



City of Nedlands

Minutes

Special Meeting of Electors

3 December 2020

The Special Meeting of Electors of the City of Nedlands held on Thursday 3 December 2019 at Adam Armstrong Pavilion, Beatrice Road, Dalkeith (David Cruickshank Reserve) commencing at 7 pm.

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City of Nedlands

Minutes of City of Nedlands Special Electors Meeting held at Adam Armstrong Pavilion, Beatrice Road on Thursday, 3 December 2020 at 7 pm.

Declaration of Opening

Mayor de Lacy declared the meeting open at 7 pm and drew attention to the disclaimer below.

Disclaimer

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It is noted that the advertisement calling the meeting was published in the POST Newspaper on 14 November 2020 together with notices displayed at the Administration Centre and Libraries, and on the City's Website.

1. Present and Apologies

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

Staff	Mr M A Goodlet	Chief Executive Officer
	Mr J Duff	Director Technical Services
	Mrs S C Gibson	PA to Director Corporate & Strategy
	Mrs N M Ceric	Executive Assistant to CEO & Mayor

Public 98 members of the public were present, however only 92 members of the public signed the register. 2 members of the public attended online.

Press There were no members of the press.

Apologies

Councillor N B J Horley
Mr David & Mrs Jan Lord

Coastal Districts Ward
Alexander Road, Dalkeith

2. Procedural Matters

Mayor de Lacy outlined the procedures of the meeting.

3. With or without amendment, as approved by the special electors meeting – a local planning policy which requires at least the following:

1. Immediate deferral of all development applications for more than 4 or more residences on one lot or site, pending the implementation of the following actions and the outcome of the City of Nedlands comprehensive traffic management policies and studies.

City of Nedlands Administration Comment

The City has received previous legal advice that precludes it from placing a moratorium on development applications on the basis that there is no legal mechanism to allow this. All development applications must be assessed in accordance with the Planning and Development Act 2005 and provisions of the Local Planning Scheme, State Planning Policies and in accordance with the Planning and Development (Local Planning Schemes) Regulations 2015.

2. A mandatory requirement for development applications in the City of Nedlands for 4 or more residences at a site to bond funds with the City of Nedlands, for the City to commission an independent cumulative traffic assessment for the locality.

City of Nedlands Administration Comment

The City does not have any statutory ability (need / nexus) to require mandatory bonds for such traffic assessment. An applicant is required to provide Transport Impact Assessment for development applications in accordance with the WAPC Guidelines. There is no statutory nexus between what is being asked for and what can be applied in accordance with the current statutory planning framework.

The City is however developing a contributions policy which has the potential to deal with elements of congestion and parking in the built up areas. A contributions policy requires developers to pay for future infrastructure needs which arise through the impacts of increased density. Refer to the following link for further details on Contributions Policies (<https://www.dplh.wa.gov.au/getmedia/77de8ae0-031a-4871-bc59->

[2279ec666dc9/draft-SPP-3-6-July-2019](#)). Local Planning Scheme 3 provides for cash-in-lieu of parking, and where this is linked to a contributions policy, the City then has the ability to take contributions and build facilities. A similar approach can be made for traffic increases. Where modelling shows a road upgrade projection from local to minor distributor for example, capital costs can be determined and included in a contributions policy.

- For the proposed developments which would be put to a Joint Development Assessment Panel, the City would require the independent cumulative traffic assessment be undertaken, with the independent assessment then made available to the ratepayers in advance of the Council’s consideration of the proposed development application.

City of Nedlands Administration Comment

As per Answer 2, there are not statutory requirements for applicants to provide cumulative traffic assessments, unless required in accordance with the WAPC Guidelines for transport impact assessment. Please be reminded that the Local Government is not the determining authority for JDAP items.

Traffic impact assessments are required for developments and depending on the scale of the development different levels of assessment are required by the Department of Planning, Lands and Heritage (<https://www.dplh.wa.gov.au/policy-and-legislation/state-planning-framework/fact-sheets,-manuals-and-guidelines/transport-impact-assessment-guidelines>). A summary of the traffic assessment requirement for various development types is shown below (Volume 1).

Table 1: Level of TIA required by land use and size

LAND USE	MODERATE IMPACT	HIGH IMPACT
	Transport Impact Statement required	Transport Impact Assessment required
	10 – 100 vehicle trips in the peak hour	> 100 vehicle trips in the peak hour
Residential	10–100 dwellings	>100 dwellings
Schools	10–100 students	>100 students
Entertainment venues, restaurants, etc.	100–1000 persons (seats) OR 200–2000 m ² gross floor area	>1000 persons (seats) OR >2000 m ² gross floor area
Fast food restaurants	50–500 m ² gross floor area	>500 m ² gross floor area
Food retail/Shopping centres with a significant food retail content	100–1000 m ² gross floor area	>1000 m ² gross floor area
Non-food retail	250–2500 m ² gross floor area	>2500 m ² gross floor area
Offices	500–5000 m ² gross floor area	>5000 m ² gross floor area
Service Station*	1–7 refuelling positions	>7 refuelling positions
Industrial/Warehouse	1000–10,000 m ² gross floor area	>10,000 m ² gross floor area
Other Uses	Discuss with approving authority	Discuss with approving authority

Volume 4 details the requirements for Transport Impact Statements and Transport Impact Assessments for developments.

- Proposed development;
- Vehicle access and parking;
- Provision for service vehicles;
- Hours of operation (if applicable);
- Daily traffic volumes and vehicle types;
- Traffic management on frontage streets;
- Public transport access;
- Pedestrian access;
- Cycle access and end of trip facilities;
- Site specific issues; and
- Safety issues

The Transport impact assessment (TIA) does provide a technical assessment of the traffic impacts. The TIA should cover all parts of the transport network that would be likely to be materially affected by the proposed land uses. The TIA also deals with non-car modes.

- Existing situation
- Development proposal
- Committed developments and other transport proposals
- Changes to surrounding transport networks
- Integration with surrounding area
- Assessment years and time periods
- Development generation and distribution
- Design traffic flows
- Analysis of development accesses
- Impact on surrounding roads
- Impact on intersections
- Impact on neighbouring areas
- Road safety
- Public transport access
- Pedestrian access/amenity
- Cycle access/amenity
- Analysis of pedestrian/cycle networks
- Safe routes to school (where appropriate)
- Parking and parking management
- Traffic management plan (where appropriate)

In summary the future looking component of Transport Impact Statements are not well captured, although the more complex Traffic Impact Assessment does look to the future and considers the impact on the future traffic loading. The work the City is doing currently in terms of a comprehensive traffic study will need to supplement the requirements for the TIS in particular so that cumulative impacts can be assessed and the developer made responsible for their fair share of impacts.

4. Annually, The City of Nedlands would review and report on to the Council:
 - a. The overall stat of larger developments – what has been built in the past year, what is a pending application and what is foreseeable or prosed (announced publicly or mentioned);
 - b. The likely “macro” traffic impact within the roads and main arterial roads and highways of the City of Nedlands; and
 - c. Desirability of any necessary measures that can be put in place to reduce traffic increase in any localities (such as footpath or bike-path, car-free development conditions, street parking limitations, annual levies on the high-rise residences which funs are specifically put to private shuttle services to key areas).

City of Nedlands Administration Comment

- a) The City can produce a report to Council which would stipulate what applications have been approved for “Complex” development, and of those developments which ones have received building permit / occupancy permits.
- b) The City is finalising a comprehensive traffic model for Stirling Highway and Broadway. Following its completion Administration will be able to present a report for Council that outlines City’s current network capacity and future demand projections using LPS3 land use data.
- c) The development of a Development Contributions Plan will seek to capture developer contributions which will be programmed for the contribution towards community infrastructure, this may include road and public realm upgrades and can consider transport linkages for modes other than vehicles. These will then form part of the Long-Term Capital Works program. A report was presented to Council 27 October 2020 proposing Local Planning Scheme No.3 – Infrastructure Contributions. Council resolved as follows:

Council Resolution / Recommendation to Council

Council:

- 1. instructs the CEO to commence preparation of an Infrastructure Contributions Framework under Local Planning Scheme 3;**
- 2. allocates funds of \$40,000 to enable work to commence on the Infrastructure Contributions Framework under Local Planning Scheme 3, with a budget adjustment to be made in the 2020-21 midyear budget review;**

3. **considers allocating \$50,000 in the 2021-22 budget for the completion of the Infrastructure Contributions Framework under Local Planning Scheme 3; and**
4. **instructs the CEO to arrange a Councillor workshop prior to Council's consideration of the report to formally initiate the Local Planning Scheme Amendment to introduce the Infrastructure Contributions Frameworks**

Motion 1

Moved – Anthony Papamatheos – 52 Louise Street, Nedlands

Seconded – Ian Love - 70 Kingsway, Nedlands

A motion will be moved at this special electors' meeting that:

That the Council should at its next meeting:

1. **for the purpose of section 2.7 of the Local Government Act 1995 (WA), determine to adopt and approve the Proposed Policy Framework – Cumulative Traffic Impact Assessment (below, as paras 1 to 18) but excluding 9 c. and 11; and**
2. **instruct and direct the CEO to implement this approved Framework as a policy of the City.**

Background

1. On 16 April 2019, the City of Nedlands' *Local Planning Scheme No. 3* (LPS 3) was gazetted, with a focus upon substantially increased density on Stirling Highway.
2. In 2020, the City faced an unprecedented number of development applications for heavy density and high-rise developments on and around Stirling Highway in Nedlands. The City had no traffic modelling or advanced technical capability to analyse the applications.
3. Efforts of the City's officers between May 2020 and December 2020 to attempt to secure traffic modelling have not delivered a model in a timely fashion, or at all.
4. There is insufficient technical or practical assessment of cumulative impacts of traffic from successive development applications for higher density residential and commercial/retail developments in the City's policies.
5. If presently proposed developments proceed, significant additional traffic will be added to Stirling Highway and feeding roads (including Broadway, Bruce St, Smyth Rd, Stanley St, Florence Rd, Dalkeith Rd and Vincent St/Adelma Rd).

6. As to this additional traffic:
 - a. congestion on Stirling Highway and on and around points in the City is to the detriment of all users of such roads, including from elsewhere in the City and State;
 - b. the feeding roads will be further congested, with additional issues of unsafe busy roads, vehicle noise, increase in trucks and cars parked on verges;
 - c. as Stirling Highway and feeder roads near capacity, or peak use, forcing traffic jams, there is no ability to reverse those problems once created by any works or changes, as there is no physical space for expansion or modification (and, as to which, any regime for developer contributions would appear of no utility); and
 - d. it is necessary and desirable, for proper planning, to avoid creation of an unfixable problem for current and future residents of the City and government instrumentalities.
7. The principal, cost-effective means to seek to address these issues is to properly consider how proposed developments will contribute substantially to the traffic issues, without making any contribution to their avoidance or fixing.
8. By a special electors' meeting of 3 December 2020, the great majority of ratepayers of have spoken overwhelmingly in favour of the need for an immediate policy, even if the City continues to progress development of some other traffic model.

Proper cumulative traffic assessment

9. The City's officers and staff (for planning, engineering and otherwise) must, on any proposed or current development application as concerns 4 or more residences or lots on a site or sites, or any larger commercial/retail development, to the maximum extent possible:
 - a. take residents views into account, work collaboratively with residents, and make complete representations as to these concerns for cumulative traffic impact, including from other current approved or pending developments, for any RAR, council meeting or any Development Assessment Panel;
 - b. require for clauses 63(c) and (d) of the deemed provisions applicable by reason of clause 7(1)(a) of LPS 3, a wholly independent cumulative traffic impact assessment taking all current or proposed developments into account, to accompany any development application (with such independent engineer or expert to be chosen by and instructed by the City);

- c. encourage proponents or applicants to submit development applications which are carfree or involve substantially reduced numbers of car bays, with preference given to other transport means (bus, shuttle, ride-share, bicycle or pedestrian);
 - d. convey to each and any Development Assessment Panel, considering any development application, a full list of developments approved on Stirling Highway, and in Broadway, Hampden Road and the surrounding zones, and number of car bays for each, in 2019 and 2020 (and following), setting out the need for deferral of consideration until such time as complete cumulative traffic impact assessment is complete;
 - e. require cumulative assessment beyond minimum threshold WAPC Traffic Impact Assessment Guidelines, to fully account for all current and proposed or foreshadowed developments around a locality;
 - f. consider genuinely all conceivable means of reducing future congestion on Stirling Highway and surrounds within the City on any such developments, including whether any development contribution plan will likely prove futile; and
 - g. question, review and critique any modelling provided for cumulative traffic impact assessment for or by the City, including with the ratepayers and their advisors, so that practical and genuine approaches to issues are taken and that any model adopted or modelling provided, if inadequate or erroneous, is not stubbornly maintained.
10. The above requirement is in addition to, and not to derogate from, any other protocols of the City's planners and traffic engineers as concerns clause 67(t) of the deemed provisions applicable by reason of clause 7(1)(a) of LPS 3, or otherwise.

No traffic measures

11. To the maximum extent possible, and notwithstanding any other provision of this Policy, the City will, for any proposed or current development application as concerns 4 or more residences or lots on a site or sites on Stirling Highway, Broadway, Hampden Road and the surrounding transitions zones, impose conditions for car free developments or no car bays for all or a majority of lots.

Public involvement and consultation

12. To the maximum extent possible, the City, its officers and staff, will provide detailed information promptly on written request, made or signed by at least 4 ratepayers, as concerns traffic assessment of any proposed

or current development application or approval, or any traffic model or study the City possesses or seeks to rely upon.

13. The City officers and staff are to actively assist transparency and provision of such information as requested, such that ratepayers are not stymied or prevented from public consultation rights for development applications.

Transparency

14. All officers and staff of the City are to facilitate the prompt provision of accurate information about the City's traffic process, assessments, and any current or proposed development in relation to traffic issues.

Anti-avoidance and conflicts of interest

15. All officers and staff of the City are required to promptly and genuinely:
 - a. assist in the application of and compliance with this Policy, to the fullest extent and according to its true spirit, intention and purpose, and by looking beyond the form to the substance; and
 - b. inform and support ratepayers for their enquiries and activities in respect of this Policy.
16. All officers and staff of the City must actively avoid and promptly disclose (in a public register or notification) any potential or actual conflict of interest as to any traffic issue matter.
17. For the avoidance of any doubt, by the adoption of this Policy, the Council hereby withdraws any permission as concerns officers and staff of the City and any planning or traffic work or activity, for the purpose of section 102 of the Public Sector Management Act 1994 (WA).

Full Independent Review – May 2021

18. By 30 May 2021, the CEO (or acting CEO) with a committee of the Council, is to receive any recommendation or review to update this interim policy, as jointly prepared by an independent law firm with sufficient expertise and an independent town planning firm, which firms the City has not otherwise retained or used in 2019 or 2020.

CARRIED 85/-

Motion 2

Moved – Anthony Papamatheos - 52 Louise Street, Nedlands

Seconded – Marcey Spilsbur - 41 Portland Street, Nedlands

Include the below, in the proposed policy;

No traffic measures

- 11. That the council by 30 May 2021 invite views and prepare a summary of views on no car development limitations on proposed developments on Stirling Highway, Broadway, Hampden Road and other surrounding transition zones.**

CARRIED 53/12

Electors Resolution

That the Council should at its next meeting:

- 1. for the purpose of section 2.7 of the Local Government Act 1995 (WA), determine to adopt and approve the Proposed Policy Framework – Cumulative Traffic Impact Assessment (below, as paras 1 to 18); and**
- 2. instruct and direct the CEO to implement this approved Framework as a policy of the City.**

Background

1. On 16 April 2019, the City of Nedlands' *Local Planning Scheme No. 3* (LPS 3) was gazetted, with a focus upon substantially increased density on Stirling Highway.
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4. There is insufficient technical or practical assessment of cumulative impacts of traffic from successive development applications for higher density residential and commercial/retail developments in the City's policies.

5. If presently proposed developments proceed, significant additional traffic will be added to Stirling Highway and feeding roads (including Broadway, Bruce St, Smyth Rd, Stanley St, Florence Rd, Dalkeith Rd and Vincent St/Adelma Rd).
6. As to this additional traffic:
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 - b. the feeding roads will be further congested, with additional issues of unsafe busy roads, vehicle noise, increase in trucks and cars parked on verges;
 - c. as Stirling Highway and feeder roads near capacity, or peak use, forcing traffic jams, there is no ability to reverse those problems once created by any works or changes, as there is no physical space for expansion or modification (and, as to which, any regime for developer contributions would appear of no utility); and
 - d. it is necessary and desirable, for proper planning, to avoid creation of an unfixable problem for current and future residents of the City and government instrumentalities.
7. The principal, cost-effective means to seek to address these issues is to properly consider how proposed developments will contribute substantially to the traffic issues, without making any contribution to their avoidance or fixing.
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Proper cumulative traffic assessment

9. The City's officers and staff (for planning, engineering and otherwise) must, on any proposed or current development application as concerns 4 or more residences or lots on a site or sites, or any larger commercial/retail development, to the maximum extent possible:
 - a. take residents views into account, work collaboratively with residents, and make complete representations as to these concerns for cumulative traffic impact, including from other current approved or pending developments, for any RAR, council meeting or any Development Assessment Panel;

- b. require for clauses 63(c) and (d) of the deemed provisions applicable by reason of clause 7(1)(a) of LPS 3, a wholly independent cumulative traffic impact assessment taking all current or proposed developments into account, to accompany any development application (with such independent engineer or expert to be chosen by and instructed by the City);
 - c. convey to each and any Development Assessment Panel, considering any development application, a full list of developments approved on Stirling Highway, and in Broadway, Hampden Road and the surrounding zones, and number of car bays for each, in 2019 and 2020 (and following), setting out the need for deferral of consideration until such time as complete cumulative traffic impact assessment is complete;
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No traffic measures

11. That the council by 30 May 2021 invite views and prepare a summary of views on no car development limitations on proposed developments on Stirling Highway, Broadway, Hampden Road and other surrounding transition zones.

Public involvement and consultation

12. To the maximum extent possible, the City, its officers and staff, will provide detailed information promptly on written request, made or signed by at least 4 ratepayers, as concerns traffic assessment of any proposed or current development application or approval, or any traffic model or study the City possesses or seeks to rely upon.
13. The City officers and staff are to actively assist transparency and provision of such information as requested, such that ratepayers are not stymied or prevented from public consultation rights for development applications.

Transparency

14. All officers and staff of the City are to facilitate the prompt provision of accurate information about the City's traffic process, assessments, and any current or proposed development in relation to traffic issues.

Anti-avoidance and conflicts of interest

15. All officers and staff of the City are required to promptly and genuinely:
 - a. assist in the application of and compliance with this Policy, to the fullest extent and according to its true spirit, intention and purpose, and by looking beyond the form to the substance; and
 - b. inform and support ratepayers for their enquiries and activities in respect of this Policy.
16. All officers and staff of the City must actively avoid and promptly disclose (in a public register or notification) any potential or actual conflict of interest as to any traffic issue matter.
17. For the avoidance of any doubt, by the adoption of this Policy, the Council hereby withdraws any permission as concerns officers and staff of the City and any planning or traffic work or activity, for the purpose of section 102 of the Public Sector Management Act 1994 (WA).

Full Independent Review – May 2021

18. By 30 May 2021, the CEO (or acting CEO) with a committee of the Council, is to receive any recommendation or review to update this interim policy, as jointly prepared by an independent law firm with sufficient expertise and an independent town planning firm, which firms the City has not otherwise retained or used in 2019 or 2020.

4. Such Other Related Business Arising

There was no other business.

Declaration of Closure

There being no further business, Mayor de Lacy declared the meeting closed at 8.17 pm.