste trucks and no provision has been made for bulk waste collection within the site.

6.0 Conclusion

The City acknowledges the work undertaken by the applicant to date to meet the City’s evolving policy framework which is ongoing. Unfortunately, the City was not afforded enough time to resolve fundamental issues relating to the appropriateness of the current vehicle access ramp grade for the City’s waste vehicles to access and egress.

In its current form, the City is of the view that improvements must be made to the building height along the western elevation, setbacks, building separation and plot ratio in order for it to be compatible with its locality. Approval of the development with a five-storey interface to the street and a minimum 4m street setback will impact the streetscape and set an undesirable precedent. Due to the built form and setting, the development will unreasonably overshadow and overlook adjoining properties, reducing the existing and future amenity outcomes on those lots. Improvements need to be made with respect to solar access and ventilation in order to achieve the high amenity outcomes.

Individually these elements could be capable of support, but cumulatively, they indicate that the development is exceeding its yield potential to the detriment of the streetscape, adjoining properties and internal apartments.

For the reasons cited above, the City recommends the application be refused.

7. **Lot 17 (No.13) Vincent Street, Nedlands – 15 Multiple Dwellings**

Council	5 May 2020
Applicant	Mark Aronson – Maarch
Landowner	Jye Jiun Enterprise 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/20/01744
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 – Impartiality Interest

Councillor Smyth disclosed that this matter 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.

Mayor de Lacy – Impartiality Interest

Mayor de Lacy disclosed that this matter 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 this matter on its merits and vote accordingly.

Regulation 11(da) - Council agree to expand on the recommendation from Administration by providing additional justification to the reasons for refusal.

Moved – Councillor Coghlan
 Seconded – Councillor Mangano

That the Recommendation to Council be adopted subject to the following additions:

That after the first Clause add the following additional clauses:

- 2. agrees to send a submission letter to the 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 particular Development Application (DA); and**
 - c. provide specific reasons in the case of refusal, and conditions in the case of approval.****

- 3. delegates Councillor Coghlan and Councillor Bennett with the assistance of a professional independent planner at approximately \$3000 to advise and coordinate the Council’s submission / presentation for the JDAP in time for the meeting on 11th May 2020; and**

- 4. provides Advice Notes listing reasons for refusal to be coordinated by Councillor Coghlan in addition to those listed in the RAR and in the table below.**

State Planning Policy 7.3: Residential Design Codes – Vol 2 - Apartments	13 Vincent St, Nedlands
	LPS3 R Code 160
Context and Character	Design not in character with surrounding housing. Only the second R160 in the area.
Landscape Quality	Basement carpark may affect deep soil planting
Sustainability	
Functionality and Built Quality	
Community	
Amenity	Doesn’t suit the amenity of the area.
Legibility	Front setback only 2 metres
Built Form and Scale	Unreasonably impacts on neighbours. Overshadowing and privacy concerns
Safety	

Aesthetics	Unreasonable looking shape to the building's roof, using tin whereas most houses are rendered brick and tile.
Additional Points	Car parking – insufficient car bays. Only 15 bays for 15 units Use of waste – compactors not ideal for safety.
	Concerns with location of communal open space.
	Rubbish – use of compactor
Objections	Over 140 objections received
Local Planning Policies	PMRG LPP approved and to be advertised

CARRIED UNANIMOUSLY 10/-

Council Resolution

That Council:

- 1. notes the Responsible Authority Report for the proposed 15 Multiple Dwelling development at Lot 71 (No.13) Vincent Street, Nedlands;**
- 2. agrees to send a submission letter to the 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 particular Development Application (DA); and**
 - c. provide specific reasons in the case of refusal, and conditions in the case of approval.**
- 3. delegates Councillor Coghlan and Councillor Bennett with the assistance of a professional independent planner at approximately \$3000 to advise and coordinate the Council's submission / presentation for the JDAP in time for the meeting on 11th May 2020; and**
- 4. provides Advice Notes listing reasons for refusal to be coordinated by Councillor Coghlan in addition to those listed in the RAR and in the table below.**

State Planning Policy 7.3: Residential Design Codes – Vol 2 - Apartments	13 Vincent St, Nedlands
	LPS3 R Code 160

Context and Character	Design not in character with surrounding housing. Only the second R160 in the area.
Landscape Quality	Basement carpark may affect deep soil planting
Sustainability	
Functionality and Built Quality	
Community	
Amenity	Doesn't suit the amenity of the area.
Legibility	Front setback only 2 metres
Built Form and Scale	Unreasonably impacts on neighbours. Overshadowing and privacy concerns
Safety	
Aesthetics	Unreasonable looking shape to the building's roof, using tin whereas most houses are rendered brick and tile.
Additional Points	Car parking – insufficient car bays. Only 15 bays for 15 units Use of waste – compactors not ideal for safety.
	Concerns with location of communal open space.
	Rubbish – use of compactor
Objections	Over 140 objections received
Local Planning Policies	PMRG LPP approved and to be advertised

Recommendation to Council

That Council notes the Responsible Authority Report for the proposed 15 Multiple Dwelling development at Lot 71 (No.13) Vincent Street, Nedlands.

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 the 2 April 2020 for the Joint Development Assessment Panel (JDAP) Form 1 Application at Lot 71 (No.13) Vincent Street, Nedlands. The application proposes the development of a five-storey multiple dwelling development, comprising of 15 apartments. 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 71 (No.13) Vincent Street, Nedlands on the 14 January 2020. This proposal is the first application lodged on Vincent Street seeking to develop to the R160 density code requirements since the recoding that occurred with the gazettal of Local Planning Scheme No.3 in April 2019.

During the assessment period, Administration raised several concerns with the applicant regarding the design of the development and technical information received relating to noise, waste and traffic. This primarily related to its façade design, bulk, scale, setbacks and landscaping and its response to the local area and neighbouring R60 coded sites. In addition to, the impacts on internal amenity in relation to natural ventilation and solar access, location and design of communal open space and design of storerooms.

The applicant prepared amended plans and revised technical documents on the 2 April 2020 to address City concerns, however, for the large part have remained unresolved with the exception of the revised design of communal open space, storerooms and technical documents relating to waste and traffic.

The City submitted the RAR on the 24 April 2020, recommending that the JDAP refuse the application. A copy of the revised RAR and revised plans are attached to this memo for your reference.

3.0 Application Details

Development approval is sought for the construction of a five (5) storey multiple dwelling development, comprising of 15 dwellings at No.13 (Lot 71) Vincent Street, Nedlands. The development comprises of the following:

- The proposed dwelling mix includes:
 - x 1 one bedroom, one bathroom and second toilet
 - x 4 two bedrooms, one bathroom
 - x 3 two bedrooms, one bathroom and second toilet
 - x 2 two bedrooms, two bathrooms
 - x 2 two bedrooms, two bathrooms and second toilet
 - x 2 three bedrooms, two bathrooms
 - x 1 three bedroom, a study and two bathrooms

It is further noted that Units 9,12,13,14 and 15 are internally double storey apartments

- Vehicle access is via the existing crossover on Vincent Street and located north of the site.
- Parking is provided via the basement level parking and includes a total of 19 bays. 15 bays are allocated to residents with the remaining 4 designated as visitor bays;

- A total of 8 bicycle racks are proposed within the basement level, designated for residents, with an additional 2 bicycle racks on the ground floor designated to visitors;

Communal amenities for residents are provided at the basement level and as well as the within the ground storey lobby area

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 until 21 February 2020. At the conclusion of advertising, the City received 149 submissions, being 146 objections to the proposal and 3 submissions in support.

As per the requirements of the City's Local Planning Policy – Consultation of Planning Proposals, the amended plans received on the 2 April 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 2 April 2020 that differed from the plans as advertised. Those modifications to plans are summarised below:

Lower Ground

- Increases the overall basement volume from 66% to 87% below natural ground level based on the volume survey;
- Re-located visitor bays (from bay numbers 16-19 to 9-12) in order to be located at the entrance of the basement car park achieving better functionality;
- Lift & stores have been set back an additional 1m further north to address vehicle manoeuvrability and access;
- Change to the storeroom corridor to the west which includes a window to the carpark to assist in passive surveillance;
- Re-location of bicycle parking into the storage area for residents;
- Air conditioning units re-located the southern boundary;
- Portion of the basement has been lowered by 400mm to accommodate changes in the ramp;
- Stair access from the ground floor to the communal area with a path;
- Additional screen wall to the basement parking

Ground Floor

- Unit 1 is setback an additional 300mm from the primary street boundary.
- Unit 1 has a separate entry gate to the courtyard. The southern wall to the courtyard has also been setback 1.5m from the vehicle truncation area.
- Unit 2 levels have been reduced by 300mm in height;
- The bin store has been altered to allow for the 360L bins and pushed towards the north boundary which has reduced its size and has now included a lobby corridor
- A wheelchair access ramp has been added to the front setback area;
- Visitor bicycle bays have been moved to the north;
- A bridge and stairs have been added to the ground floor and communal area to link down to the lower ground floor communal area;
- Façade changes are proposed including the introduction of planter boxes and a trellised pergola;

First Floor

- Overall floor level reduced by 300mm;
- Internal changes to Unit 5;

Second Floor

- Overall floor level reduced by 300mm;
- Minor internal changes to Unit 8 & Unit 9;
- Step ramp included to facilitate the changes in height

Third Floor

- Overall floor level reduced by 300mm;
- Increased ceiling height of 2.7m throughout;
- Minor internal changes to internal units 12 and 13

Fourth Floor

- Minor increase to the overall height as viewed from the west and northwest from 17.95 to 18m.
- Minor internal changes to Unit 12

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

1. Revised Assessment against State Planning Policy 7.3 (v.3)
2. Context and Character Study & Design Statement (v.1)
3. Revised Traffic Impact Statement (v.2);
4. Revised Acoustic Assessment (v.3);
5. Revised Waste Management Plan (v.3)
6. Revised Landscape Plan (v.2)
7. Revised Visual Privacy Diagram & Justification
8. Revised Overshadow Diagram
9. Revised Solar Access Diagram
10. Revised Natural Ventilation Diagram

In addition to the above, the application has further sought their own independent peer review comments which were received on the 22 April 2020 and amended plans which responded to them. Due to the timing, the City was unable to adequately assess the revisions and notified the applicant that the City requires a minimum 3 weeks due to requirements to seek further advice both with internal and external stakeholders to affirm the City's revised position in light of new information being presented.

6.0 Recommendation to JDAP

In addition to the vehicle access requirements, Administration has several concerns regarding the development, and its provision of internal amenity for future residents and surrounding landowners. These concerns include:

- Presentation of bulk to the street and surrounding properties through a six (6) storey interface that does not appropriately transition between this site and the neighbouring properties with a lower density code of R60;
- The development does not respond appropriately to the streetscape as the façade and roof design does not respect or reference the character of the local area. In addition, the setbacks from the first three storeys does not provide for a smooth integration to the established residential character;
- The northern and southern setbacks do not provide for adequate separation which appropriately transition between the site and neighbouring properties which are affected by a lower density code. As a result, it contributes to building bulk and the inability to provide for deep soil areas that reinforce the tree canopy and assist with softening the built form;
- The development unreasonably affects residential amenity on adjoining properties due to the orientation, setbacks, visual privacy and noise. In addition, no arborists report has been prepared regarding the impacts on adjoining trees to the west; and
- The proposed development does not facilitate and encourage high quality design due to the design of the development not maximizing the northern aspect which primarily impacts on future residential amenity in terms of natural ventilation and solar access

It is due to the cumulative impact of the unresolved elements of the proposed development that Administration has recommended refusal for the application.

7.0 Conclusion

The proposed development at Lot 71 (No.13) Vincent Street, Nedlands is the first development to take advantage of the recoding that occurred with the gazettal of Local Planning Scheme No.3 in April 2019. Administration is not satisfied that the applicant has adequately resolved the development issues discussed in this report and does not consider that this development will set a high-quality development precedent for the area. It is therefore recommended that Council recommends refusal for this application to the JDAP.

8. 95A Waratah Avenue, Dalkeith – Mixed use Development

Council	5 May 2020
Applicant	Rowe Group
Landowner	Village Cinema Dalkeith Pty Ltd
Director	Peter Mickleson – Director Planning & Development
Employee Disclosure under section 5.70 Local Government Act 1995	Nil
Report Type Information Purposes	Item provided to Council for information purposes.
Reference	DA 19/41659 (DAP/19/01695)
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 – Impartiality Interest

Councillor Smyth disclosed that this matter 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.

Mayor de Lacy – Impartiality Interest

Mayor de Lacy disclosed that this matter 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 this matter on its merits and vote accordingly.

Regulation 11(da) - Council agree to expand on the recommendation from Administration by providing additional justification to the reasons for refusal.

Moved – Councillor Mangano
 Seconded – Councillor Coghlan

That the Recommendation to Council be adopted subject to:

That After the first Clause add the following additional clauses:

- 2. agrees to send a submission letter to the 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 particular Development Application (DA); and**
 - c. provide specific reasons in the case of refusal, and conditions in the case of approval.****

- 3. delegates Councillor Mangano and Councillor Bennett to coordinate the Council’s submission / presentation for the JDAP in time for the meeting on 7th May 2020; and**

- 4. provides Advice Notes listing reasons for refusal to be coordinated by Councillor Mangano in addition to those listed in the RAR and in the table below.**

State Planning Policy 7.3: Residential Design Codes – Vol 2 - Apartments	95A Waratah Ave, Dalkeith
-	LPS 3 R Code RAC3
Context and Character	Poor activation of the streetscape
Landscape Quality	Inadequate deep soil for trees
Sustainability	Water saving taps and some solar panels
Functionality and Built Quality	
Community	Activity Zone proposes commercial on ground floor and apartments above.
Amenity	Incompatibility with the area
Legibility	?
Built Form and Scale	Height and rear setbacks issues
Safety	Car Park Entry/Exit and pedestrian access to the Waratah Ave Instructions on use of car stackers for use of commercial tenants
Aesthetics	
Additional Points	Laneways to be negotiated

	<p>Rubbish – use of chutes Telephone tower on top of roof No secure bike racks in the basement Privacy – rear neighbours. Assumption that they may take advantage of the upcoding along Philip Rd. but they may not do this. If this DA goes ahead their gardens in Philip Rd will be overlooked by the side, large towards the NW balconies also overlooking of Alexander Rd residents to the west. Coffee shop planned maybe a small bar better suited. Air rights issue over the lane way.</p>
Objections	18 objections received
Local Planning Policies	

Councillor Hodsdon left the meeting at 8.03 pm and returned at 8.04 pm.

CARRIED UNANIMOUSLY 10/-

Council Resolution

That Council:

- 1. notes the Responsible Authority Report for the proposed mixed-use development at Lot 388, 95A Waratah Avenue, Dalkeith;**
- 2. agrees to send a submission letter to the 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 particular Development Application (DA); and**
 - c. provide specific reasons in the case of refusal, and conditions in the case of approval.**
- 3. delegates Councillor Mangano and Councillor Bennett to coordinate the Council’s submission / presentation for the JDAP in time for the meeting on 7th May 2020; and**

4. provides Advice Notes listing reasons for refusal to be coordinated by Councillor Mangano in addition to those listed in the RAR and in the table below.

State Planning Policy 7.3: Residential Design Codes – Vol 2 - Apartments	95A Waratah Ave, Dalkeith
	LPS 3 R Code RAC3
Context and Character	Poor activation of the streetscape
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Sustainability	Water saving taps and some solar panels
Functionality and Built Quality	
Community	Activity Zone proposes commercial on ground floor and apartments above.
Amenity	Incompatibility with the area
Legibility	?
Built Form and Scale	Height and rear setbacks issues
Safety	Car Park Entry/Exit and pedestrian access to the Waratah Ave Instructions on use of car stackers for use of commercial tenants
Aesthetics	
Additional Points	Laneways to be negotiated Rubbish – use of chutes Telephone tower on top of roof No secure bike racks in the basement Privacy – rear neighbours. Assumption that they may take advantage of the upcoding along Philip Rd. but they may not do this. If this DA goes ahead their gardens in Philip Rd will be overlooked by the side, large towards the NW balconies also overlooking of Alexander Rd residents to the west. Coffee shop planned maybe a small bar better suited. Air rights issue over the lane way.
Objections	18 objections received
Local Planning Policies	

Recommendation to Council

That Council notes the Responsible Authority Report for the proposed mixed-use development at Lot 388, 95A Waratah Avenue, Dalkeith.

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 the 9 April 2020 for the Joint Development Assessment Panel (JDAP) Form 1 Application at 95A Waratah Avenue Dalkeith. The application proposes the development of a five storey, mixed use dwelling comprising fourteen residential apartments, three commercial tenancies and basement parking.

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 95A Waratah Avenue on 6 November 2019. This proposed mixed-use development is the first application lodged on Waratah Avenue seeking to develop to the R-AC3 density code requirements since the rezoning that occurred with the gazettal of Local Planning Scheme No 3 in April 2019. The JDAP met to determine the proposal on the 6 February 2020, and Administration recommended refusal at this time. After a lengthy meeting, the JDAP chose to defer its decision on the application for a period of approximately 60 days to allow the City and the applicant to negotiate unresolved issues regarding vehicle access to the site.

During the deferral period the applicant and the City met several times to discuss the access arrangements for the subject site. The parties could not reach an agreement regarding the proposed access to the site, despite Council endorsing the Waratah Avenue Laneway Requirements Local Planning Policy. The Policy requires the creation of the laneway with access to be provided across the City's land at 97- 99 Waratah Avenue, activated only at the time of redevelopment or subdivision.

Considering this, the applicant has proceeded with access arrangements from Waratah Avenue, as this remains their only currently available legal means of access to the site. A complete set of revised plans was submitted to the City on the 9 April 2020, with more detailed landscaping and basement plans provided on the 20 April 2020 at the City's request. The City submitted a revised RAR on the 24 April 2020, recommending that the JDAP refuse the application. A copy of the revised RAR and revised plans are attached to this memo for your reference.

3.0 Application Details

The applicant seeks development approval for a mixed-use development comprising fourteen multiple dwellings and three commercial tenancies over five storeys, with parking provided in an additional basement level. The building is proposed as follows:

Basement

- Car parking (27 residential bays, 1 accessible bay, 9 commercial bays)
- Pump Room and Caretakers Store

Ground Floor

- 3 commercial tenancies (proposed offices)
- Commercial bin store
- Residential bin store
- 10 bike bays
- Foyer
- Landscaping
- Vehicle access and ramp to basement

First Floor

- 5 residential apartments
- 4 storerooms
- Bin chute
- Landscaping

Second Floor

- 3 residential apartments
- Bin chute
- Landscaping

Third Floor

- 3 residential apartments
- Bin chute
- Landscaping

Fourth Floor

- 3 residential apartments
- Bin chute
- Landscaping

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 22 November 2019 and concluding 13 December 2019. At the conclusion of

advertising, the City received 23 submissions, being 18 objections to the proposal, 1 submission in support and 4 submissions providing conditional support.

As per the requirements of the City's Local Planning Policy – Consultation of Planning Proposals, the amended plans received on the 9 and 20 April 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

Changes to the plans submitted on the 9 and 20 April 2020 are:

- accommodation has been made for a 7.0m laneway proposed at the rear of the site. Vehicle access is unchanged and remains from Waratah Avenue;
- commercial tenancy types modified – a café is now proposed at the front of the development as well as two offices. The previous plans proposed three offices.
- fire booster cabinet moved to less visually obtrusive location;
- bulk bin collection location no longer in driveway, however not accommodated for elsewhere;
- 1 universally accessible bay has now been provided.

6.0 Recommendation to JDAP

In addition to the vehicle access requirements, Administration has several concerns regarding the development, and its provision of amenity for future residents and surrounding landowners. These concerns include:

- presentation of bulk to the street through five storey high eastern lot boundary wall;
- poor public interface and activation at street level;
- non-compliant waste servicing;
- no provision of landscaping plan by a qualified landscape architect proving that the proposed landscaping design is practicable;
- insufficient provision of landscaping, through either deep soil or on structure planting;
- insufficient provision of appropriate communal open space;
- insufficient commercial parking bays; and
- vehicle access proposed from the primary street rather than a rear laneway

It is due to the cumulative impact of the unresolved elements of the proposed development that Administration has recommended refusal for the application.

7.0 Conclusion

The proposed development at 95A Waratah Avenue Dalkeith is the first development to take advantage of the rezoning that occurred with the gazettal of Local Planning Scheme No 3 in April 2019. This fact, along with its central location on the Waratah Avenue commercial strip, means that this development has the capacity to influence the ongoing development of other R-AC3 sites along Waratah Avenue, in both built form and vehicle access provisions. Administration is not satisfied that the applicant has adequately resolved the development issues discussed in this report and does not consider that this development will set a high-quality development precedent for the area. It is therefore recommended that Council recommends refusal for this application to the JDAP.

Declaration of Closure

There being no further business, the Presiding Member declared the meeting closed at 8.07 pm.