



Statutory Planning Committee

Minutes

Meeting No. 7657
Tuesday, 18 May, 2021

- Members: David Caddy - Chairman WAPC
Lynne Craigie - Nominee of the Regional Minister
Vaughan Davies - Nominee of the Director General
Kym Davis - Community Representative
Lino Iacomella - WAPC Appointee
- Apologies: Leonard Kosova - Local Government Representative
Nina Lyhne - WAPC Appointee
Marion Thompson - Professions Representative
Ross Thornton - WAPC Appointee
- Others Present: Garreth Chivell - Planning Manager, Schemes and Amendments
Michael Daymond - Manager, Special Projects
Aleisha D'Costa - Planning Officer, Regional South
James Dorn - Senior Planning Officer, Schemes and Amendments
Sam Fagan - Manager Commission Business
Sally Grebe - Director Planning Appeals, Reform, Design and State Assessment
Ben Hesketh - A/Planning Director, Metro Central
Robert Hodges - Planning Manager, Metro North
Poppy Justice - Commission Support Officer
Michelle King - Senior Commission Support Officer
Nina Lytton - Senior Planning Officer, Metro Central
Patrick McClure - Planning Manager, Regional North
Rohan Miller - Planning Director, Schemes and Amendments
Scott Penfold - Senior Planning Officer, Regional South West
Mek Piggott - Senior Planning Officer, Regional South
David Sands - Senior Planning Officer, Metro North
Dale Sanderson - A/Assistant Director General, Land Use Planning
Mat Selby - A/Planning Director, Regional South West
David Stapleton - Senior Planning Officer, Regional South West

1. Declaration of opening

The Chairman declared the meeting open at 9:04am, acknowledged the peoples of the Noongar nation as the traditional owners and custodians of the land on which the meeting is taking place and welcomed members and acknowledged that the majority of members were attending the meeting via Zoom video conference. The Chairman paid respect to elders past and

present, and extended solidarity and hope for a just and dignified future for us all.

2. Apologies

Mr Ross Thornton - WAPC Appointee

3. Members on leave of absence and applications for leave of absence

Mr Len Kosova - Local Government Representative

Ms Nina Lyhne - WAPC Appointee

Ms Marion Thompson - Professions Representative

4. Disclosure of interests

Cr Craigie declared a potential impartiality interest on Item 8.5 - Shire of Nannup - Local Planning Scheme No. 4 - Consent to Advertise. Cr Craigie stated that she owns rural property in the Shire of Nannup. Members agreed that Cr Craigie is permitted to be present during the discussion and/or decision-making procedure on the item as it is unlikely to influence Cr Craigie's conduct in relation to the matter.

5. Declaration of due consideration

All members indicated that they had received and considered the agenda items prior to the Statutory Planning Committee meeting.

6. Minutes

6.1 Confirmation of minutes - Meeting No. 7656 on Tuesday, 4 May 2021

Moved by Mr Iacomella

Seconded by Ms Davis

That the minutes of the Statutory Planning Committee meeting held on Tuesday, 4 May 2021, be confirmed as a true and correct record of proceedings.

The motion was put and carried

7. Deputations and presentations

7.1 Freehold Subdivision - Reconsideration of Condition 26 and associated Advice Note 17 - Lots 66, 109, 8001 & 9003 Grindleford Drive, Balcatta (Item 8.2)

Presenters: Reyne Dial - Rowe Group, Craig Wallace - Lavan and Jeremy Cordina - Parcel Property

Mr Wallace presented to the Statutory Planning Committee representing Lavan Legal to speak against the recommendation of the Department of Planning, Lands and Heritage, together with Mr Dial representing Rowe Group and Mr Cordina representing Parcel Property. Mr Wallace stated that from a legal standpoint Condition 26, relating to a Notification on Title relevant to peat soil and engineering on the subject land is unnecessary, as the condition and the associated

Advice Note 17 can be addressed through the process of clearing conditions 2, 5 and 17. Mr Wallace discussed potential for unintended consequences of a notification such as this, including implications on the sale of land and engineering classifications. Mr Wallace referred to Planning Framework, Policy and Planning Bulletin 10 and discussed the requirements of a geotechnical report, which would involve the valuation of the impact of works associated with subdivision and provision of solutions to site issues relating to peat soil. Mr Wallace stated that a requirement for S70A notification is an overreach and not required in circumstances of this development.

Mr Cordina responded to the questions from members on the depth of the fill required over the peat soil, it was stated that the depth changes across the site due to road levels and would be 1.8metres. It was outlined that the condition was not required on the southern section and will likely result in a S or M classification.

Mr Wallace responded to questions from members relating to the installing a below ground swimming pool. Mr Cordina gave an example of similar circumstances on a Parcel Property site in Bayswater and that owners in that location undertook structural analysis by engineers and could fit standard pools. Mr Wallace stated that a geotechnical report with identifying soil classification triggers an Australian Standard building requirement. It was noted that geotechnical reports and accompanying documents are not provided to perspective purchasers, however would be available to builders through the normal investigation process. Members queried the financial cost of building on lots subject to similar geotechnical situations.

Members noted the written submission from Lavan Legal.

7.2 Yanchep City Structure Plan No. 68, Amendment No. 4 (Item 8.3)

Presenters: Alex Watson - CLE Town Planning + Design and Matt Craven-Kelly - Parcel Property

Mr Watson presented to the Statutory Planning Committee representing CLE Town Planning + Design together with Mr Craven-Kelly to speak in support of the recommendation of the Department of Planning, Lands and Heritage (DPLH) and to express concern relating to Main Roads WA objection to the roads component. Mr Watson discussed the history of the Amendment which was lodged in the City of Wanneroo in February 2019, and the subsequent discussions between the City and DPLH to establish a more modest proposal to achieve business zone and commercial land use to support local employment. Mr Watson discussed The Transport Network 2018 document to support *Perth and Peel@3.5 million* and the extension of Mitchell Freeway, which would negate the need for Marmion Avenue to become an arterial road at that level of hierarchy and that a neighbourhood connector would be appropriate.

Mr Watson responded to questions from members relating to the urgency of the proposed Amendment, it was stated that the Amendment has been in the system since February 2019 and that they

are keen to take a clear position to further strategise the affected Parcel landholding.

7.3 Shire of Harvey - Local Development Plan - Lot 10 Rothesay Crescent, Australind (Item 8.4)

Written Submission: Peter and Cheryle Beckingham - Owners, Lot 195 Rothesay Crescent

Members noted the written submission on Item 8.4 Shire of Harvey - Local Development Plan - Lot 10 Rothesay Crescent, Australind

7.4 City of Wanneroo - District Planning Scheme No. 2, Amendment No. 173 - For Final Determination (Item 9.1)

Written Submission: The Owners - Koondoola Plaza

Members noted the written submission on Item 9.1 City of Wanneroo - District Planning Scheme No. 2, Amendment No. 173 - For Final Determination.

ITEMS FOR DECISION

8.1 City of Bayswater - Corner Kirkham Hill Terrace and East Street Local Planning Policy - Request to Vary Deemed-to-Comply Provisions of the Residential Design Codes

Moved by Cr Craigie

Seconded by Ms Davis

That the Statutory Planning Committee resolves to approve the modified deemed-to-comply provision for Open Space contained within the Corner Kirkham Hill Terrace and East Street Area Local Planning Policy, pursuant to clause 7.3.2 of State Planning Policy 7.3 – Residential Design Codes Volume 1.

The motion was put and carried

8.3 Yanchep City Structure Plan No. 68, Amendment No. 4 (SPN/0102M-4)

Moved by Cr Craigie

Seconded by Ms Davis

That the Statutory Planning Committee resolves to:

- 1. require the applicant to modify the Yanchep City Structure Plan No.68, in accordance with the attached schedule of modifications, and resubmit to the WAPC for final approval; and*
- 2. advise the City of Wanneroo and applicant accordingly.*

The motion was put and carried

8.5 Shire of Nannup - Local Planning Scheme No. 4 - Consent to Advertise (TPS/2124)

Moved by Cr Craigie

Seconded by Ms Davis

That the Statutory Planning Committee resolves to:

1. *Request modification to the draft Local Planning Scheme No. 4, in order for it to be suitable for advertising, consistent with the Regulations, in accordance with the attached Schedule of Modifications and Addendum A (Attachment 8).*
2. *Advertise the draft Local Planning Scheme No. 4, upon completion of the modifications, in accordance with regulation 22 of the Planning and Development (Local Planning Schemes) Regulations 2015.*

The motion was put and carried

8.6 Town of Port Hedland - Draft Local Planning Policy 12 - Variations to the Residential Design Codes Volume 1 (TPS/2544)

Moved by Cr Craigie

Seconded by Ms Davis

That the Statutory Planning Committee resolves to:

1. *Approve the Town of Port Hedland Local Planning Policy 12 - Variations to the Residential Design Codes with the following modifications:*
 - a. *Replace reference to clause 5.2.3 of the Residential Design Codes - Landscaping with 5.3.2;*
 - b. *Remove the first dot point under 5.4.3 and replace with – ‘Are not constructed from a sea container’.*
2. *Recommend to the Town of Port Hedland that a diagram indicating how the visual permeable portion of a street wall and/or fence is calculated to be included for greater clarity:*
3. *Advise the Town of Port Hedland of its decision and further advise that the proposed modifications are minor in nature and do not require re-adverting or re-submission to the Commission once completed.*

The motion was put and carried

9.2 Shire of Mundaring - Local Planning Scheme No. 4, Amendment No. 10 - For Final Determination (TPS/2570)

THIS ITEM IS CONFIDENTIAL

9.3 Shire of Narrogin - Town Planning Scheme No. 2, Amendment No. 37 - For Final Approval (TPS/2631)

THIS ITEM IS CONFIDENTIAL

9.4 Section 31, SAT Act 2004 Reconsideration of Conditions of Approval - Boat Shed and Jetties - Lot 23 Culeenup Road, North Yunderup (616-227-2)

THIS ITEM IS CONFIDENTIAL

9.5 Section 31, SAT Act 2004 Reconsideration of modifications to Newport Geographe Structure Plan (SPN/2204)

THIS ITEM IS CONFIDENTIAL

8.2 Freehold Subdivision - Reconsideration of Condition 26 and associated Advice Note 17 - Lots 66,109, 8001 & 9003 Grindleford Drive, Balcatta (159641)

Members discussed the costs of achieving classification A which would not require a notification on title, and noted that classifications below A would still carry that requirement. Members discussed the geotechnical report and on the onus on buyers and builders to have due diligence to investigate cost and building type. Members discussed that a buyer would reasonably expect a block of land to be build ready and discussed the cost of installing a swimming pool.

Members discussed that the Western Australian Planning Commission and Local Government authority has powers to impose a Section 70A on any property outside of a subdivision process. Members discussed the Laval Legal written submission and the factors which could potentially affect the enjoyment and use of the land. Members queried the trigger in which a potential buyer would become aware of a notification, it was discussed that this could possibly be through a settlement agent, or real estate agent and that the builders would also have to perform some due diligence to investigate the geotechnical report.

Members agreed to endorse the recommendation of the Department of Planning, Lands and Heritage.

Moved by Ms Davis

Seconded by Mr Davies

The Statutory Planning Committee has reconsidered its decision of 17 February 2021 to approve the application for subdivision of lots 66, 109, 8001 and 9003 Grindleford Drive, Balcatta (WAPC 159641) and resolves to confirm its previous decision by retaining Condition 26 and associated Advice Note 17.

The motion was put and carried

8.4 Shire of Harvey - Local Development Plan - Lot 10 Rothesay Crescent, Australind (882-20)

Members discussed the written submission received from the original landowners and the existing contracts on 5 lots presold with building contracts that are based on 40% open space and queried the impact of supporting a recommendation in which the open space is 45% as per Residential Design Codes and the potential impact to those contracts. It was noted that the building permits which are currently with the Council for determination may require some variation. Members discussed the cost to vary those plans and that the variance would result in a reduction of a 5x3metre area. Members discussed the purchase of the land based on the Council considered Local

Development Plan, and that purchasers may not have known it was not endorsed by the Western Australian Planning Commission (WAPC) at the time. It was noted that the seller would have had to advise that there was a Local Development Plan in place, but may have failed to communicate that the LDP required approval by the WAPC.

Members discussed the location of the site and the proximity to the reserve and the estuary. Members noted that there is open space amenity available to support a variation. Members queried the development opportunity surrounding the site and the potential precedent that could be set. Members discussed the position buyers would potentially be put in to amend designs.

Members agreed to endorse the recommendation of the Department of Planning, Lands and Heritage.

Moved by Ms Davis

Seconded by Mr Caddy

Dissent: Mr Iacomella

The Statutory Planning Committee resolves to refuse the variation to the deemed-to-comply provision for 5.1.4 Open Space C4 proposed by the Local Development Plan for Lot 10 Rothesay Crescent, Australind, as shown in Attachment 2, pursuant to Clause 7.3.2 of State Planning Policy 7.3 – Residential Design Codes.

The motion was put and carried

8.7 City of Wanneroo - District Planning Scheme No. 2, Amendment No. 172 - For consideration prior to advertising (TPS/2685)

Members discussed an amendment to the Schedule of Modifications at modification number 49 relating to the Bulky Goods Showroom definition to align with the model definition prior to advertising. Members discussed an administrative textual amendment to point 5 of the recommendation of the Department of Planning, Lands and Heritage to insert the words the “to replace ‘or’ with ‘and’” after the words “Similar proposals to amend the model Bulky Goods Showroom definition” and to replace the final sentence with the words “Accordingly, the proposed amendment to the model Bulky Goods Showroom definition has been removed.”

Members discussed the status of the City of Wanneroo’s planning framework review, and noted that it is significantly overdue.

Members agreed to endorse the amended recommendation of the Department of Planning, Lands and Heritage.

Moved by Ms Davis

Seconded by Mr Caddy

That the Statutory Planning Committee resolves to advise the City of Wanneroo that:

- 1. Modification of Amendment No. 172 to the City of Wanneroo District Planning Scheme No. 2, is required in order for it to be suitable for*

advertising, in accordance with the attached Schedule of Modifications (Attachment 5).

- 2. Upon completion of these modifications, and compliance with sections 81 and 82 of the Planning and Development Act 2005, the amendment is to be advertised in accordance with regulation 38 of the Planning and Development (Local Planning Schemes) Regulations 2015.*
- 3. The planning merit of the Amendment proposals will be assessed in detail when the amendment is submitted for final approval following advertising.*
- 4. The Model Provisions under Schedule 1 of the Planning and Development (Local Planning Schemes) Regulations 2015 where amended by the Planning Regulations Amendment Regulations 2020 gazetted on 18 December 2020 which came into effect on 15 February 2021. The City should incorporate relevant amendments to the model provisions into Amendment No. 172.*
- 5. Similar proposals to amend the model Bulky Goods Showroom definition to replace 'or' with 'and' under other local planning schemes have not been supported by the Western Australian Planning Commission and the Minister for Planning previously. Accordingly, the proposed amendment to the model Bulky Goods Showroom definition has been removed.*
- 6. When the WAPC considered the Report of Review of the City of Wanneroo District Planning Scheme No. 2 in June 2018, the City was advised that the WAPC expects to receive the new local planning strategy and the new local planning scheme within 24 months of its decision. The City is reminded that it should submit a new local planning strategy and local planning scheme as soon as practicable.*

The motion was put and carried

9.1 City of Wanneroo - District Planning Scheme No. 2, Amendment No. 173 - For Final Determination (TPS/2423)

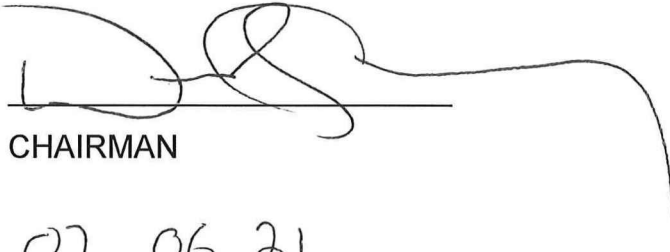
THIS ITEM IS CONFIDENTIAL

- 10. Reports for noting**
Nil.
- 11. Stakeholder engagement and site visits**
Nil.
- 12. Urgent or other business**
Nil.
- 13. Items for consideration at a future meeting**
Nil.

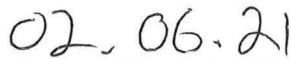
14. Meeting closure

The next ordinary meeting is scheduled for 9:30am on Tuesday, 1 June 2021.

There being no further business before the Committee, the Chairman thanked members for their attendance and declared the meeting closed at 10:15am.

A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke, positioned above a horizontal line.

CHAIRMAN

A handwritten date '02.06.21' in black ink, positioned above a horizontal line.

DATE