



Statutory Planning Committee Minutes

Meeting No. 7662
Tuesday, 3 August, 2021

- Members:** David Caddy - Chairman WAPC
Lynne Craigie - Nominee of the Regional Minister
Vaughan Davies - Nominee of the Director General, Department of Planning, Lands and Heritage
Lino Iacomella - WAPC Appointee
Leonard Kosova - Local Government Representative
Nina Lyhne - WAPC Appointee
Marion Thompson - Professions Representative
Ross Thornton - WAPC Appointee
- Apologies:** Kym Davis - Community Representative
- Others present:** Garreth Chivell - Planning Manager, Schemes and Amendments
Mike Critch - Senior Planning Officer, Reform, Design and State Assessment
Michael Daymond - Manager Special Projects
Sam Fagan - Manager Commission Business
Sally Grebe - Director Planning Appeals
Poppy Justice - Commission Support Officer
Rohan Miller - Planning Director, Schemes and Amendments and Administration
Irene Obales - Commission Support Officer
Scott Penfold - Senior Planning Officer, South West North
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 9:39 am, acknowledged the peoples of the Noongar nation as the traditional owners and custodians of the land on which the meeting is taking place, welcomed members and acknowledged 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

Kym Davis - Community Representative

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

Nil.

4. Disclosure of interests

Mr Thornton declared a Perceived Impartiality Interest on Item 10.2 - Section 31 SAT Act 2004 - Reconsideration Development Application City of Gosnells Operations Centre and Waste Transfer Facility - Kelvin Road, Orange Grove. Mr Thornton informed members that he has sought advice from one of the deputations, Mr Glen McLeod, on a matter not related to the item. Moreover, Mr Thornton had dealt with Mr Joe Algeri of Altus Planning who is representing the Shire of Denmark in a State Administrative Tribunal case, Thornton vs Shire of Denmark. Members agreed that Mr Thornton is permitted to be present during the discussion and/or decision-making procedure on the item as this is unlikely to influence Mr Thornton's conduct in relation to the item.

Mr Kosova declared a Perceived Impartiality Interest on Item 9.1 - City of Stirling - Local Planning Scheme No. 3, Amendment No. 118. Mr Kosova informed members that the City of Stirling has been a client of his consultancy, LK Advisory, but he has not carried out any work for the City in the past 6 months. Members agreed that Mr Kosova is permitted to be present during the discussion and/or decision-making procedure on the item as this is unlikely to influence Mr Kosova's conduct in relation to the item.

Mr Kosova declared a Perceived Impartiality Interest on Item 10.2 - Section 31 SAT Act 2004 - Reconsideration Development Application City of Gosnells Operations Centre and Waste Transfer Facility - Kelvin Road, Orange Grove. Mr Kosova informed members that his interest is for the following reasons:

- Mr Kosova is representing a landowner on a structure planning matter in the City of Gosnells, which is unrelated to the item;
- Mr Kosova is representing a landowner on a Development Contribution Plan matter in the City of Kalamunda, which is unrelated to the item. The City of Kalamunda is a submitter for this application and has provided a written deputation on this Item.
- Hesperia is a submitter for this application and is making a deputation on this Item. Linc Property and Fini Group merged to form Hesperia in 2020, both of which have been clients of Mr Kosova's consultancy, LK Advisory. Mr Kosova had not carried out any work for Hesperia since its formation.

Members agreed that Mr Kosova is permitted to be present during the discussion and/or decision-making procedure on the item as the reasons above are unlikely to influence Mr Kosova's conduct in relation to the item.

5. Declaration of due consideration

5.1 Questions from Members and Responses from DPLH Staff

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. 7661 on Tuesday, 20 July 2021

Moved by Mr Thornton

Seconded by Ms Thompson

That the minutes of the Statutory Planning Committee meeting held on Tuesday, 20 July 2021, be confirmed as a true and correct record of the proceedings.

The motion was put and carried

7. Deputations and presentations

7.1 Section 31 SAT Act 2004 - Reconsideration of Subdivision Condition and Advice Note – Lot 1 Lakes Road, North Dandalup (Item 10.1)

Presenter: Lara Iozzi – MALF Corp Pty Ltd

Ms Iozzi made a presentation to the Committee on Section 31 SAT Act 2004 - Reconsideration of Subdivision Condition and Advice Note - Lot 1 Lakes Road, North Dandalup and thanked the Members for considering their proposed subdivision on 30 March 2021.

Ms Iozzi outlined that their revised proposal is to incorporate the ultimate road widening into Lot 3 of the proposed Stage 1 of the subdivision. Ms Iozzi expressed that this proposal is equitable to all concerned parties - the respective owners of Lot 3, the current owners and the Commission. Ms Iozzi indicated that owners of Lot 3 will be fully aware that the land will be subject to future road widening.

Ms Iozzi indicated that the land can be included in the proposed Stage 1 development and can be sold now.

Ms Iozzi requested that the Committee support their revised proposed development and expressed that Advice Note 7 should be clearly defined in regard to the road widening. Ms Iozzi also requested that Condition 26 be corrected to be Condition 27 as there is already a Condition 26 which is unrelated to the matters discussed in their deputation.

7.2 Section 31 SAT Act 2004 - Reconsideration Development Application City of Gosnells Operations Centre and Waste Transfer Facility - Kelvin Road, Orange Grove (Item 10.2)

Presenters: Judd Dyer – Hesperia; Steve Robertson - Activate Projects and Ms Jo Bennett – Hesperia

Mr Robertson, Mr Dyer and Ms Bennett made a presentation to the Committee on the Section 31 SAT Act 2004 - Reconsideration Development Application City of Gosnells Operations Centre and Waste Transfer Facility - Kelvin Road, Orange Grove.

Mr Robertson provided an overview of the development application and informed members that Hesperia lodged an MRS amendment with the Commission in early July 2021 to rezone in excess of 100ha land to urban. Mr Robertson informed members that this has been referred to government agencies as part of the pre-referral process.

Mr Robertson stated that Hesperia strongly supports the Commission's original refusal of the development application under the MRS as it sent a strong message that urban expansion areas should be protected from inappropriate development. Mr Robertson indicated that the WAPC's decision has underpinned Hesperia's significant expenditure on land assembly and progressing planning in the locality over the last 8 months.

Mr Robertson informed members that they have read the report being presented to SPC and he expressed that they are having difficulty reconciling the basis for how the Commission's position could change from its original decision.

Mr Robertson highlighted that the development is not proposed as 'low density' urban as the SPC report suggests. He stated that Attachment 8 (Spatial Planning Elements) of the report shows an incorrect planning assessment. Mr Robertson expressed that the development application does not adequately describe the nature of the proposed development and how it is intended to operate. He stated that there is no detailed information provided in the current report on how the Commission's original concerns have been addressed or to demonstrate that all impacts can be managed on site. Mr Robertson further stated that any technical documents which may or may not have addressed the concerns have not been provided for review by the Commission. Mr Robertson informed members that they are happy to provide supporting technical information to the Committee upon request to identify the technical issues and to demonstrate their point.

Mr Robertson stated that they object to the recommendation for approval due to the lack of technical assessment and that an approval will significantly impact the development of Wattle Grove South and future surrounding urban residential areas.

Mr Robertson requested that the matters raised in their deputation be addressed by the applicant. Mr Robertson stated that the land use is not appropriate and that the land zoning should be refused.

Mr Robertson, Mr Dyer and Ms Bennett answered questions from members.

7.3 Section 31 SAT Act 2004 - Reconsideration Development Application City of Gosnells Operations Centre and Waste Transfer Facility - Kelvin Road, Orange Grove (Item 10.2)

Presenter: Glen McLeod – Glen McLeod Legal

Mr McLeod made a presentation on the Section 31 SAT Act 2004 - Reconsideration Development Application City of Gosnells Operations Centre and Waste Transfer Facility - Kelvin Road, Orange Grove on behalf of a landowner in Wattle Grove, Mr Jim Reid.

Mr McLeod requested the Committee to reaffirm its original decision in December 2020 and refuse the development application. Mr McLeod stated that nothing has change in the current application that addresses the reasons for refusal. He further stated that the proposed development is inconsistent with the planning framework and the City of Gosnells Local Planning Scheme No. 6 (LPS 6). He expressed that it is important to give consideration to the existing zoning and land use controls in force under LPS 6.

Mr McLeod indicated that the additional information provided by the City of Gosnells does not adequately address the original reasons for refusal and stated that the Committee should refuse the development application.

7.4 Section 31 SAT Act 2004 - Reconsideration Development Application City of Gosnells Operations Centre and Waste Transfer Facility - Kelvin Road, Orange Grove (Item 10.2)

Presenters: Ian Cowie - City of Gosnells and Martyn Glover - City of Gosnells

Mr Cowie and Mr Glover made a presentation to the Committee in support of the development application relating to the Section 31 SAT Act 2004 - Reconsideration Development Application City of Gosnells Operations Centre and Waste Transfer Facility - Kelvin Road, Orange Grove.

Mr Cowie provided an overview of the development application and expressed that the City has been able to address the concerns raised in the application. Mr Cowie stated that the City's additional information demonstrates how the facility can be compatible with future urban development of the site and that the uses and buffers are suitable for

the subject site. Mr Cowie stated that the future urban use of the land is constrained as it is surrounded by a buffer.

Mr Cowie expressed that the proposed development is important to the future of the City of Gosnells.

Mr Cowie and Mr Glover discussed the operational life of the proposed facility and they indicated that the facility will operate for around 50 years. They explained how the facility operates on a daily basis and addressed concerns regarding the nature of activities on the site such as the activity relating to rubbish collection trucks and how they are sanitised. Mr Cowie and Mr Glover also discussed the operational hours of the facility.

Mr Cowie and Mr Glover answered questions from members.

7.5 Section 31 SAT Act 2004 - Reconsideration Development Application City of Gosnells Operations Centre and Waste Transfer Facility - Kelvin Road, Orange Grove (Item 10.2)

Written Deputations:

- **Andrew and John Murray - Landowners**
- **Gavin and Gail McShane - Landowners**
- **Maureen and John Taylor - Landowners**
- **Simon and Roxanne Ozanne - Landowners**
- **Sydney Chipchase - Landowner**
- **Yvonne Schultz - Landowner**
- **Michael and Dianne Wilkey - Landowners**
- **Marco Di Camillo - Landowner**
- **Peter Varelis - Director Development Services, City of Kalamunda**

Members noted the written submissions on Item 10.2 - Section 31 SAT Act 2004 - Reconsideration Development Application City of Gosnells Operations Centre and Waste Transfer Facility - Kelvin Road, Orange Grove.

The Chairman declared a break at 10:23 am.

The meeting resumed at 10:32 am.

ITEMS FOR DECISION

8.1 Local Development Plan – Lots 22, 23 and 24 Laura Avenue, Rothesay Crescent, Australind

Moved by Ms Lyhne

Seconded by Mr Kosova

That the Statutory Planning Committee resolves to approve the amended deemed-to-comply provision for 5.3.1 outdoor living areas

C1.1 by the Local Development Plan for Lots 22, 23 and 24 Laura Avenue, Rothesay Crescent, Australind, as shown in Attachment 2, pursuant to Clause 7.3.2 of State Planning Policy 7.3 – Residential Design Codes, subject to the following underlined modification to provision 10:

'10. Outdoor living areas may be proposed in the primary street setback for lots fronting Rothesay Crescent subject to the remaining requirements of Clause 5.3.1 of the Residential Design Codes 2015.'

The motion was put and carried

9.1 City of Stirling - Local Planning Scheme No. 3, Amendment No. 118

THIS ITEM IS CONFIDENTIAL

10.1 Section 31 SAT Act 2004 - Reconsideration of Subdivision Condition and Advice Note – Lot 1 Lakes Road, North Dandalup

Members discussed the deputation that had been heard and agreed to endorse the recommendation of the Department of Planning, Lands and Heritage, with the Condition numbering referred to in Recommendation 2 being corrected to state 'Condition 27' rather than Condition 26'.

Moved by Mr Kosova
Seconded by Mr Thornton

Pursuant to section 31 of the State Administrative Tribunal Act 2004, the Statutory Planning Committee has reconsidered its decision dated 30 March 2021 to approve modified subdivision Condition 20 and retain Advice Note 7, and has resolved to set aside its decision and approve the revised plan of subdivision date stamped 13 July 2021, subject to the following:

1. Modification of condition 20 as follows:

Lakes Road being widened in accordance with the Attached Plan dated 13 July 2021 by the landowner transferring the land identified as 'Interim Road Widening' to the Crown free of cost for the purpose of widening.

2. Insertion of new condition 27 as follows:

A notification, pursuant to Section 70A of the Transfer of Land Act 1893 is to be placed on the certificate(s) of title of the proposed Lot 3. Notice of this notification is to be included on the diagram or plan of survey (deposited plan). The notification is to state as follows:

"This lot is located within the future alignment of Lakes Road and the northern portion may be subject to a future acquisition to facilitate widening of that road corridor."

3. *Modify advice note 7 as follows:*

Further to Condition 20 the purpose of the road widening is to accommodate the road and drainage formation works required for the Lakes Road upgrade at the intersection of McMahon Road.

As part of a separate road widening process, Lakes Road is included within the South Metropolitan Peel Sub-Regional Planning Framework (Perth and Peel @ 3.5 million) as a proposed integrator arterial which will be upgraded in future to accommodate increased traffic volumes. This may impact Lot 1 along the northern boundary abutting the current Lakes Road alignment, which may be required for additional road widening in the future.

However, based on the best information presently available, it is anticipated this future widening will not require further land take from lots subject of this subdivision approval, as the widening has been taken into account in the layout of these lots by the widening area applicable to this subdivision approval being included wholly within Lot 3.

The motion was put and carried

**10.2 Section 31 SAT Act 2004 - Reconsideration Development
Application City of Gosnells Operations Centre and Waste
Transfer Facility - Kelvin Road, Orange Grove**

Members discussed the deputations that had been heard and the type of facility proposed to be developed on the subject land. Members discussed that the subject land is identified as urban expansion land under the Planning Framework.

Members noted that there will be another opportunity for public input when the City of Gosnells determines the application and when the Environmental Protection Authority (EPA) receive the application for the Waste Transfer Facility.

Members agreed to endorse the recommendation of the Department of Planning, Lands and Heritage with an additional condition to include the following hours of operation for the facility:

6:00 am to 7:00 pm, Monday to Friday; 8:00 am to 5:00 pm Saturday and closed on Sunday, with the exception of ranger services and operation of the animal compound which may be accessed outside the operational hours.

Dissent: Mr Thornton, Mr Kosova and Ms Craigie

Moved by Mr Iacomella

Seconded by Mr Caddy

Pursuant to Section 31 of the State Administrative Tribunal Act 2004, the Statutory Planning Committee resolves to reconsider its decision and approve the use and development of Lot 242 Kelvin Road and Lots 3, 4, 48, 49, 239, 241 and 500 Brock Street, Orange Grove for the City of Gosnells Operations Centre and Waste Transfer Facility as set out in the application dated 7 August 2020 and City of Gosnells Planning Report dated 1 April 2021 in accordance with plans 10381-A01-B – 10381-A010-B and 10381-A026-C, subject to the following conditions:

CONDITIONS

- 1. The development approval is valid for two years from the date of this letter. If the subject development is not substantially commenced within a two-year period, the approval shall lapse and be of no further effect.*
- 2. Prior to the commencement of development, a landscaping plan is to be prepared by the applicant and approved by the Western Australian Planning Commission in consultation with the Dampier to Bunbury Pipeline Operator and thereafter implemented to the satisfaction of the Western Australian Planning Commission.*
- 3. Prior to the commencement of development, a dust management plan detailing dust management during construction works and ongoing dust management of the facility is to be prepared and implemented to the satisfaction of the Western Australian Planning Commission.*
- 4. Prior to the occupation of the development, a noise management plan is to be prepared by the applicant and approved by the Western Australian Planning Commission in consultation with the Department of Water and Environmental Regulation and thereafter implemented to the satisfaction of the Western Australian Planning Commission.*
- 5. Prior to the occupation of the development, an odour management plan is to be prepared by the applicant and approved by the Western Australian Planning Commission in consultation with the Department of Water and Environmental Regulation and thereafter implemented to the satisfaction of the Western Australian Planning Commission.*
- 6. Prior to commencement of development works, investigation for soil and groundwater contamination is to be carried out to*

determine if remediation is required. If required, remediation, including validation of remediation, of any contamination identified shall be completed prior to the occupation of development to the satisfaction of the Western Australian Planning Commission on advice from the Department of Water and Environmental Regulation to ensure that the land is suitable for the proposed use. Investigations and remediation are to be carried out in compliance with the Contaminated Sites Act 2003 and current Department of Water and Environmental Regulation Contaminated Sites Guidelines.

- 7. Information is to be provided by the applicant to the satisfaction of the Western Australian Planning Commission to demonstrate that the measures contained in Section 4; Table 5 of the Bushfire Management Plan Version 3 dated 25 May 2020 have been implemented during development works. This information should include a completed 'Certification by Bushfire Consultant' from the bushfire management plan.*
- 8. Hours of operation for the Waste Transfer Facility: 6:00 am to 7:00 pm, Monday to Friday; 8:00 am to 5:00 pm Saturday; and closed on Sunday, with the exception of ranger services and operation of the animal compound which may be accessed outside the operational hours.*

ADVICE

- 1. This decision constitutes planning approval under the Metropolitan Region Scheme only. It is the proponent's responsibility to comply with all other applicable legislation and obtain all required approvals, licences and permits prior to commencement of this development.*
- 2. Dampier to Bunbury Pipeline advises that pursuant to section 41 of the Dampier to Bunbury Pipeline Act 1997, restrictions apply to the area of land within the DBNGP corridor. Any works within the DBNGP corridor will require approval from the DBNGP Land Access Minister.*
- 3. In relation to Condition 2, landscaping should specifically address the interface between the site and surrounding area to reduce any visual impacts generated from the development and associated land uses. Vegetation in this interface area shall comprise "Low Threat Vegetation" in accordance with an approved Bushfire Management Plan.*
- 4. In relation to Condition 6 and in accordance with regulation 31(1)(c) of the Contaminated Sites Regulations 2006, a Mandatory Auditor's Report, prepared by an accredited contaminated sites auditor, will need to be submitted to the Department of Water and Environmental Regulation as evidence*

of compliance with Condition 5. A current list of accredited auditors is available from <http://www.dwer.wa.gov.au/>

5. *Acid sulfate soils risk mapping indicates that the site is located within an area identified primarily as representing a moderate to low risk of acid sulfate soils occurring within 3 metres of the natural soil surface. In addition, the development works appear to be located within 500 m of wetlands. Please refer to Department of Water and Environmental Regulation's acid sulfate soil guidelines for information to assist with the management of groundwater and/or ground disturbing works.*

The motion was put and carried

10.3 Section 31 SAT Act 2004 - Reconsideration of Modification to Swan View Local Structure Plan No.78 - Tunnel Road and Viveash Road, Swan View

Members discussed the quality of vegetation identified in Lots 5 and 6 in the Swan View Local Structure Plan No. 78.

Members noted that there were no significant changes to the proposed subdivision since it was last considered by the Committee in April 2021.

Members agreed to reaffirm the Committee's decision of 20 April 2021 in regard to the proposed subdivision.

Dissent: Mr Caddy

Moved by Ms Thompson

Seconded by Ms Lyhne

Pursuant to Section 31 of the State Administrative Tribunal Act 2004, the Statutory Planning Committee has reconsidered the structure plan application (WAPC SPN/2272) (DR 95 of 2021) and has resolved to reaffirm its decision of 20 April 2021.

The motion was put and carried

11. Reports for noting

Nil.

12. Stakeholder engagement and site visits

Nil.

13. Urgent or other business

Nil.

14. Items for consideration at a future meeting

Nil.

15. Meeting closure

The next ordinary meeting is scheduled for 9:30 am on Tuesday, 17 August 2021.

There being no further business before the Committee, the Chairman thanked members for their attendance and declared the meeting closed at 11:11 am.

A handwritten signature in black ink, consisting of a stylized 'W' followed by a large loop and a long horizontal stroke extending to the right.

CHAIRMAN

21.01.2022

DATE