



Statutory Planning Committee

Minutes

Meeting No. 7658
Tuesday, 1 June, 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
Leonard Kosova - Local Government Representative
Marion Thompson - Professions Representative
Ross Thornton - WAPC Appointee
- Apologies: Nina Lyhne - WAPC Appointee
- Others Present: Kylie Beach - Senior Planning Officer, Schemes and Amendments
Alice Brown - Planning Manager, Metro South and Peel
Nathan Brown - Senior Planning Officer, Strategy and Engagement
Jason Carr - Senior Planning Officer, Metro South and Peel
Garreth Chivell - Planning Manager, Schemes and Amendments
Christine Collins - Senior Planning Officer, Schemes and Amendments
Michael Daymond - Manager, Special Projects
Sam Fagan - Manager, Commission Business
Jason Gordon - Planning Manager, Strategy and Engagement
Sally Grebe - Director Planning Appeals, Reform, Design and State Assessment
Poppy Justice - Commission Support Officer
Michelle King - Senior Commission Support Officer
Nicole Lucas-Smith - Planning Director, Metro South and Peel
Rohan Miller - Planning Director, Schemes and Amendments
Lilia Palermo - Senior Planning Officer, Metro South and Peel
Chloe Reinikka - Senior Planning Officer, Reform, Design and State Assessment
David Saunders - Assistant Director General, Land Use Planning

1. Declaration of opening

The Chairman declared the meeting open at 10:12am, 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

Nil.

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

Ms Nina Lyhne - WAPC Appointee

4. Disclosure of interests

Mr Caddy declared an actual impartiality interest in Item 8.1 - East Baldivis Local Structure Plan - Amendment No. 4. Mr Caddy stated that Spatial Property Group made a submission on the item, and that his son-in-law is the Managing Director of Spatial Property Group. Members agreed that Mr Caddy should not be present during the deputations, discussion and/or decision-making procedure on the item.

Mr Caddy declared an actual impartiality interest in Item 8.2 - Structure Plan Amendment - Lots 1401 and 1402 Fifty Road, Baldivis. Mr Caddy stated that Spatial Property Group made a submission on the item, and that his son-in-law is the Managing Director of Spatial Property Group. Members agreed that Mr Caddy should not be present during the deputations, discussion and/or decision-making procedure on the item.

Mr Kosova declared a perceived impartiality interest on Item 9.3 - Section 31, SAT Act 2004 Reconsideration of Refused Structure Plan Amendment No. 42, East Wanneroo Cell 6 Agreed Structure Plan No. 8. Mr Kosova stated that Parcel Property is a landowner within the East Wanneroo Cell 6 area, and is a client of his private consultancy, LK Advisory. Mr Kosova noted that the Parcel Property landholding is remote from, and unaffected, by the proposed Structure Plan Amendment No. 42. Members agreed that Mr Kosova is permitted to be present during the discussion and/or decision-making procedure on the item as Mr Kosova's interest is unlikely to influence Mr Kosova'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.

5.1 Questions from Members and responses from DPLH Staff provided prior to the meeting

6. Minutes

6.1 Confirmation of minutes - Meeting No. 7657 on Tuesday, 18 May 2021

**Moved by Mr Iacomella
Seconded by Ms Craigie**

That the minutes of the Statutory Planning Committee meeting held on Tuesday, 18 May 2021, be confirmed as a true and correct record of proceedings.

The motion was put and carried

Due to Mr Caddy's disclosure of interest on Item 8.1 - East Baldivis Local Structure Plan - Amendment No. 4 and Item 8.2 - Structure Plan Amendment - Lots 1401 and 1402 Fifty Road, Baldivis and in accordance with Clause 1.18 of the Standing Orders 2017, a member was chosen to preside over the meeting when Mr Caddy leaves the room during the deputations and discussion on the items.

Mr Thornton nominated Ms Davis.

Moved by Mr Thornton

Seconded by Ms Thompson

That Ms Davis presides over the meeting of the Statutory Planning Committee in the absence of the Chairperson during the deputations and discussion for Items 8.1 and 8.2.

The motion was put and carried.

7. Deputations and presentations

7.1 East Baldivis Local Structure Plan - Amendment No. 4 (Item 8.1) and Structure Plan Amendment - Lots 1401 and 1402 Fifty Road, Baldivis (Item 8.2)

Mr Caddy declared an actual impartiality interest on Item 8.1 and 8.2 and left the meeting at 10:14am.

The nominated Chairperson, Ms Davis, presided over the meeting in the absence of Mr Caddy.

Presenters: Tristan Fernandes – City of Rockingham

Mr Fernandes presented to the Statutory Planning Committee representing the City of Rockingham to discuss several matters including the MacroPlan assessment, trade impact to the Baldivis North Centre, retail hierarchy and the viability of the centre beyond 2031. Mr Fernandes discussed pedestrian outcomes to support a well-rounded centre and noted that if a second supermarket was warranted in the future the City advises there is ample room in the footing of the existing centre. Mr Fernandes discussed the pedestrian and small neighbourhood focus of *Liveable Neighbourhoods* and that the application does not consider the implications to the retail hierarchy. Mr Fernandes discussed the flawed nature of the residential interface plan, which does not address noise mitigation and access therefore cannot deliver a suitable outcome.

Mr Fernandes answered questions from members relating to the service of delivery trucks, and stated that preliminary advice was provided by the City to the applicant prior to lodgement of the Amendment, however the applicant chose not to address issues raised by the City.

7.2 East Baldivis Local Structure Plan - Amendment No. 4 (Item 8.1) and Structure Plan Amendment - Lots 1401 and 1402 Fifty Road, Baldivis (Item 8.2)

Presenters: Paul Kotsoglo – Planning Solutions

Mr Kotsoglo presented to the Statutory Planning Committee representing Planning Solutions client, Spatial Property Group, the developer of Spires Private Estate East Baldivis which has been in planning and development since 2010. Mr Kotsoglo noted the extensive discussion and detailed negotiation with the City of Rockingham and Main Roads WA relating to the Baldivis North Neighbourhood Centre. Mr Kotsoglo stated that proposals to amend the Structure Plan are ad-hoc and not in line with orderly and proper planning, and impact the viability of existing approved retail centres. Mr Kotsoglo asked that the Committee support the recommendation as presented and stated that if there is additional floor space approved then the commercial area must be explicitly defined so that developers will not exploit these issues.

Mr Kotsoglo responded to questions from members relating to the definition of commercial Net Lettable Area and to queries on broader issues identified across the north metropolitan area. Mr Kotsoglo stated that the modifications in Item 8.2, which contain a series of points are not supported.

7.3 East Baldivis Local Structure Plan - Amendment No. 4 (Item 8.1)

Presenters: Eleni Thorman – CLE and Wayne Burns – Frasers Property Australia

Ms Thorman and Mr Fraser presented to the Statutory Planning Committee in support of the recommendation for Item 8.1 and outlined the significant benefits for the introduction of a local centre in Baldivis Parks consistent with the principals and objectives of State Planning Policy 4.2 and the City's Local Commercial Strategy. Ms Thorman stated that the Amendment is supported by Pracsys, and peer reviewed by MacroPlan and that the cumulative impacts are considered minor and insignificant.

Ms Thorman responded to questions from members relating to modifications in the Schedule of Modifications recommended by the Department of Planning, Lands and Heritage regarding the Local Development Plan, residential and commercial impacts and addressing issues identified with interface. Ms Thorman stated that an area of land retained at the southern end will be developed to control the interface and is appropriate way to deal with existing residential.

7.4 Structure Plan Amendment - Lots 1401 and 1402 Fifty Road, Baldivis (Item 8.2)

Presenters: Kris Kennedy – Aigle Royal Group and Tony Shrapnel – Shrapnel Urban Planning

Mr Kennedy presented to the Statutory Planning Committee representing Aigle Royal Group and requested a compromise be considered to allow approval for 3,500 square metres of retail floor space Net Lettable Area (NLA). Mr Kennedy discussed that the Planning Framework provides for total retail NLA of 10,000 square metres for the Baldivis North Neighbourhood Centre and that based on the Local Development Plan the land to south has a maximum of 6,500 square metres of retail NLA. Mr Kennedy discussed analysis undertaken by their consultants and that there are proposed commercial models set aside to the north end of the site for a medical centre and childcare.

Members queried what conclusion the medical centre and childcare in the northern portion are based on. Mr Kennedy stated that it was depicted in a copy of an earlier site plan provided by the owners, but that it is not approved by the Local Government in any way.

Mr Caddy returned to the meeting at 10:48am and assumed the Chair.

7.5 City of Swan - Local Planning Scheme No. 17, Amendment No. 166 - For Final Determination (Item 9.2)

Presenters: Amanda Butterworth and Casey Hill – Allerding & Associates

Ms Butterworth presented to the Statutory Planning Committee representing Hanson Australia, the owner and operator of the Red Hill Quarry. Ms Butterworth stated that the Amendment conflicts with the operations of the adjacent quarry and is unrelated to the City of Swan Local Planning Scheme Resource Zone. Ms Butterworth discussed the submission to the City of Swan in December 2019, and noted that the objection is to the proposed location of the facility which conflicts with operations including blasting and safety exclusion zones.

Ms Butterworth stated that the typical quarry exclusion zone is a 250-metre buffer. Ms Butterworth stated that Lot 152 should be removed from the proposed Amendment and a notification on title be placed on additional use which outlines that the land is impacted from vibrations due to blasting.

Members queried the indicative plans shown on the Allerding & Associates PowerPoint presentation and the 250-metre buffer which was not wholly contained within the perimeters of the Hanson boundary. Members sought clarification on the basis on which the buffer exists and whether it is a condition of Development Approval or a State Industrial buffer policy. Members queried the progression of the blasting in the south-western corner of the property boundary and the resource supply. Ms Butterworth stated the Environmental Protection Agency and Ministerial approval is for 50 years.

7.6 City of Swan - Local Planning Scheme No. 17, Amendment No. 166 - For Final Determination (Item 9.2)

Presenters: Brendan Foley – Thomson Geer Lawyers

Mr Foley presented to the Statutory Planning Committee representing Dowsing Group, the largest supplier of footpaths in the State, with contracts with Local and State Government. Mr Foley discussed the suitability of the site, which is well setback from sensitive land uses, for crushing and sorting materials and the movements of trucks. Mr Foley stated that Dowsing Group is committed to doing the right thing, has listened to consultants and the Environmental Protection Agency and agrees with all recommendations that have been made. Mr Foley stated this includes reducing the physical area to avoid undisturbed bushland, moving the location of the main access point in accordance with Main Roads WA and providing additional water provisions. Mr Foley stated that the City of Swan Council decided to no longer support the application during the last State election, but that the concerns relating to environmental impact raised by the EPA and the Department of Water and Environmental Regulations (DWER) have been satisfied, with conditions imposed that any impacts can be dealt with through DWER operation conditions. Mr Foley stated that his client has no issue with potential wording changes to land use terminology.

Members queried historical rehabilitation and remediation requirements on the site and submissions that raised concerns with the storage of asbestos on the site. Mr Foley stated that remediation requirements are secured by way of a bond by the previous owner, and that there is no intention of storing asbestos on the site. Members queried what bearing the removal of Lot 152 would have on the clients moving forward and sought clarification of the location of the Lot 152. Mr Foley stated that removal of the right-hand lot would have significant impact on Dowsing Group operations, and that the left-hand lot has been extensively cleared and mined, and is the location identified as most appropriate for the facilities.

Members discussed the interface from the quarry and the Hanson operation moving west to east, Mr Foley stated that no activity on the Dowsing Group site is sensitive to the operation of the quarry and noted the 70-metre drop in the contour map in the 250-metre buffer.

Members queried the EPA controlled waste regulations and the definition of substances of controlled waste.

7.7 Section 31, SAT Act 2004 Reconsideration of Refused Structure Plan Amendment No. 42, East Wanneroo Cell 6 Agreed Structure Plan No. 8 (Item 9.3)

Presenters: David Maiorana – Harley Dykstra

Mr Maiorana presented to the Statutory Planning Committee representing Harley Dykstra in support of the Structure Plan Amendment following the revisions made to business zone components which have be modified for Special Use (Showroom) designation, the R60 and R40 densities over the eastern part of the site

and the provision of gradual transition of residential density. Mr Maiorana discussed that the proposed use zones are consistent with State Planning Policy 4.2 which talks to the preferred sequence of showroom uses at the edge of centre sites, which is immediately adjacent to Kingsway shopping centre. Mr Maiorana discussed the work undertaken for land availability, which is detailed in the accompanying written submission. Mr Maiorana stated that the site is located close to appropriate residential density, regional sporting facilities and high frequency bus routes and noted there is a lack of housing diversity in the area which this proposal addresses and asked that the Committee support the recommendation of the Department of Planning, Lands and Heritage.

ITEMS FOR DECISION

8.1 East Baldivis Local Structure Plan - Amendment No. 4 (SPN/0605M-2)

Mr Caddy declared an actual impartiality interest on Item 8.1 and left the meeting at 11:32am.

The nominated Chairperson, Ms Davis, presided over the meeting in the absence of Mr Caddy.

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

Moved by Mr Kosova
Seconded by Mr Thornton

That the Statutory Planning Committee resolves to:

- 1. Require submitted Amendment No. 4 to the East Baldivis Local Structure Plan be modified in accordance with Attachment A – Schedule of Modifications;*
- 2. Require the modified documentation to be re-submitted to the Western Australian Planning Commission for final approval; and*
- 3. Advise the City of Rockingham of its decision.*

The motion was put and carried

8.2 Structure Plan Amendment - Lots 1401 and 1402 Fifty Road, Baldivis (SPN/0468M-1)

Mr Caddy declared an actual impartiality interest on Item 8.2 and remained out of the meeting.

Members discussed the Schedule of Modifications specifically item 8 which talks to limiting the commercial Net Lettable Area (NLA) to a maximum of 1500 square metres. It was noted the proposal seeks to increase the NLA by 4000 square metres, but that is not recommended for approval. Members discussed the clarity of Item 8 in the Schedule of Modifications and the potential need to clearly articulate that the 1500 square metres is not additional NLA but a maximum. It was noted

the intent is to give up 1500 square metres which includes up to two bulky goods and showroom retail outlets.

Members discussed the deputation by Mr Fernandes on behalf of the City of Rockingham, specifically pedestrian movements and ribbon development. Members discussed future growth from 2031 onwards and outcomes that can be achieved under the provisions of *Liveable Neighbourhoods*. It was noted issues around how the site is developed and what developments could be considered are manageable through further processes and detailed planning, as outlined by the City of Rockingham.

Members discussed the growth and impact on service to the community, and the proposal which is not justified by a retail assessment study. Members queried the residential density proposed and whether is it predicated on a retail outcome and it was noted that the residential density proposal is consistent with Liveable Neighbourhoods and that some higher density is located around public open space and adjacent to commercial areas.

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

Moved by Mr Kosova

Seconded by Mr Thornton

That the Statutory Planning Committee resolves to:

1. *Require the submitted Structure Plan Amendment for Lots 1401 and 1402 Fifty Road, Baldivis to be modified in accordance with Attachment A – Schedule of Modifications;*
2. *Require the modified documentation to be re-submitted to the Western Australian Planning Commission for final approval; and*
3. *Advise the City of Rockingham of its decision.*

The motion was put and carried

Mr Caddy returned to the meeting at 11:44am and assumed the Chair.

- 9.1 City of Kwinana - Local Planning Scheme No. 2, Amendment No. 145 - For Final Determination (TPS/1699)**

THIS ITEM IS CONFIDENTIAL

- 9.2 City of Swan - Local Planning Scheme No. 17, Amendment No. 166 - For Final Determination (TPS/2372)**

THIS ITEM IS CONFIDENTIAL

- 9.3 Section 31, SAT Act 2004 Reconsideration of Refused Structure Plan Amendment No. 42, East Wanneroo Cell 6 Agreed Structure Plan No. 8 (SPN/0621M-6)**

THIS ITEM IS CONFIDENTIAL

**9.4 Section 31, SAT Act 2004 Reconsideration Development
Application City of Gosnells' Operations Centre and Waste
Transfer Facility - Kelvin Road, Orange Grove (25-50492-1)**

Item withdrawn prior to the meeting

10. Reports for noting

Nil.

11. Stakeholder engagement and site visits

Nil.

12. Urgent or other business

Nil.

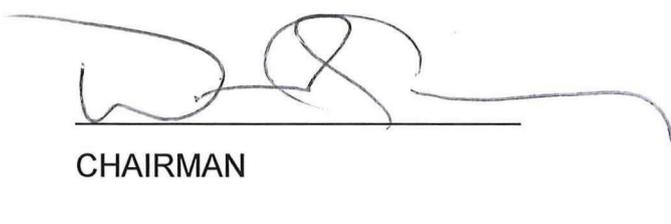
13. Items for consideration at a future meeting

Nil.

14. Meeting closure

The next ordinary meeting is scheduled for 9:30am on Tuesday, 15 June 2021.

There being no further business before the Committee, the Chairman thanked members for their attendance and declared the meeting closed at 12:04pm.



CHAIRMAN

18.06.21

DATE