



City of Nedlands

Minutes

Special Council Meeting

7 July 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 and livestreamed for the public and onsite in the Council Chambers, 71 Stirling Highway, Nedlands (Councillors Only) on Tuesday 7 July 2020 at 6.00 pm for the purpose of considering Responsible Authority Report for 17-19 Louise Street, Nedlands – 37 Multiple Dwellings.

Declaration of Opening

The Presiding Member declared the meeting open at 6.00 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 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 K A Smyth	Coastal Districts Ward

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

Public A maximum of 10 members of the public logged into the live stream of the proceedings and 3 members of the public attended for the public address session only.

Leave of Absence (Previously Approved) Her Worship the Mayor, C M de Lacy

Apologies Mr M A Goodlet Chief Executive Officer
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 acting 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 Mr Anthony Papamatheos, 52 Louise Street, Nedlands

Question 1

Does the Council consider, by reference to the matters raised in my submission to the Joint Development Assessment Panel (JDAP) **attached**, that it should change the recommendation to a refusal of the purported Development Application given (1) the absence of cumulative traffic assessment by Cardno (May 2020), (2) the absence of any genuine and substantive analysis as to the future traffic issues for the City by the proponent's consultant, Main Roads or any independent body, (3) the problems this would cause the city and its ratepayers with long term traffic congestion close to the proposed City centre?

If, the answer to 2 is "no", then why not?

Answer 1

Council is not the decision maker in this application. This Special Council Meeting is to consider a submission/presentation to the JDAP on the application. The Council is not able to make a formal recommendation - in the sense of something that "must" be given weight – to the JDAP.

Question 2

Further, if the answer to 2 is "no", then does the Council agree that it would (at least) be prudent to defer any assessment of the purported Development Application for 17-19 Louise Street, Nedlands, until such time as there that the City (and ratepayers) can:

- a. obtain compliant, fulsome and independent traffic assessment of the proposed development, including *cumulatively* given other (recent) developments proposed at 21-23 Louise, Betty St/Doonan Road, the Chellingworth site, and others, and given the identified shortcomings in the Cardno (May 2020) document as being only site specific, given the possible adverse consequences to the City?
- b. hear from ratepayers as to proposed planning policies to implemented by the City, which would ensure substantive and genuine analysis of future traffic flow issues by reference to all foreseeable developments in the locality, and possible solutions?

If, the answer to 2 is “no”, then why not?

Answer 2

As noted above in question 1, Council is not the decision maker and unable to approve, refuse or defer the application.

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.

Ms Emma Rose, 21 Mountjoy Road, Nedlands Item 6
(spoke in opposition to the development application)

Mr Andrew Jackson, Unit 3 / 114 Stirling Hwy, Nedlands Item 6
(spoke in opposition to the development application)

Moved – Councillor Mangano
Seconded – Councillor Bennett

That the Committee Suspend Standing Order 3.4 (4) to allow Mrs Newman to give her public address.

CARRIED UNANIMOUSLY 11/-

Mrs Libby Newman, 22 Louise Street, Nedlands Item 6
(spoke in opposition to the development application)

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/proximity 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 - 17-19 Louise Street, Nedlands – 37 Multiple Dwellings

Councillor Smyth disclosed an impartiality interest in Item 6, 17-19 Louise Street, Nedlands –Development Application – Development Application. 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.

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

Nil.

6. 17-19 Louise Street, Nedlands – 37 Multiple Dwellings

Council	7 July 2020
Applicant	Hillam Architects (Sean Van Der Poel)
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.
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
Confidential Attachments	1. Schedule of submissions

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 these matters on their merits and vote accordingly.

Regulation 11(da) - Council determined that it did not support the Responsible Authority Report due to the adverse effects of the development on the local amenity.

Moved – Councillor Coghlan

Seconded – Councillor Bennett

That Council:

1. **does not support the Responsible Authority Report for the proposed 37 multiple dwelling development at Lots 143 and 144 (No. 17-19) Louise Street, Nedlands; and**
 - a. **recommends to the JDAP that Council does not support the development application;**

- b. **inform the Panel of the current status of the City's Planning Framework as applicable to this particular Development Application;**
 - c. **inform the Panel of the current status of the City's Planning Framework as applicable to this particular Development Application;**
 - d. **express the view of Council majority, regarding the current development application at 17-19 Louise Street, Nedlands;**
- d. **recommends an additional condition in the event of approval being contemplated; that in the conditions headed Landscaping, a new condition be added (numbered 23, and renumber the remaining conditions) as follows:**
 - 23. **To protect the State and local heritage listed Peace Memorial Rose Garden (PMRG), the development shall comply with the following requirements:**
 - a) **The design of the building, including all below and above ground structures, shall be modified and constructed to ensure that no existing tree in the PMRG is detrimentally affected or removed;**
 - b) **The proposed gates in the boundary fence for private access between the development and the PMRG shall be deleted and replaced with fencing;**
 - c) **No landscaping for the development shall occur in the PMRG; and**
 - d) **No construction works shall occur in or affect the PMRG or its verge north of the site.**
- e. **recommends in the event of approval being contemplated, that the condition for a Demolition and Construction Management Plan include:**
 - a) **That no vehicles, machinery, equipment or personnel are permitted to access the construction site or be used within the Peace Memorial Rose Garden site.**
 - b) **A Traffic Management Plan taking into account Stirling Highway and the local streets.**
 - c) **Construction vehicle parking to manage use of the street and protection of the verges.**
 - d) **Dust Management Plan to manage protection of health, amenity and the PMRG.**
 - e) **Noise Management Plan to protect health and amenity.**

Amendment

Moved – Councillor Wetherall

Seconded – Councillor Mangano

Add clause 2 as follows:

- 2. agrees to appoint Councillor Coghlan and Councillor Bennett to coordinate the Council’s submission and presentation to the Metro Inner-North JDAP that will:**

The Amendment was PUT and WAS

CARRIED UNANIMOUSLY 11/-

The Substantive Motion was PUT and WAS

CARRIED UNANIMOUSLY 11/-

Council Resolution

That Council:

- 1. does not support the Responsible Authority Report for the proposed 37 multiple dwelling development at Lots 143 and 144 (No. 17-19) Louise Street, Nedlands; and**
- 2. agrees to appoint Councillor Coghlan and Councillor Bennett to coordinate the Council’s submission and presentation to the Metro Inner-North JDAP that will:**
 - a. recommends to the JDAP that Council does not support the development application;**
 - b. inform the Panel of the current status of the City’s Planning Framework as applicable to this particular Development Application;**
 - c. inform the Panel of the current status of the City’s Planning Framework as applicable to this particular Development Application;**
 - d. express the view of Council majority, regarding the current development application at 17-19 Louise Street, Nedlands;**
 - e. recommends an additional condition in the event of approval being contemplated; that in the conditions headed Landscaping, a new condition be added (numbered 23, and renumber the remaining conditions) as follows:**
 - 23. To protect the State and local heritage listed Peace Memorial Rose Garden (PMRG), the development shall comply with the following requirements:**

- a) **The design of the building, including all below and above ground structures, shall be modified and constructed to ensure that no existing tree in the PMRG is detrimentally affected or removed;**
 - b) **The proposed gates in the boundary fence for private access between the development and the PMRG shall be deleted and replaced with fencing;**
 - c) **No landscaping for the development shall occur in the PMRG; and**
 - d) **No construction works shall occur in or affect the PMRG or its verge north of the site.**
- f. **recommends in the event of approval being contemplated, that the condition for a Demolition and Construction Management Plan include:**
- a) **That no vehicles, machinery, equipment or personnel are permitted to access the construction site or be used within the Peace Memorial Rose Garden site.**
 - b) **A Traffic Management Plan taking into account Stirling Highway and the local streets.**
 - c) **Construction vehicle parking to manage use of the street and protection of the verges.**
 - d) **Dust Management Plan to manage protection of health, amenity and the PMRG.**
 - e) **Noise Management Plan to protect health and amenity.**

Recommendation Council:

That Council:

1. notes the Responsible Authority Report for the proposed 37 multiple dwelling development at Lots 143 and 144 (No. 17-19) Louise Street, Nedlands; and
2. agrees to appoint Councillor (insert name) and Councillor (insert name) 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 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 25 June 2020 for the Joint Development Assessment Panel (JDAP) Form 1 Application at 17-19 Louise Street, Nedlands. The application proposes the development of the land for a multiple dwelling development comprising 37 multiple dwellings and two basement levels parking.

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

2.0 Discussion/Overview

2.1 Background

The applicant seeks development approval for a multiple dwelling development comprising 37 multiple dwellings with basement parking at No. 17-19 Louise Street (Lots 143 and 144), Nedlands (the subject site). Development plans are provided in Attachment 1.

2.2 Site Description

The site is located within the street block bounded by Stirling Highway to the north, Louise Street to the east, Jenkins Avenue to the south and Vincent Street to the west. An aerial map is provided in Attachment 1.

2.3 Application History

The following outlines a brief history of the application:

- A JDAP application for 44 multiple dwellings was lodged on 13 November 2019.
- Following public consultation, the applicant revised the plans and reduced the number of dwellings to 38. The City lodged the RAR with DAP on 29 April 2020), with a recommendation to refuse for the following 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.
- At its meeting on 12 May 2020, JDAP set aside the City’s recommendation and instead resolved:

“That the consideration of DAP Application DAP/19/01699 be deferred for a period up to 60 days, in accordance with section 5.10.1a of the DAP Standing Orders 2017, for the following reasons:

- To allow the applicant to provide further information to the City of Nedlands;
 - Waste Management
 - Street trees and Landscaping
 - Overshadowing”.

The consideration of the application was deferred to address matters relating to waste management to the site, further information on retention of street trees and large site trees at the street boundary, further information on overshadowing on the adjoining site and proposal development.

- Amended plans for 37 Multiple dwellings and technical reports were submitted to the City on 28 May 2020. Following internal referral, peer review and City’s assessment the subject plans for determination were provided on 25 June 2020. An overview of the application against the JDAP deferral reasons and the City’s original recommendation is tabled below:

JDAP Reason for Deferral	Modifications made	Officer Comments
Waste Management	Clear long sections were provided demonstrating a City waste truck can access and egress the site without impacting the building. Amended Waste Management Plan was provided.	The City’s independent peer review supports the findings of the TIS and the proposed vehicle access. The Waste Management Plan is to the City’s Waste Service’s satisfactions.

<p>Site and Verge Trees</p>	<p>Arborist report provided demonstrating the trees proximate to the frontage are not capable of retention with the current design.</p> <p>Updated landscaping plan provided, with one street tree removed for vehicle access.</p>	<p>The City discussed the findings of the arborist with its author and was advised that unless the vehicle access was relocated to another location on the frontage, both trees require removal.</p> <p>The City Parks Services has reviewed the landscaping plan and arborist report and supports the removal of the verge tree for vehicle access and the findings of the arborist report.</p>
<p>Overshadowing</p>	<p>Reduced overshadowing from 66% to 57% of the southern site.</p>	<p>The revised plans have addressed several issues relating to the western interface and the siting of the development which have improved the extent of overshadowing of 21 Louise Street. The applicant has also applied for an approval to amalgamate 21 and 23 Louise Street, which, if approved, would make the southern site 2028.4m² in area. The proportion of overshadowing on the amalgamated lot would be 28.5%.</p>

<p>City Reasons for Refusal</p>			
<p>Element</p>	<p>Amendments made</p>	<p>Further information provided</p>	<p>Officer Comment</p>
<p>2.2 Building height</p>	<p>✓</p>		<p>The top floor amenity area has been reduced in size and relocated to the centre of the site, removing the bulk of the additional storey from the western elevation as requested. Verge trees to remain.</p>
<p>2.3 Street setback</p>		<p>✓</p>	<p>An Elongated street setback landscaping area has been provided with further justification of average setback 6.5m.</p> <p>Verge trees to remain softening the impact of the 5-storey interface.</p>

2.4 Side and rear setback	✓		<p>Siting issues relating to visual privacy have been addressed. Unit G06 removed and balconies screened.</p> <p>Massing issues relating to the western elevation have been addressed by the 2.85m increased setback of the 4th floor from the southern elevation</p> <p>Massing issues relating to the western elevation have been addressed by the 2.85m increased setback of the 4th floor on from the southern elevation</p>
2.5 Plot ratio	✓	✓	<p>Plot ratio reduced from 2:17:1 to 2:15:1.</p> <p>The addition of small inset windows reduces the bulk associated with the southern elevation.</p> <p>The relocation and modifications made to the roof top amenities has addressed the bulk issue noted in the City's previous RAR.</p>
2.7 Building Separation		✓	<p>Siting issues relating to visual privacy have been addressed. Unit G06 removed and balconies screened.</p>
3.2 Orientation	✓	✓	<p>Overshadowing has been reduced from 66% to 57%</p> <p>Site to the immediate south (21-23 Louise Street) proposed for amalgamation and JDAP application lodged.</p>
3.5 Visual privacy		✓	<p>Increased setback of the ground floor courtyards from the western elevation.</p> <p>Removal of Unit G06</p> <p>Screening to Units G07, 106, 107, 206, 207, 306.</p>
3.9 Car and bicycle parking	✓		<p>Ramp and vehicle access amended to the City's satisfaction. TIS approved by GTA.</p>
4.1 Solar and daylight access	✓	✓	<p>Shadow boxes added to habitable room façade glazing.</p>

			Further information in respect of the solar access assessment provided.
4.2 Natural ventilation		✓	Openable windows shown on plans.
4.12 Landscape design	✓	✓	Planting on structure improved to soften bulk. Elongated landscaped area provide along the frontage. More trees introduced to plan. Arborist report submitted to the City and the recommendations endorsed by the City.
4.17 Waste management	✓		Clearance provided for City's waste truck to access and egress the basement. Revised WMP to the City's satisfaction.

3.0 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 installed at the site's street frontage for the duration of the advertising period;
- An advertisement published on the City's website with all documents relevant to the application made available for viewing during the advertising period;
- An advertisement placed in The Post newspaper on 22 November 2019;
- A Social media post made on one of the City's Social Media platforms on 23 November 2020; and
- A notice affixed to the City's Noticeboard at the City's Administration Offices;
- A community information session 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.

Advertising of the amended plans was not considered necessary as the proposal was scaled down slightly.

A schedule of submissions is provided as **Attachment 1**. A summary of the key issues raised in public consultation is tabled below.

Issue Raised	Officer's comments
Building height	<p>Noted</p> <p>The previous RAR noted “the current design of the fifth floor is not supported due its massing towards the western boundary instead of being centrally located”. The amended plans have relocated the 6th floor more centrally, thereby reducing its bulk impact and addressing the City’s request.</p> <p>The R-Codes Vol. 2 encourages rooftop amenities and for this reason the additional storey is supported.</p>
Car parking	<p>Objection not supported</p> <p>In terms of the supply of car parking bays, visitor bays, and cycle bays, the proposal exceeds the number of bays expected for a site in close proximity to high frequency transport. The development exceeds the intended number of bays for a development of this size and location.</p> <p>The previous peer review did not support the proposed ramp grade. Following further review and further information, the City’s independent peer reviewer supports the proposal.</p>
Traffic	<p>Objection not supported</p> <p>The City’s peer review has reviewed the applicant’s TIS and accepts its conclusion that the development will not detrimentally impact the local road network or road safety.</p>
Overshadowing	<p>Noted</p> <p>The City had previously included the overshadowing impact as a reason for refusal as the proportion of overshadowing to the adjoining southern property (21 Louise Street) was 66% and the City was concerned that this would negatively impact future development on that site. The applicant has since reduced the overshadowing impact to 57%. In addition, the landowner lodged an application for amalgamation of 21 and 23 Louise Street</p>

	<p>to the WAPC on 12 June 2020, which, if approved, will reduce the proportion of overshadowing relative to the amalgamated site to 28.5%. The landowner of 17-19 Louise Street also lodged a JDAP application for 7 grouped dwellings and 6 multiple dwellings at the two sites immediately south of the subject site.</p>
<p>Impact of the development on the Peace Memorial Rose Gardens</p>	<p>Objection not supported</p> <p>The development has been designed in accordance with the provisions of the R-Codes Vol 2 and orients the building to the Peace Memorial Rose Gardens. The City supports the massing of the built form towards the park as it has positive benefits to internal amenity (outlook, northern aspect) and reduced external amenity (overshadowing). Further to this the Heritage Council did not object to the proposal.</p>
<p>Plot Ratio/Bulk Scale</p>	<p>Noted</p> <p>At a plot ratio of 2.15:1, the proposal exceeds the Acceptable Outcome of 2:1 for plot ratio. The R-Codes is a performance-based policy, which contemplates the possibility where development exceeds the Acceptable outcomes as they are not a deemed-to-comply pathway.</p> <p>Although plot ratio exceeds the default plot ratio, the siting and bulk issues that were of concern have been addressed.</p> <p>In determining whether the revised plans meet the element objectives, the City has considered that the development is over two lots, and therefore does not provide the same level of separation internally as it would if it were developed as two single lots, which has the effect of increasing the plot ratio within the acceptable building envelope. Beyond average setbacks, there are no provisions that require greater setback for double width walls, rather it is height which governs separation. Larger development sites such as the subject site, offer the potential for higher levels of separation to adjoining properties, larger areas of ground-level landscaping, rationalised crossovers and vehicle access, increased verge space, increased parking, on-site waste disposal, higher quality communal facilities, and in the case of the subject site – basement parking. The additional plot ratio equates to approximately 3 dwellings. In this instance, due to the superior design elements and the improvements made to the bulk and scale of the development following the deferral, the excess in plot ratio is supported.</p>

<p>Visual Privacy</p>	<p>Objection not supported.</p> <p>Overall, the revised proposal now demonstrates visual privacy setback consistent with the expectations of an R160 development. Unit G01 does not meet the expected setback and for that reason a screening condition is recommended.</p>
<p>Noise</p>	<p>Objection not supported.</p> <p>The applicant’s Acoustic Report was thoroughly reviewed by the City’s Health Services and the City is satisfied that the development can comply with relevant noise legislation, subject to the recommendations of the report being undertaken.</p>
<p>Amenity</p>	<p>Noted</p> <p>The City previously cited the impacts of visual privacy, overshadowing and bulk and scale as amenity related reasons for refusal.</p> <p>The dwellings that did not achieve the Visual privacy element objectives have since been modified, with the exception of Unit G01. A screening condition has been recommended to address that unit’s private open space. The extent of overshadowing 57% is now consistent with the expectations of the Residential R60 density code.</p> <p>The key areas of bulk and scale have been addressed. On balance the City accepts that the proposal has been adequately improved, and with conditions is capable of approval.</p> <p>Refer to Officer assessment of amenity later in the report.</p>
<p>Landscaping and loss of tree canopy</p>	<p>Objection Not supported.</p> <p>The City’s peer review broadly supports the applicant’s landscaping plan and the City’s Arborist supports the findings of the applicant’s arborist report. The landscaping plan is considered to be high-quality which, over time, will maintain the area’s leafy-green character. The discussion of landscaping, tree canopy and deep soil areas is provided later in the report.</p>
<p>Objects to the intensity of development</p>	<p>Objection Not supported</p> <p>The intensity of development is driven by the allowable ‘container’ of the building envelope and the individual apartment configuration/layout.</p> <p>It is important to note that there is no specified limit to the number of dwellings within the intended plot ratio under</p>

	<p>R-Codes Vol. 2. Rather it is managed by amenity controls such as solar access, ventilation and minimum room/dwelling sizes. Two developments with the same plot ratio area, may have very different levels of intensity depending on the apartment design/size.</p> <p>The advertised plans proposed 44 apartments, the previous proposal considered by JDAP proposed 38 and the current proposal has 37 apartments.</p> <p>Refer to Officer assessment of plot ratio later in the report.</p>
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Due regard has been afforded to all submissions received within the submission period and in accordance with Clause 67(y) of the Deemed Provisions of the LPS Regulations.

4.0 Responsible Authority Recommendation

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

1. Approve DAP Application reference DAP/19/01699 and accompanying plans (Attachment 1 – Development Plans Dated 25 June 2020) 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 subject to the following conditions:

Conditions

General

1. This decision constitutes planning approval only and is valid for a period of four (4) years from the date of approval. If the subject development is not substantially commenced within the four (4) year period, the approval shall lapse and be of no further effect.
2. The development shall at all times comply with the application and the approved plans, subject to any modifications required as a consequence of any condition(s) of this approval.
3. This approval is for Residential (multiple dwellings). Development shall be in accordance with the Residential (multiple dwellings) land use as defined within Local Planning Scheme No. 3, the approved plan(s), any other supporting information and conditions of approval.
4. All stormwater generated on-site is to be retained on-site. A storage/infiltration system is to be provided within the site for a 1 in 100-year storm event. No stormwater will be permitted to enter the City of Nedlands' stormwater drainage system unless otherwise approved.

5. All landscaping areas shown on the hereby approved plans shall remain in common property for the lifetime of the development. The ongoing maintenance of the landscaping areas is to be the responsibility of the responsible entity for the lifetime of the development to the satisfaction of the City of Nedlands.

External Fixtures and Finishes

6. Prior to occupation of the development, all external fixtures including, but not limited to TV and radio antennae, satellite dishes, plumbing vents and pipes, solar panels, air conditioners, hot water systems and utilities shall be integrated into the design of the building and not be visible from the primary street and secondary street to the satisfaction of the City of Nedlands.
7. Prior to occupation of the development, each dwelling unit shall be provided with mechanical clothes driers or alternatively shall have an adequate area provided for drying clothes. Any drying area shall be screened from view from any adjacent public place, to the satisfaction of the City of Nedlands.
8. Prior to the issue of a Building Permit, a detailed schedule of external finishes (including materials, colour schemes and details) shall be submitted to and approved by the City. The development shall be finished in accordance with the approved schedule prior to the use or occupation of the development.

Demolition and Construction

9. A Demolition and Construction Management Plan is to be provided to the City which addresses the control of: vibration, dust, noise, waste, sand, sediment, temporary fencing, hoardings, gantries, site access / egress, site deliveries, heavy construction machinery and traffic control shall be provided to the City of Nedlands with or before the demolition permit and building permit approval applications are submitted and shall be implemented to the satisfaction of the City of Nedlands.

Noise

10. Noise emissions from the development are to comply with the Environmental Protection (Noise) Regulations 1997. The Acoustic report prepared by Stantec dated 15 June 2020 forms part of this approval. All recommendations contained within the acoustic report shall be implemented and adhered to for the lifetime of the development to the satisfaction of the City of Nedlands. Any changes to the assumptions, recommendations, or acoustic solutions require assessment by an acoustic consultant to confirm compliance with Environmental Protection (Noise) Regulations 1997.

11. Prior to the lodgement of a Building Permit, a Noise Management Plan is to be submitted detailing measures that will be undertaken to ensure noise levels from the development are compliant with the assigned levels prescribed in the Environmental Protection (Noise) Regulations 1997. The plan is to be prepared by a suitably qualified consultant and is to include:
- sound proofing measures used in the design and construction of the development;
 - predictions of likely noise levels;
 - control measures to be undertaken (including monitoring procedures), and identified noise sensitive receivers; and
 - a complaint response procedure.

All noise attenuation measures, identified by the plan, or as additionally required by the City, are to be implemented prior to occupancy of the development or as otherwise required by the City and the requirements of the plan are to be observed at all times.

Vehicle Access and Parking

12. The hereby approved plans' 74 car parking bays, 4 motor cycle bays, circulatory, ramp and access areas shall be provided and constructed in accordance with the approved plans and are to comply with the requirements of AS/NZS 2890.1:2004 prior to the occupation or use of the development.
13. Where parking and access areas are accessed by waste management vehicles these shall be provided and constructed in accordance with the approved plans.
14. Prior to the occupation of the development, visitor car parking bays shall be clearly marked, or signage provided to the satisfaction of the City of Nedlands.
15. The bicycle facilities shown on the hereby approved plans, shall be designed, and installed on-site in accordance with AS2890.3.
16. Prior to occupation of the development, any new or modified crossover associated with the hereby approved development must receive separate approval from the City of Nedlands.
17. Prior to the lodgement of a Building Permit, an application for a Nature Strip Improvement Permit shall be lodged with and approved by the City of Nedlands.

Waste Management

18. The waste management plan prepared by Bowman and Associates Pty Ltd dated received 25 June 2020 forms part of this development approval and shall be complied with at all times to the satisfaction of the City of Nedlands.

Landscaping

19. Prior to the lodgement of a Building Permit, a detailed landscaping plan prepared by a suitably qualified landscape designer shall be submitted to and approved by the City of Nedlands. Landscaping shall be installed and maintained in accordance with that plan, or any modifications approved thereto, for the lifetime of the development thereafter, to the satisfaction of the City of Nedlands. Any modifications to the plan are subject to approval by the City of Nedlands.
20. Prior to occupation, the development's communal and private open space areas shall include a water tap for the purpose of irrigation.
21. The recommendations contained within the Arborist Report prepared by Arborsafe dated 8 May 2020 form part of this approval. Trees identified within the arborist report and labelled '2', '3', '4', '5', '6', '7', '8', '14', '15' and '16' are to have the following Tree Protection measures carried out during until the Occupancy Permit is issued by the City:
 - a) A tree protection zone, 4m in diameter (or otherwise approved by the City of Nedlands), is to be established and maintained around each tree for the duration of the development to the satisfaction of the City of Nedlands. The following restrictions and conditions apply to the tree protection zone:
 - i. Install protective fencing to prevent any damage to the trees in general accordance with Section 4.3 of AS4970-2009;
 - ii. Provide signage identifying the 'Tree Protection Zone' on exclusion fencing;
 - iii. No materials are to be stored within the TPZ;
 - iv. No vehicles or machines are to be driven or parking within the TPZ;
 - v. Ensure trees are protected from harm during works on site; and
 - vi. No tree roots within the TPZ are to be cut or damaged.
22. If works are required within any designated tree protection zone, a tree protection plan shall be prepared by the applicant's arborist to the City's specifications and approved by the City of Nedlands prior to works commencing. A tree protection plan shall also be prepared if tree roots outside of the TPZ are proposed to be cut.

Lighting

23. Prior to occupation, the applicant shall arrange a suitably qualified consultant to prepare a Lighting Plan which demonstrates that the proposed development will not cause adverse amenity impacts on the surrounding locality and comply with the relevant Australian Standard and is to include:
- a) A full site plan indicating the proposed siting of lighting columns including details of their proposed height;
 - b) Times of operation;
 - c) A Management Plan to detail the methods that will be employed to mitigate the impacts of light penetration and glare to the occupiers of adjacent property, including the use of an automatic timing device;
 - d) Details of orientation and hooding and/or other measures to minimise their impact in the interests of pedestrian and/or vehicular safety and amenity; and
 - e) Details where the proposed floodlighting is sited in close proximity to residential property, the spread of lighting from the lighting installation must be restricted in accordance with the relevant Australian Standard.

To the satisfaction of the City of Nedlands.

Design

24. All major openings to habitable rooms, balconies, and private open space that have a finished floor level exceeding 0.5m above the natural ground level are to comply with the visual privacy setbacks to adjoining residential properties in accordance with Table 3.5 of *State Planning Policy Residential Design Codes Volume 2 - Apartments* or shall be screened by either:
- a) fixed obscured or translucent glass to a height of 1.60 metres above finished floor level;
 - b) Timber screens, external blinds, window hoods and shutters to a height of 1.6m above finished floor level that are at least 75% obscure;
 - c) a minimum sill height of 1.60 metres as determined from the internal floor level; or
 - d) an alternative method of screening approved by the City of Nedlands.

The required screening shall be thereafter maintained to the satisfaction of the City of Nedlands.

25. At building permit stage, 20% of the dwellings on the hereby approved development plans shall demonstrate features that meet the 'Silver Level' requirements as defined in the Liveable Housing Design Guidelines.

26. At building permit stage, all circulation and common spaces of the hereby approved development shall be 1.5m wide or greater and universally accessible, per the requirements of the *Liveable Housing Design Guidelines*.
27. At building permit stage, the development shall demonstrate the required features to satisfy Acceptable Outcome A4.15.1 of the Residential Design Codes Volume 2 – Apartments.

Legal

28. The responsible entity shall enter into a Deed of Indemnity with the City, prior to occupation of the development, which indemnifies both the City and its waste collection contractors from claims relating to damage caused through the collection process. All reasonable costs associated with the preparation of the Deed of Indemnity shall be met by the applicant.
29. Prior to occupation of the development, Lot 143, (No. 19) Louise Street, Nedlands and Lot 144 (No. 17) Louise Street, Nedlands, are to be legally amalgamated.

5.0 Conclusion

The outcomes of public consultation made clear the fact that the community does not support the six storey development proposal. The community drafted LPP – PMRGP provides evidence of concerns about development of this scale, and seeks to augment the R-Codes Vol. 2 through increased setbacks while also reducing the building height and plot ratio to restrict developments such as the subject application. Given the dramatic increase in density afforded by LPS 3, this is understandable. The City has given each augmented provision of the LPP - PMRGP due regard and is of the view that the weight afforded to the policy provisions should not be higher than the weight given to the provisions of the R-Codes Vol. 2 as the draft provisions are neither certain nor imminent. The provisions of the policy have not been tested as yet to Administration's satisfaction, and to the best of Administration's knowledge are not underpinned by built form modelling or any other form of analysis. Given the uncertainty of the draft provisions, refusal based on the draft LPP – PMRGP would be manifestly unreasonable.

In providing its recommendation, the City has considered the 77 objectives and 130 Acceptable Outcomes and Design Guidance where applicable to the revised proposal. As a performance-based policy, elements of the R-Codes Vol. 2 must be considered in conjunction with one another, as many are interrelated. Additional storey's must be considered with the demand for rooftop amenities and the impact of that additional storey on adjoining land. Excesses in plot ratio must be considered in context with the siting and massing of the development as well as the design interventions employed. The City considers that technically 'compliant' developments, with low-quality materials, at-grade parking and deficient landscaping can have greater impacts on the character

and amenity of an area than those that deviate marginally outside of the Acceptable Outcomes.

The previous RAR outlined the areas that were unresolved, or that needed modification before JDAP could approve the development. It also noted that whilst many elements in isolation were capable of support, cumulatively, the previous iteration would have had adverse amenity outcomes. In addressing JDAPs deferral reasons, the applicant has made additional modifications many of which were requested by the City at assessment stage. In doing so, the applicant has addressed the key reasons for refusal that the City had considered non-negotiable. Although the development has not deviated significantly from the proposal JDAP considered on 12 May 2020, the changes and clarifications provided, sufficiently meet the manifold objectives of the R-Codes Vol. 2. The fundamental areas of concern have been resolved and are broadly supported by the City's independent design review. Although the applicant has not made all the requested changes the remaining issues are not fatal as they generally accord with the expectations of the R-Codes Vol. 2 and with respect to street setback the draft LPP - PMRGP. The City is now of the view that, with appropriate conditions, the development proposal adequately satisfies the provisions of the planning framework and is therefore considered capable of support.

Declaration of Closure

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