



## Statutory Planning Committee

### Minutes

Meeting No. 7663  
Tuesday, 17 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  
Nina Lyhne - WAPC Appointee  
Marion Thompson - Professions Representative  
Ross Thornton - WAPC Appointee
- Apologies: Kym Davis - Community Representative  
Leonard Kosova - Local Government Representative
- Others present: Kathy Bonus - Chief Planning Advisor, Reform, Design and State Assessment  
Garreth Chivell - Planning Manager, Schemes and Amendments  
Shau Chong - Principal Planning Officer, Schemes and Amendments  
Andrew Cook - Planning Manager, Metro North East  
Michael Daymond - Manager Special Projects  
Sam Fagan - Manager, Commission Business  
Jessica Gavranic - Planning Officer, Metro North East  
Yasmin Harris - Senior Planning Officer, Metro Central South  
Poppy Justice - Commission Support Officer  
Rohan Miller - Planning Director, Schemes and Amendments and Administration  
Irene Obales - Commission Support Officer  
Alyce Parker - Senior Planning Officer, Schemes and Amendments  
Eleanor Richards - Principal Planning Officer, Metro Central  
Dale Sanderson - Planning Director, Metro Central  
Ryan Taylor - Principal Planning Officer, Reform Delivery  
Grace Zhang - Planning Officer, Schemes and Amendments

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#### 1. Declaration of opening

The Chairman declared the meeting open at 9:29 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

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

Mr Kosova advised that he requires a leave of absence for Tuesday, 31 August 2021.

Ms Thompson advised that she requires a leave of absence for Tuesday, 21 September 2021.

**2. Apologies**

Kym Davis - Community Representative

Len Kosova - Local Government Representative

**4. Disclosure of interests**

Mr Caddy declared an Actual Direct Pecuniary Interest on Item 9.1 - City of Melville – Local Planning Scheme No. 6 - Amendment No. 9. Mr Caddy informed members that he owns land within the boundary of the City of Melville - Canning Bridge Activity Centre Plan. Members agreed that Mr Caddy should not be present during the discussion and/or decision-making procedure on the item.

Due to the absence of the Chairman and in accordance with Clause 1.18 of the Standing Orders 2017, Mr Thornton was chosen to preside over the meeting during deputation Items 7.2 and 7.3 and the discussion and decision-making of Item 9.1.

**Moved by Mr Davies**

**Seconded by Mr Iacomella**

*That Mr Thornton preside over the meeting in the absence of the Chairman during deputation Item 7.2 to 7.3 and discussion of Item 9.1.*

**The motion was put and carried**

**5. Declaration of due consideration**

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

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. 7662 on Tuesday, 3 August 2021

**Moved by** Mr Iacomella  
**Seconded by** Mr Thornton

*That the minutes of the Statutory Planning Committee meeting held on Tuesday, 3 August 2021, be confirmed as a true and correct record of the proceedings.*

**The motion was put and carried**

## 7. Deputations and presentations

### 7.1 City of Swan Local Planning Scheme No. 17, Amendment No. 200 (Item 8.4)

**Presenter: Phil Russell – City of Swan**

Mr Russell made a presentation to the Committee on the City of Swan Local Planning Scheme No. 17, Amendment No. 200.

Mr Russell provided an overview of the infrastructure costs schedule submitted by the City of Swan to the Department of Planning, Lands and Heritage and advised the Committee that the infrastructure costs schedule is continually being revised. He stated that the infrastructure costs schedule is based on 3,500 dwellings estimated to be developed in the Development Contribution Area. Mr Russell further stated that the main developers are Mirvac and Progress Developments.

Mr Russell stated that, in respect to the recommendation of the Department of Planning, Lands and Heritage, there was no detailed information provided but it describes that the infrastructure proposed will be funded. Mr Russell indicated that the amendment is in line with State Planning Policy requirements.

Mr Russell discussed the infrastructure costs in regard to roads and emphasised that the costs have been refined to ensure there is no overlap when charging for intersections. He stated that they have been working with their design consultants to get the desired refined specifications, so they are more accurate with the costs. Mr Russell informed members that the City of Swan will have a meeting with their major proponents to get a second or third opinion on the proposed infrastructure.

Mr Russell answered questions from members.

The Chairman declared an Actual Direct Pecuniary Interest on Item 9.1 and left the meeting at 9:43 am.

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

**7.2 City of Melville – Local Planning Scheme No. 6 - Amendment No. 9 (Item 9.1)**

**Presenter: Dr Christopher Back – Local Resident**

Dr Back made a presentation to the Committee on behalf of his wife and as a resident of Mount Pleasant against the City of Melville - Local Planning Scheme No. 6 - Amendment No. 9.

Dr Back expressed that 55 landowners will be adversely affected by the amendment. Dr Back informed members that he is aware that the Canning Bridge Activity Centre Plan was approved five years ago.

Dr Back requested the Committee not to change the Canning Bridge Activity Centre Plan boundary as proposed through the amendment. He expressed that the amendment is unconscionable and that there are circumstances that landowners could be adversely affected as nearly every dwelling south of the boundary are multi-storey buildings.

Dr Back discussed the economic cost that he would bear on his property if the boundaries change and explained that with the current zoning he could build around eight dwellings and that this would reduce to two dwellings, which is around a million-dollar loss. Dr Back stated that his property is zoned H4 and therefore he has the capability to build a four-storey building. Dr Back expressed that many of the landowners he knew purchased their land along Helm Street in the belief that they would be able to maximise their opportunity of developing H4 or H8 (four or eight storeys).

Dr Back informed members that he wrote to the Council, with a copy to the Chairman WAPC in March 2021, to express their objection to the amendment. Dr Back stated that he hopes that the Commission believe that this amendment is a matter for public consultation.

**7.3 City of Melville – Local Planning Scheme No. 6 - Amendment No. 9 (Item 9.1)**

**Presenter: Councillor Margaret Sandford – City of Melville**

Cr Sandford made a presentation to the Committee in support of the City of Melville - Local Planning Scheme No. 6 - Amendment No. 9.

Cr Sandford discussed two key issues of the amendment and outlined that key issue 1 is whether Amendment No. 9 to rezone lots along the south-eastern boundary of the Canning Bridge Activity Centre Plan

(CBACP) from R-ACO to R20 is appropriate in the absence of a comprehensive review of the CBACP. Cr Sandford expressed that the amendment is appropriate and stated that it is the only way to prevent adverse amenity impacts such as overshadowing, disruption to streetscape and overlooking/loss of privacy.

Cr Sandford stated that all efforts by the City of Melville since the inception of the CBACP to reduce well-known amenity impacts have been unsuccessful. Cr Sandford further stated that the existing boundary, being within a walkable catchment from the train station (about 10 minutes' walk) falls outside the boundary definition criteria in Clause 6.3.1 (2) of State Planning Policy 4.2.

Cr Sandford explained that after extensive community consultation there has been overwhelming public support for the amendment. Cr Sandford stated that the overall review of the CBACP has acknowledged that the mid-block boundary is a serious planning defect in the CBACP and must be rectified. She expressed that the proposed recommendation for increased setbacks cannot address the current privacy and overshadowing issues.

Cr Sandford discussed key issue 2 of the amendment, whether the amendment is consistent with the objectives and intent of the Central Sub-Regional Planning Framework, Local Planning Strategy and CBACP. Cr Sandford expressed that the amendment is consistent with the planning instruments and the proposed change to the south-eastern boundary will have minimal impact on the overall objectives of the CBACP.

Cr Sandford stated that the proposed amendment to Local Planning Scheme No. 6 (LPS 6) is pursuant to Regulation 34 (e) of the Planning and Development Regulations 2015. She expressed that the change is consistent with the approach of LPS 6 to focus intensive development in centres and along transport corridors, whilst maintaining the low density suburbs.

Cr Sandford outlined that CBACP Goals G11 and 12 stress the need for sensitive development over time, especially in transitional areas from higher to lower density, and protection of residential areas from adverse amenity impacts. Cr Sandford expressed that the windfall is only for a few people who would benefit in developing their land and informed members that the City of Melville has already received planning applications.

Cr Sandford indicated that the amendment went out for community consultation and that the City received hundreds of submissions from people who support the amendment. Cr Sandford expressed that only a few people are opposed to the amendment and that the rights of the residents currently on H4 would lose their opportunity to make a windfall profit. Cr Sandford stated that there is no downside to moving the boundary and noted that Helm Street will be a buffer.

Cr Sandford answered questions from members.

**Mr Caddy returned to the meeting at 10:20 am and assumed the Chair.**

**7.4 Development Application for Retrospective Approval of Cafe/Restaurant at Lot 17 (No. 703) Gngangara Road, Lexia (Item 8.1)**

**Written Deputation:  
Richard Selman - Design2Solution**

Members noted the written submission on Item 8.1 - Development Application for Retrospective Approval of Cafe/Restaurant at Lot 17 (No. 703) Gngangara Road, Lexia.

**7.5 Mirrabooka Town Activity Centre Plan - Final Approval (Item 8.2)**

**Written Deputation:  
Nathan Stewart - Rowe Group  
Murray Casselton - element  
Belinda Moharich - Moharich and More**

Members noted the written submissions on Item 8.2 - Mirrabooka Town Activity Centre Plan - Final Approval.

**7.6 City of Melville – Local Planning Scheme No. 6 - Amendment No. 9 (Item 9.1)**

**Written Deputation:  
Ian Reginald Pound – Local Resident  
Rosemary Waldron-Hartfield – Local Resident**

Members noted the written submissions on Item 9.1 - City of Melville – Local Planning Scheme No. 6 - Amendment No. 9.

**ITEMS FOR DECISION**

**8.3 Local Planning Strategy Guidelines**

**Moved by Ms Lyhne  
Seconded by Mr Thornton**

*That the Statutory Planning Committee resolves to note that the Local Planning Strategy Guidelines and arrangements for approving changes to the guidelines will be considered by the Western Australian Planning Commission for approval at its 25 August 2021 meeting.*

**The motion was put and carried**

#### **8.4 City of Swan Local Planning Scheme No. 17, Amendment No. 200**

**Moved by Ms Lyhne**  
**Seconded by Mr Thornton**

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

1. *The WAPC has examined Amendment No. 200 in accordance with regulation 37(4) of the planning regulations, and considers that it is suitable for advertising subject to inclusion of a statement in the amendment documentation that addresses the requirement under regulation 35A of the Planning and Development (Local Planning Schemes) Regulations 2015.*
2. *Amendment No. 200 is to be advertised concurrently with the draft Development Contribution Plan Report, along with relevant supporting information including the capital expenditure plan, community infrastructure plan and technical reports.*
3. *Prior to the amendment (including the draft Development Contribution Plan Report and supporting information) being re-submitted to the WAPC it should be modified to ensure;*
  - a. *the scope of all items, and details including the description of works to be funded, percentage being funded, and/or any external funding sources are itemised in accordance with State Planning Policy 3.6 – Infrastructure Contributions; and*
  - b. *the estimated cost of infrastructure and cost apportionment are substantiated in accordance with the principles underlying infrastructure contributions expressed in State Planning Policy 3.6 – Infrastructure Contributions, including but not limited to the following items:*
    - i. *Upgrading of the Henley Brook Ave and Gnangara Rd (H-INT12), and Gnangara Rd and Losino Blvd (H-INT13) intersections.*
    - ii. *Construction, upgrading and/or land acquisition for Henley Brook Ave from Asturian Dr to Henley Ave (H-TRF08A and H-ACQTRF08A), and from Henley Rd to Part St (H-TRF08B and H-ACQTRF08B).*
    - iii. *Upgrading intersection of Starflower Rd and Henley St (H-INT01), Starflower Rd, Fairmount Blvd and Park St (H-INT02).*
    - iv. *Construction and/or upgrading of Starflower Rd (H-TRF07A, B and C).*

- c. *cost apportionment and the extent of the contribution area is in accordance with the principles underlying infrastructure contributions expressed in State Planning Policy 3.6 – Infrastructure Contributions and responds to infrastructure requirements for proposed land uses.*
4. *The City is advised that;*
- a. *Undertaking the above modifications prior to advertising, in consultation with stakeholders, may avoid the need for the amendment to be significantly modified following advertising and/or be readvertised as a result of those modifications.*
  - b. *WAPC consistently receives submissions in relation to excessive cost estimates or cost apportionment in DCPs prepared by the City of Swan. During progression of the amendment the City should provide stakeholders with all information upon which the City's estimates and apportionment are based. The City should also consider having estimates peer reviewed by suitably qualified persons.*
  - c. *Cost apportionment is responsive to any adjustments to the cost contribution area and is appropriately substantiated in view of proposed land uses, in accordance with the principles underlying infrastructure contributions expressed in State Planning Policy 3.6 – Infrastructure Contributions.*
5. *While the WAPC has undertaken a preliminary assessment, this should not be construed as support for the amendment or that further modifications would not be required following advertising.*

**The motion was put and carried**

**8.1 Development Application for Retrospective Approval of Cafe/Restaurant at Lot 17 (No. 703) Gnangara Road, Lexia**

Members were provided an overview of the Development Application for Retrospective Approval of a Cafe/Restaurant at Lot 17 (No. 703) Gnangara Road, Lexia. Members were advised of concerns that the Department of Water and Environmental Regulation have identified with State Planning Policy 2.2 (SPP 2.2) the restaurant's incompatibility with the water catchment.

The Department of Planning, Lands and Heritage acknowledged that there is an approved effluent disposal system and recommends the Committee give consideration to the State Planning Policy and approve the development application from a planning perspective.

Members were informed that key conditions in the recommendation are to limit the capacity of the cafe/restaurant and the upgrading of the existing wastewater treatment system to the specifications of the City

of Swan in consultation with the Department of Health and Department of Water and Environmental Regulation.

Members discussed the zoning of the land in the Metropolitan Region Scheme and the water catchment overlay on the zoning. Members were informed that there were historic uses for the subject land and that the City of Swan has issued a number of development approvals on the land going back a number of years supporting the agriculture-intensive use of the land. Members discussed the concern that approval of the development application may cause a precedent for other landowners, which will be an issue in the water catchment area.

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

**Moved by Mr Thornton**  
**Seconded by Mr Davies**

*That the Statutory Planning Committee resolves to approve the application for retrospective approval of cafe/restaurant at Lot 17 (No. 703) Gnangara Road, Lexia subject to the following conditions:*

1. *This approval is for the retrospective use for the cafe/restaurant and associated development.*
2. *The replacement or upgrading of the existing wastewater treatment system servicing the cafe/restaurant to an approved system with secondary treatment capability for nutrient removal to the specifications of the City of Swan in consultation with the Department of Health and Department of Water and Environmental Regulation, as required.*
3. *A maximum of 120 persons inclusive of staff being allowed in the cafe/restaurant at any one time.*

*Advice to the Applicant:*

- a. *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.*

**The motion was put and carried**

## **8.2 Mirrabooka Town Activity Centre Plan - Final Approval**

Members discussed the submissions received from landowners within the Mirrabooka Town Activity Centre Plan objecting to the mandatory residential requirements, specifically from Rowe Group on behalf of the owners of Lot 602 (No. 1) Milldale Way, Mirrabooka and Element on behalf of AFIC Schools WA Ltd.

Members noted that the owners of Lot 602 have recently constructed a Residential Aged Care on their land. Members discussed that a Child Care Centre development had already been approved and they are concerned their approval may fall over. Members also noted the submission from Element. Members were informed that AFIC Schools WA Ltd represented by Element has a contract with Department of Communities to settle the land by the end of October 2021.

Members were informed that the Minister for Planning had already considered the matters relating to the submissions and the Department of Planning, Lands and Heritage recommends that the Committee not revisit the issues raised in the submissions as the Activity Centre Plan have already been subject to a significant consultation process.

Members discussed the submissions from Element and Moharich and More regarding the issue on the provision of roads and were informed that the Local Planning Scheme includes road reserves in the location of their land, which complicates the issue.

Members agreed to defer the item to the next meeting for the Committee to obtain legal advice in relation to the issues raised in the written submissions and whether the school could be approved without due regard to the scheme requirement.

**Moved by Mr Thornton**  
**Seconded by Mr Iacomella**

*That the Statutory Planning Committee resolves to defer the item relating to the Mirrabooka Town Activity Centre Plan, as detailed in the report dated 17 August 2021 to obtain legal advice in relation to the issues raised in the written submissions and whether the school could be approved by the JDAP without due regard to the scheme requirement.*

**The motion was put and carried**

**8.5 Shire of Murray Local Planning Scheme No. 4, Amendment No. 312 - Consent to advertise**

Members discussed the Shire of Murray Local Planning Scheme No. 4, Amendment No. 312 - Consent to Advertise and the recommendation of the Department of Planning, Lands and Heritage. Members noted that the Department of Planning, Lands and Heritage recommends consent to advertise with significant conditions to align with the South Metropolitan and Peel Sub-Regional Planning Framework.

Members agreed to amend the recommendation of the Department of Planning, Lands and Heritage to include additional information substantiating the proposed variation to the South Metropolitan and Peel Sub-Regional Framework (2018) and State Planning Policy 2.5 –

Rural Planning incorporated into the amendment documentation prior to advertising.

**Moved by Ms Thompson**  
**Seconded by Ms Lyhne**

*That the Statutory Planning Committee resolves to advise the Shire of Murray that:*

1. *a. Modification of the amendment is required to be undertaken prior to advertising in accordance with the attached schedule of modifications (Attachment 3 – Schedule of Modifications);*  
  
*b. Additional information substantiating the proposed variation to the South Metropolitan Peel Sub-Regional Framework (2018) and State Planning Policy 2.5 – Rural Planning is required to be incorporated into the amendment documentation prior to advertising;*
2. *Upon completion of these modifications, the amendment is to be advertised in accordance with Regulation 38 of the Planning and Development (Local Planning Schemes) Regulations 2015; and*
3. *Following advertising and re-submission of Amendment 312 to the Western Australian Planning Commission, the suitability of the proposed zoning will be closely considered.*

**The motion was put and carried**

#### **9.1 City of Melville – Local Planning Scheme No. 6 - Amendment No. 9**

**The Chairman declared an Actual Direct Pecuniary Interest on Item 9.1 and left the meeting at 11:05 am.**

**The nominated Chairperson, Mr Thornton, presided over the meeting in the absence of Mr Caddy.**

**THIS ITEM IS CONFIDENTIAL**

**Mr Caddy returned to the meeting at 11:16 am and assumed the Chair.**

#### **10. Reports for noting**

Nil.

#### **11. Stakeholder engagement and site visits**

Nil.

#### **12. Urgent or other business**

Nil.

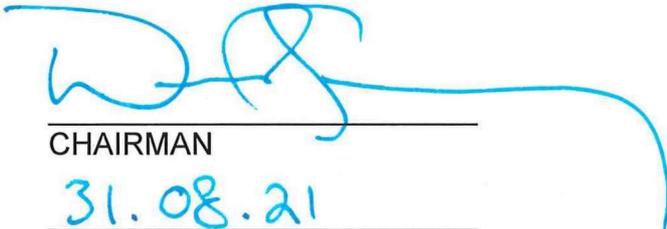
**13. Items for consideration at a future meeting**

Nil.

**14. Meeting closure**

The next ordinary meeting is scheduled for 9:30 am on Tuesday, 31 August 2021.

There being no further business before the Committee, the Chairman thanked members for their attendance and declared the meeting closed at 11:26 am.



CHAIRMAN

31.08.21

DATE