



Statutory Planning Committee

Minutes

Meeting No. 7677
Tuesday, 5 April, 2022

Members: David Caddy - Chairman WAPC
Vaughan Davies - Nominee of the Director General, Department of Planning, Lands and Heritage
Kym Davis - Community Representative
Lino Iacomella - WAPC Appointee
Leonard Kosova - Local Government Representative
Nina Lyhne - WAPC Appointee
Ross Thornton - WAPC Appointee

Apologies: Lynne Craigie - Nominee of the Regional Minister
Marion Thompson - Professions Representative

Others present: Justin Breeze – Planning Manager, Metro South East
Alex Campbell – Senior Planning Officer, Metro South West
Garreth Chivell – Planning Manager, Schemes and Amendments
Sean Collingwood – Planning Director, Regional North
Michael Daymond – Strategic Advisor, WAPC
John Di Rosso – Senior Planning Officer, Metro South West
Sam Fagan – Manager Commission Business
Mark Jendrzeczak – A/Planning Manager, Great Southern
Nicole Lucas-Smith – Planning Director, Metro South & Peel
Rohan Miller – Planning Director, Schemes, Amendments and Administration
Irene Obales – Commission Support Officer
Diarmuid O'Connor – Planning Manager, Metro South West
Phillida Rodic – Planning Director, Reform Projects
Michelle Sanfilippo – Team Leader, Commission Support
David Saunders – Assistant Director General, Land Use Planning

1. Declaration of opening

The Chairman declared the meeting open at 10:01 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

Lynne Craigie - Nominee of the Minister for Regional Development

Marion Thompson - Professions Representative

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

Nil.

4. Disclosure of interests

Mr Kosova declared an Impartiality Interest on Item 8.3 - Southern River Precinct 3C (South) Structure Plan - Amendment No. 1 (SPN/2119M-1). Mr Kosova stated that the landowner, Polkamp Pty Ltd, is a recent client of his consultancy, LK Advisory, on an unrelated matter. Members agreed that Mr Kosova is permitted to be present during the discussion and/or decision-making procedure on the item as it 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

6. Minutes

6.1 Confirmation of minutes - Meeting No. 7676 on Tuesday, 22 March 2022

Moved by Mr Iacomella
Seconded by Mr Kosova

That the minutes of the Statutory Planning Committee meeting held on Tuesday, 22 March 2022, be confirmed as a true and correct record of the proceedings.

The motion was put and carried

7. Deputations and presentations

7.1 Southern River Precinct 3C (South) Structure Plan - Amendment No. 1 (SPN/2119M-1) (Item 8.3)

Presenters: Samantha Thompson – Taylor Burrell Barnett and Matt Craven-Kelly – Parcel Property

Ms Thompson and Mr Craven-Kelly made a presentation to the Committee on behalf of the landowners, Polkamp Pty, Ltd, in support of the recommendation of the Department of Planning, Lands and Heritage. Ms Thompson requested approval of the amendment and stated that they support the approval for a reduced Conservation Category Wetland (CCW) buffer to 30m adjacent Lot 1796.

Ms Thompson outlined key considerations for the buffer reduction and stated that the Environmental Protection Authority (EPA) buffer guidance and wetland mapping assumes all wetlands are equal. However, Ms Thompson informed members that the EPA buffer guidance provides for further detailed site-specific investigations to be completed rather than apply generic buffers. Ms Thompson stated that they have completed this work in support of the application and that the 30m buffer is sufficient.

Ms Thompson expressed that the landowner has the right to undertake further development of the lot in accordance with the rural zoning of the land.

7.2 Development Application - Replacement of Penguin Island Discovery Centre and associated structures (28-50229-1) (Item 8.4)

Presenters: Peter Rici – City of Rockingham; Michael Parker – CEO, City of Rockingham and Mayor Deb Hamblin – City of Rockingham

Mr Rici, Mayor Hamblin and Mr Parker made a presentation to the Committee against the Development Application - Replacement of Penguin Island Discovery Centre and associated structures. Mr Rici expressed that the City of Rockingham is very protective of Penguin Island and he stated that Penguin Island is unique, but the penguin population has declined since 2007, and they are concerned that should the decline in population continue it will end the penguin colony on the island. Mr Rici highlighted that the information provided by the Department of Biodiversity, Conservation and Attractions (DBCA) is inadequate to assess the impacts on the little penguin colony.

Mr Rici stated that the City of Rockingham engaged consultants to assess the proposed development and this confirmed that the demolition and construction of the facility will have negative impact to the environment. Mr Rici mentioned other shortcomings of the proposed development outlining that there was no formal public consultation process by DBCA; that the local tourism operators support a proposal for a mainland facility; and that there is a lack of analysis as to credible options to confirm the most appropriate location for a new facility.

Mayor Hamblin informed members that local tourism operator, Perth Wildlife Encounters, have expressed concerns about their viability

should the facility be built on the island and concerns about the construction's environmental impact to the island. Mayor Hamblin requested the Committee to take a precautionary approach to the proposed development.

Mr Rici, Mayor Hamblin and Mr Parker answered questions from members.

7.3 Development Application - Replacement of Penguin Island Discovery Centre and associated structures (28-50229-1) (Item 8.4)

Presenters: Benson Todd – DBCA and David Charles – DBCA

Mr Todd and Mr Charles made a presentation to the Committee representing the Department of Biodiversity, Conservation and Attractions (DBCA), in support of the Development Application - Replacement of Penguin Island Discovery Centre and associated structures. Mr Todd provided an overview of the Discovery Centre and informed members that the DBCA manages the State's islands and marine parks including Penguin Island. Mr Todd stated that the centre has been critical to the island's eco system which provided the DBCA with the ability to cater to tourists without disturbing the little penguins. Mr Todd informed members that the centre was constructed in 1995 and has been repaired multiple times, but the centre will reach the end of its life in 2023.

Mr Todd explained that the need to protect the penguins was the primary driver to relocate the centre and that construction of the new centre is to be carefully considered and he indicated that through the demolition of the old centre, there will be additional habitat and breeding/nesting area for the penguins. Mr Todd stated that DBCA has considerable expertise in managing wildlife and that they will continue to consult with other scientists to deliver improved outcomes for the island.

Mr Todd and Mr Charles answered a question from members about the penguins' ongoing decline in numbers and whether the decline will be minimal in the next five years. They explained that the decline is due to the season cycles and that there will be challenges in managing the penguin population going forward.

Mr Todd and Mr Charles discussed the location options analysis for the new centre and the sites they looked at on and off the island and explained that the primary driver for choosing a location within the island is to manage visitors and the little penguins on the island. Mr Todd and Mr Charles informed members that this involved monitoring the nesting sites to gather information to assess the best location for the new centre.

7.4 City of Karratha - Local Planning Scheme No. 8, Amendment No. 53 (TPS/2773) (Item 9.1)

Presenters: Kate Oosterhof – NYFL Commercial Pty Ltd (Garlbagu)

Ms Oosterhof made a presentation to the Committee representing the Ngarluma Yinjibarndi Foundation Limited (NYFL) in a pro bono capacity, and provided an overview of the City of Karratha - Local Planning Scheme No. 8, Amendment No. 53. Ms Oosterhof stated that the amendment was designed to facilitate the mission of NYFL and that it aligns with the planning framework. Ms Oosterhof expressed concerns that the Department of Planning, Lands and Heritage will revert to its original position which is a reduced area for development. Ms Oosterhof explained that this amendment represents a great opportunity for the community and the State.

Ms Oosterhof discussed the vision for tourism in the next 10 years and explained that the first stage is to unlock nature based camping, which does not require servicing. Ms Oosterhof informed members that they will work with Tourism WA to establish the camp sites. She stated that they will also be looking at opportunities to reuse the existing hotel, cafe and restaurants, as well as facilities in the gallery. Ms Oosterhof indicated that within five years, they are going to look at establishing glamping sites, walking trails, boardwalks and cabins. Ms Oosterhof indicated that the development in Cossack will be finalised within 10 years with an expectation that it will be established within five years.

7.5 City of Karratha - Local Planning Scheme No. 8, Amendment No. 53 (TPS/2773) (Item 9.1)

Presenters: Ryan Hall – City of Karratha and Joshua Allbeury – Senior Planner, City of Karratha

Mr Hall and Mr Allbeury made a presentation to the Committee in support of the City of Karratha - Local Planning Scheme No. 8, Amendment No. 53. Mr Hall expressed that Cossack is a unique and special place in Western Australia and that there is an opportunity to activate tourism in Cossack. Mr Hall acknowledged the work of the Department of Planning, Lands and Heritage and the Ngarluma Yinjibarndi Foundation Limited (NYFL) in relation to the item and indicated that there will be more work to be done. Mr Hall indicated that there is strong community interest regarding the amendment.

7.6 City of Belmont - Local Planning Scheme No. 15, Amendment No.14 - For Final Approval (TPS/2679) (Item 9.2)

Presenters: Daniel Martinovich – CLE Town Planning + Design

Mr Martinovich made a presentation to the Committee in support of the City of Belmont - Local Planning Scheme No. 15, Amendment No. 14

and stated that the subject land can accommodate R60 development. Mr Martinovich informed members that the merit of R60 was previously determined by the City of Belmont in 2010 and the Western Australian Planning Commission in 2013. Mr Martinovich indicated that the amendment is consistent with WAPC policy and that a straight density coding is the most appropriate outcome.

7.7 City of Swan - Local Planning Scheme No. 17, Amendment No. 178 - For Final Determination (TPS/2710) (Item 9.4)

Presenter: Lewis Shugar – element

Mr Shugar made a presentation to the Committee on behalf of the landowner, Broadwest Corp Pty Ltd, in support of the City of Swan - Local Planning Scheme No. 17, Amendment No. 178. Mr Shugar explained that Amendment 178 proposes to rezone Lot 811 (No. 6) Tipper Court, Hazelmere from 'General Industrial', remove the Restricted Use (RU13) classification and apply a 'Special Use' zone on the subject site. Mr Shugar stated that the amendment will provide certain amenities which are currently lacking in the area. Mr Shugar informed members that the subject site is located adjacent to the Lloyd Street extension, which once completed, will provide a critical link for the distribution of traffic into the area and improve connectivity between Midland and other industrial areas.

Mr Shugar stated that the amendment will allow for a mix of land uses to support the ongoing operation of the Hazelmere Industrial Area with a focus on servicing the daily needs of the local workforce.

7.8 City of Karratha - Local Planning Scheme No. 8, Amendment No. 53 (TPS/2773) (Item 9.1)

Written Submission:

Bruce Jorgenson – Ngarluma Yinjibarndi Foundation Limited (Garlbagu)

Members noted the written submission on Item 9.1 - City of Karratha - Local Planning Scheme No. 8, Amendment No. 53 (TPS/2773).

7.9 Development Application - Replacement of Penguin Island Discovery Centre and associated structures (28-50229-1) (Item 8.4)

Written Submission:

Chad D'Souza - Perth Wildlife Encounters

Members noted the written submission on Item 8.4 - Development Application - Replacement of Penguin Island Discovery Centre and associated structures (28-50229-1).

The Chairman declared a break at 11:04 am.

The meeting resumed at 11:11 am with all members present.

ITEMS FOR DECISION

8.1 Survey Strata Subdivision - Local Development Plan – Lot 5 Earl Street, Albany (533-21)

**Moved by Ms Davis
Seconded by Mr Davies**

That the Statutory Planning Committee resolves to, pursuant to Clause 7.3.2 of State Planning Policy 7.3 – Residential Design Codes:

- 1. Approve the variations to cl. 5.3.3 and cl 5.4.1 of deemed-to-comply provisions proposed by the Lot 5 Earl Street, Albany Local Development Plan subject to the following modification:
 - a. Include a 'Design Elements' provision to read "Any security gates require minimum 5 m front boundary setback".**
- 2. Advise the City of Albany accordingly.*

The motion was put and carried

8.2 Proposed Local Development Plan for Stage 5B - Apsley Estate, Mandogalup (PLH2022P0044)

**Moved by Ms Davis
Seconded by Mr Davies**

That the Statutory Planning Committee resolves to, pursuant to Clause 7.3.2 of State Planning Policy 7.3: Residential Design Codes (Volume 1), approve the amended deemed-to-comply provisions proposed by the Apsley Estate Stage 5B Local Development Plan.

The motion was put and carried

8.3 Southern River Precinct 3C (South) Structure Plan - Amendment No. 1 (SPN/2119M-1)

Moved by Ms Davis
Seconded by Mr Davies

That the Statutory Planning Committee resolves to:

- 1. require the applicant to modify Amendment 1 to the Southern River Precinct 3C (South) Structure Plan in accordance with the attached Schedule of Modifications (Attachment 10);*
- 2. require the modified structure plan amendment to be re-submitted to the Western Australian Planning Commission for its consideration; and*
- 3. advise the City of Gosnells of its decision.*

The motion was put and carried

9.1 City of Karratha - Local Planning Scheme No. 8, Amendment No. 53 (TPS/2773)

THIS ITEM IS CONFIDENTIAL

9.3 City of Stirling - Local Planning Scheme No. 3, Amendment No. 120 - For Final Approval (TPS/2707)

THIS ITEM IS CONFIDENTIAL

9.4 City of Swan - Local Planning Scheme No. 17, Amendment No. 178 - For Final Determination (TPS/2710)

THIS ITEM IS CONFIDENTIAL

10.1 Section 31 Reconsideration of Refusal of Subdivision to create 4 Rural Living lots - Lot 312 Bournbrook Avenue, Cardup (WAPC 159829, DR271/2021)

Moved by Ms Davis
Seconded by Mr Davies

Pursuant to section 31 of the State Administrative Tribunal Act 2004 the Statutory Planning Committee resolves to reconsider its refusal (WAPC 159829) (DR271/2021) dated 7 December 2021 and resolves to set aside its decision and approve the subdivision application in accordance with the plan date-stamped 8 March 2022, on Lot 312 (No. 102) Bournbrook Avenue, Cardup, subject to the following conditions and advice:

Conditions:

1. *The land being filled, stabilised, drained and/or graded as required to ensure that:*
 - a) *lots can accommodate their intended development; and*
 - b) *finished ground levels at the boundaries of the lots the subject of this approval match or otherwise coordinate with the existing and/or proposed finished ground levels of the land abutting; and*
 - c) *stormwater is contained on-site, or appropriately treated and connected to the local drainage system (Local Government)*
2. *Prior to the commencement of subdivisional works, the landowner/applicant is to be provided a pre-works geotechnical report certifying that the land is physically capable of development or advising how the land is to be remediated and compacted to ensure it is capable of development.*

In the event that remediation works are required, the landowner/applicant is to provide a post geotechnical report certifying that all subdivisional works have been carried out in accordance with the pre-works geotechnical report. (Local Government)
3. *Drainage easements and reserve as may be required by the local government for drainage infrastructure being shown on the diagram or plan of survey (deposited plan) as such, granted free of cost, and vested in that local government under Sections 152 and 167 of the Planning and Development Act 2005. (Local Government)*
4. *Arrangements being made to the satisfaction of the Western Australian Planning Commission for the filing and/or capping of any bores and/or wells, or the identification of any bore and/or well to be retained on the land. (Local Government)*
5. *Measures being taken to ensure the identification and protection of any vegetation on the site worthy of retention that is not impacted by subdivisional works, prior to commencement of subdivisional works. (Local Government)*
6. *The proposed access way being constructed and drained at the landowner/applicant's cost to the specifications of the local government (Local Government)*
7. *An easement in accordance with Section 136C of the Transfer of Land Act 1893 is to be created to ensure reciprocal rights of access over the adjoining battle-axe legs (Local Government)*

8. *A 4.24 metre truncation is to be provided at the junction of the access way and the proposed rear lot. (Local Government)*
9. *A 4.24 metre truncation is to be provided at the junction of the access way and the Bournbrook Road reserve. (Local Government)*
10. *Redundant vehicle crossover(s) to be removed and the kerbing, verge and footpath (where relevant) reinstated with grass or landscaping to the satisfaction of the Western Australian Planning Commission and to the specifications of the local government. (Local Government).*
11. *The 'Lot 312 (No. 102) Bournbrook Avenue, Cardup' Bushfire Management Plan dated 24 August 2020 (version B) being updated to reflect the approved plan of subdivision dated 8 March 2022. Information is to be provided to demonstrate that the measures contained in Section 5; Implementation and Enforcement (as amended) have been implemented during subdivision works. This information should include a completed 'Certification by Bushfire Consultant' from the bushfire management plan. (Local Government)*
12. *A notification, pursuant to Section 165 of the Planning and Development Act 2005 is to be placed on the certificates of title of the proposed lots with a Bushfire Attack Level (BAL) rating of 12.5 or above, advising of the existence of a hazard or other factor. Notice of this notification is to be included on the diagram of plan of survey (deposited plan). This notification is to state as follows:

'This land is within a bushfire prone area as designated by an Order made by the Fire and Emergency Services Commissioner and may be subject to a Bushfire Management Plan. Additional planning and building requirements may apply to development on this land.'
(Western Australian Planning Commission)*
13. *A notification, pursuant to Section 70A of the Transfer of Land Act 1893 is to be placed on the certificates of title of the proposed lots. 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 not connected to a reticulated potable water supply. An alternative water supply may be required for development on this lot, and additional planning and building requirements may apply to development of this land" (Local Government)*
14. *A notification, pursuant to Section 70A of the Transfer of Land Act 1893 is to be placed on the certificates of title of the proposed lots. Notice of this notification is to be included on the diagram or plan of survey (deposited plan). The notification is to state as follows:*

'A reticulated sewerage service is not available to the lot. As such, an on-site secondary treatment and disposal system for sewage will be required. Therefore, the developable area of the lot is reduced. There are ongoing landowner obligations to ensure that the treatment and disposal system is regularly maintained in accordance with relevant health regulations. Contact the local government for further information.' (Local Government)

15. Arrangements being made to the satisfaction of the Western Australian Planning Commission and to the specification of Western Power for the provision of an underground electricity supply to the lots shown on the approved plan of subdivision. (Western Power)

Advice:

- 1. With regard to Condition 15, Western Power provides only one point of electricity supply per freehold (green title) lot.*

The motion was put and carried

8.4 Development Application - Replacement of Penguin Island Discovery Centre and associated structures (28-50229-1)

Members discussed the City of Rockingham's objection to the proposed development on Penguin Island and their recommendation for a mainland centre. Members were advised that the City engaged consultants to provide expert advice in relation to the proposed development and determined that there is potential impact to the environment from the construction of the facility. Members noted that there is no evidence that the construction will have an impact on the penguins.

Members agreed to endorse the recommendation of the Department of Planning, Lands and Heritage with Advice No. 4 being amended to replace the words "Department of Aboriginal Affairs" with "Department of Planning, Lands and Heritage".

Moved by Mr Davies
Seconded by Ms Lyhne

That the Statutory Planning Committee resolves to approve the development application for the Penguin Island Discovery Centre, on the identified portion of Crown Reserve 17070 Penguin Island, Arcadia Drive Shoalwater, subject to the following conditions and advice:

- 1. The development is to be carried out in accordance with the plans date stamped 24 January 2022 (attached) by the Department of Planning, Lands and Heritage subject to any modifications as required by the conditions of approval.*

2. *The decision constitutes planning approval only. If development has not substantially commenced within two years from the date of this letter, the approval shall lapse and be of no further effect.*
3. *The applicant agrees to remove the approved structures and rehabilitate the land to its pre-development condition to the satisfaction of the Western Australian Planning Commission at their own cost should coastal impacts require the permanent closure of the facility.*
4. *Prior to the commencement of construction, the proposed external material and colour finishes of the Centre are to be submitted and approved to the satisfaction of the Western Australian Planning Commission, on the advice of the Office of the Government Architect. Once approved, the development is to be carried out in accordance with the approval.*
5. *Prior to the commencement of construction, an updated landscape plan is to be submitted and approved to the satisfaction of the Western Australian Planning Commission, on the advice of the Office of the Government Architect. Once approved, the development is to be carried out in accordance with the plan.*
6. *Prior to the commencement of construction, a construction and environmental management plan being submitted and approved to the satisfaction of the Western Australian Planning Commission, on the advice of the City of Rockingham and the Little Penguin Working Group. Once approved, the development is to be carried out in accordance with the plan. Any modifications to the plan, post commencement of development are to be agreed in writing with the Western Australian Planning Commission.*

Advice to Applicant

1. *With regard to Condition 4, consideration should be given to a lighter colour for the Colourbond roof as per previous advice from the Office of the Government Architect.*
2. *With regard to Condition 5, the landscape plan should demonstrate that where possible existing trees have been retained to screen the proposed Discovery Centre.*
3. *In relation to Condition 6, the construction and environmental management plan should address the site-specific matters below.*

The Little Penguin Working Group should be consulted in relation to the following matters:

- a. *The protocol for encountering Little Penguins during the project;*

- b. *A buffer to all natural nests located within the area of any works for the project;*
- c. *A timeline for the proposed works, ensuring that no demolition or construction will take place during the Little Penguin Breeding season;*
- d. *Detailing how demolition of the southern boardwalk will be managed and must be completed within one day to ensure uninterrupted access by Little Penguins or alternative arrangements agreed;*
- e. *How visitation by the general public to the Island will be managed for the duration of the project, including any communication plans and Island closure days to be used;*
- f. *The methods and mitigation measures to be used to manage and address how noise and vibrations from the project will impact the Little Penguins, their behaviour, nesting and breeding success.*

The City of Rockingham should be consulted in relation to the following matters:

- g. *Detailing provision of sufficient water accessible on-site to enable dust/sand suppression;*
 - h. *Mitigation measures to negate the effects of dust /sand during times of strong winds, including option to stop operations;*
 - i. *How any stockpiles on the mainland and on Penguin Island are to be managed;*
 - j. *Construction waste disposal strategy and location of waste disposal bins;*
 - k. *How existing vegetation will be protected and retained where possible during construction;*
 - l. *How materials and equipment will be delivered and removed from the site and the Island, including any site on the mainland to be used (incidental storage site); and*
 - m. *Parking and travel arrangements for contractors engaged in the project.*
4. *The development must comply with the Aboriginal Heritage Act 1972. The applicant should liaise with the Department of Planning, Lands and Heritage in this regard.*

The motion was put and carried

9.2 City of Belmont - Local Planning Scheme No. 15, Amendment No.14 - For Final Approval (TPS/2679)

THIS ITEM IS CONFIDENTIAL

11. Reports for noting

Nil.

12. Stakeholder engagement and site visits

Nil.

13. Urgent or other business

Nil.

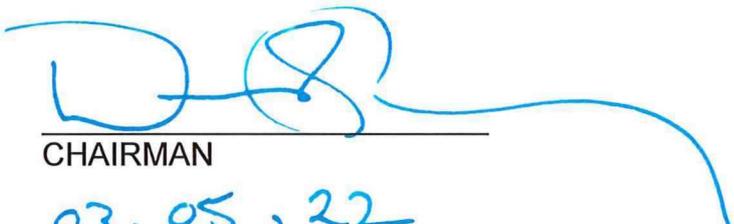
14. Items for consideration at a future meeting

Nil.

15. Meeting closure

The next ordinary meeting is scheduled for 9:30 am on Tuesday, 3 May 2022.

There being no further business before the Committee, the Chairman thanked members for their attendance and declared the meeting closed at 11:24 am.



CHAIRMAN

03.05.22

DATE