



## **Statutory Planning Committee**

### **Minutes**

Meeting No. 7690  
Tuesday, 8 November, 2022

Members: Ross Thornton – Acting Chairman  
Lynne Craigie - Nominee of the Regional Minister  
Kym Davis - Community Representative  
Lino Iacomella - WAPC Appointee  
Leonard Kosova - Local Government Representative  
Nina Lyhne - WAPC Appointee  
Marion Thompson - Professions Representative

Apologies: David Caddy – WAPC Chairman  
Vaughan Davies – Nominee of the Director General,  
Department of Planning, Lands and Heritage

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  
Rob Cull - Senior Planning Officer, Metro Central  
Zoe Davidson – Commission Support Officer  
Michael Daymond - Strategic Advisor WAPC  
Sam Fagan - Manager Commission Business  
Neil Fraser - Planning Manager, South-West-South  
Parwez Jahmeerbacus – Principal Planning and Engineering  
Officer  
Kelsie Lewis - Senior Planning Officer - Great Southern  
Sam Lissiman - Senior Planning Officer, Metro South and  
Peel  
Rohan Miller - Planning Director, Schemes and Amendments  
Phillida Rodic – Planning Director Reform Projects, Reform,  
Design and State Assessment  
Michelle Sanfilippo - Commission Support Team Leader  
Mat Selby - Acting Assistant Director General, Land Use  
Planning  
Carolyn Vyner - Principal Planning Officer - Metro Central  
North

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**1. Declaration of opening**

Due to the absence of the Chairman and in accordance with Clause 1.17 of the Meeting Procedures 2022 a member was chosen to preside over the meeting.

**Members unanimously nominated Mr Thornton.**

*That Mr Thornton preside over the meeting of the Statutory Planning Committee, in the absence of the Chairperson.*

**The motion was put and carried.**

The Acting Chairman declared the meeting open at 9:35 am, 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. The Acting Chairman paid respect to elders past and present, and extended solidarity and hope for a just and dignified future for us all.

**2. Apologies**

David Caddy - WAPC Chairman

Vaughan Davies - Nominee of the Director General, Department of Planning, Lands and Heritage

**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 9.1 - City of Swan Local Planning Scheme No. 17, Amendment No. 200. Mr Kosova stated that Cedar Woods is one of the developers affected by the City of Swan Local Planning Scheme No. 17, Amendment No. 200 and they are a former client of LK Advisory, his private consultancy firm. 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.

Mr Thornton declared an Impartiality Interest on Item 8.3 - City of Swan – Guildford-Mandoon Heritage Area Local Planning Policy - Amendments to the Deemed-to-Comply Provisions of the Residential Design Codes. Mr Thornton stated that his niece is a planner at the City of Swan and was involved in the preparation of the City of Swan Local Planning Policy. Members agreed that Mr Thornton is permitted to be present during the discussion and/or decision-making procedure on the item as it is unlikely to influence Mr Thornton's conduct in relation to the matter.

Mr Thornton declared an Impartiality Interest on Item 8.4 - Reconsideration of Refusal - Proposed Subdivision to create 8 Rural Residential lots - Lot 9001 Allmore Drive, Robinson - City of Albany. Mr Thornton stated that Mr Ayton of Ayton Planning called him to discuss Item 8.4. Mr Thornton advised that during this call he provided advice and does not have an interest in the matter. Members agreed that Mr Thornton is permitted to be present during the



discussion and/or decision-making procedure on the item as it is unlikely to influence Mr Thornton'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**

Members noted the questions from Members and responses from the Department of Planning, Lands and Heritage.

## **6. Minutes**

### **6.1 Confirmation of minutes - Meeting No. 7689 on Tuesday, 25 October 2022**

**Moved by** Mr Iacomella

**Seconded by** Mr Kosova

*That the minutes of the Statutory Planning Committee meeting held on Tuesday, 25 October 2022, be confirmed as a true and correct record of the proceedings.*

**The motion was put and carried**

## **7. Deputations and presentations**

### **7.1 Proposed Modification to the Kennedy Bay Structure Plan (Item 8.1)**

**Presenters: Reyne Dial - Rowe Group and David Roberts - Place Development (representing WABGR)**

Mr Dial and Mr Roberts presented to the Statutory Planning Committee on behalf of Rowe Group and Place Development (representing WABGR) respectively in support of the Proposed Modification to the Kennedy Bay Structure Plan and thanked the relevant Department of Planning, Lands and Heritage officers for their collaboration over the past 6 months working to address the Department of Education's submissions and advised that the landowners support the proposed site of the additional public primary school.

Members queried the proposed cul-de-sac and Mr Dial informed members that the intention is to provide an east-west connection to connect to the Port Kennedy catchment area, traffic modelling identified that some residents would use the loop to connect to the ocean and this would put too much pressure on the road, therefore the double cul-de-sac proposal was put forward to support traffic and pedestrians, make it easy for parents to drop off and pick up children from school, and address the primary school and residents' concerns.

Members noted that in some of the submissions there was an expectation for a cross access for road traffic and Mr Dial advised that it was a common comment in submissions through the public

advertising period, however there were objections from some residents in the area that would be affected by the cross access.

**7.2 Proposed Modification to the Kennedy Bay Structure Plan (Item 8.1)**

**Presenter: Brett Ashby - City of Rockingham**

Mr Ashby presented to the Statutory Planning Committee on behalf of the City of Rockingham (the City) advising members that the Department of Planning, Lands and Heritage report to the Committee provides a summary of submissions from the City, however it does not include all matters raised.

Mr Ashby informed members that the introduction of a new primary school on the periphery of the structure plan area is a major modification to the structure plan and typically should involve the advertising of the amendment by the relevant local government for 42 days, however this amendment was advertised by the Department of Planning, Lands and Heritage (DPLH) for a period of only 28 days.

Mr Ashby stated that the DPLH did not provide the City with an opportunity to review the public submissions lodged and provide comments on them.

Mr Ashby advised members that the City lodged a considerable submission in relation to traffic impacts and issues around the school site, and surrounding road networks, and that the City undertook their own traffic impact assessment, calculating trip generation and found that the DPLH's traffic impact assessment from February 2022 differed by more than 70% to the City's assessment, which found that the existing road network would be unable to handle the projected increase in traffic. Mr Ashby further advised that the DPLH report to the Commission refers to an additional traffic impact assessment having been undertaken and the City have not been provided with a copy of that report to assess.

Mr Ashby stated that Morfontaine Parade has no capacity for further traffic constraints or upgrades, and the City has concerns about the implications of the introduction of a cul-de-sac and requests that the Committee defer consideration of the Proposed Modification to the Kennedy Bay Structure Plan pending further information in relation to traffic modelling and assessment, to allow the City to conduct a proper assessment and provide advice on the proposed modification and to allow the City to readvertise the major modification for the required 42 days.



### 7.3 Proposed Modification to the Kennedy Bay Structure Plan (Item 8.1)

#### **Presenter: Anna Brown – Department of Education**

Ms Brown presented to the Statutory Planning Committee on behalf of the Department of Education in support of the Proposed Modification to the Kennedy Bay Structure Plan, advised members that the Department of Education requires a new public primary school site within the proposed Kennedy Bay Local Structure Plan to support the future student enrolment demand in the locality and provide enrolment accommodation relief to nearby existing public primary schools. Ms Brown highlighted support of Option C as depicted on the northern portion of the Structure Plan which aligns with the provisions of the *Draft Operational Policy 2.4 – Planning for School Sites* in that the school site is centrally located in the catchment area, adjacent to three road frontages and capable to support an innovative school design.

Ms Brown informed members that the *Draft Operational Policy 2.4 – Planning for School Sites* considers a ratio of one public primary school site for every 1500 dwellings and recognises the correlation between the number of residential lots created and the demand for public school sites and does not limit the assessment of educational needs within the boundaries of a local structure plan as student enrolment catchment areas can extend over adjacent residential areas.

Ms Brown stated that school planning cannot be planned in isolation, similar to other planning elements such as transport, traffic and service utilities and that the structure plan area is equivalent to two-thirds of the number of residential dwellings required to set aside a new primary school and the structure plan area falls within the gazetted student local-intake areas of Port Kennedy Primary School and Endeavour Primary School.

Ms Brown advised members that without an additional primary school site Port Kennedy Primary School's enrolment catchment area will significantly exceed the dwelling threshold rate, there will be limited land availability to accommodate additional capacity for both primary school sites and catering for large student enrolment beyond the standard capacity would have a significant impact on the operation of the schools, quality of educational outcomes and amenity of the locality.

Ms Brown noted the concerns raised by the City of Rockingham particularly in relation to the potential traffic impact on existing local roads such as Morfontaine Parade and L'Esterel Way and advised that the Department of Education generally does not support cul-de-sac arrangement owing to traffic circulation issues surrounding the school site especially during school peak periods, and suggested that the structure plan make provision for further detailed assessments of the traffic impact to be undertaken at the time when the school is required.

Members discussed long term population and density assumptions in the area and Ms Brown stated that it is projected that the number of

dwellings within the local intake areas of Port Kennedy Primary School and Endeavour Primary School would increase to around 2,800 and 1,900 residential lots respectively and although the additional primary school is not needed in the shorter term, as the suburb regenerates there will be more students in the area requiring the additional school.

**7.4 Reconsideration of Refusal- Proposed subdivision to create 8 Rural Residential lots- Lot 9001 Allmore Dr, Robinson - City of Albany (Item 8.4)**

**Presenters: Nick Ayton - Ayton Planning, Lindsay Stephens - Landform Research and Terry Ackley - Landowner**

Mr Ayton and Mr Stephens presented to the Statutory Planning Committee on behalf of Ayton Planning and Landform Research respectively in support of the Reconsideration of Refusal - Proposed subdivision to create 8 Rural Residential lots- Lot 9001 Allmore Dr, Robinson - City of Albany.

Mr Ayton advised members that the local structure plan for Rural Residential Area No. 10 remains valid, is a living document and although it was originally introduced in 1996 and amended to 2 ha in 2003, has informed subdivisions and development over the past 25 years. Mr Ayton noted that it is retained in *Local Planning Scheme 1* and that the Wellhead Protection Zone is retained at 100 metres in the Scheme Provisions, despite the Department of Water and Environmental Regulation introducing a 300m buffer in 2001.

Mr Ayton informed members that additional information has been provided demonstrating that there is significant environmental advantage through nutrient reduction and risk to water quality in providing 2.0 hectare lots and eliminating large lots, whereas retaining an 8 ha lot will leave a potential high nutrient land use such as stables within the wellhead protection zone for Bore 52.

Mr Stephens advised members that the generic 300 metre circular Wellhead Protection Zone is capable of modification, and a small change would enable the best planning and environmental outcomes and compliance with the *Government Sewerage Policy 2019* and *Water Quality Protection Note 25* and it is considered that the best planning and environmental option is to retain the eight 2ha lots that will facilitate reduction of nutrient inputs into the WHPZ for Bore 52, whereas the proposal for 5 lots including one 8 ha lot has the potential to increase the number of stock and nutrient impacts on Bore 52.

Mr Stephens informed members that the site lies in the race course catchment and the contours of the land slope and groundwater flows to the south east end of Princess Royal Harbour, where there are three aquifers under the racecourse subarea

Members queried whether there is a pre-existing effluent disposal system on other properties in the area that fall within the 300m buffer zone and Mr Stephens advised that there are a number of properties that have been developed since 2001 that fall within the 300m zone that have effluent disposal systems.



Mr Stephens advised members that when the Government Sewerage Policy came into effect in 2019, the decision was made to honour pre-existing development approvals, relaxing the 300m generic buffer and the Department of Water and Environmental Regulation are now trying to enforce the buffer, however the area has been developed over the years without meeting the buffer requirements.

Members discussed the longevity of bores and the issue of drawing salt water from the ocean if bores draw down too far and Mr Ackley advised members that the water in the area is granite based, the rainfall is high, the water table is high, his lower aquifer does not take water from the top aquifer and his bore is drawing fresh water.

## **7.5 City of Swan LPS No.17 Amendment No. 200 (Item 9.1)**

**Presenters: Justin Hansen - CDP Town Planning & Urban Design and Mr Tony Aleksovski, Mirvac WA - as major landowner/developer**

Mr Hansen and Mr Aleksovski presented to the Statutory Planning Committee on behalf of CDP Town Planning & Urban Design and Mirvac WA respectively requesting the inclusion of Brooklands Drive East into the Developer Contribution Plan (DCP) and advised that the road should be a functional neighbourhood connector, not an access street.

Mr Hansen advised members that the basis for the inclusion of Brooklands Drive East into the DCP is that it aligns with *State Planning Policy 3.6*, and is an existing road reserve that currently provides access to multiple landholdings and that the road requires extensive fill/upgrading which should not be the responsibility of one single developer.

Mr Hansen informed members that new development results in additional traffic generation in the area, the traffic will increase with the additional primary school, Islamic College and place of worship, therefore a functional neighbourhood connector is required.

Members noted that traffic modelling undertaken for Brooklyn Avenue West excluded the addition of the Islamic College and queried whether the current 20 metre road reserve will be retained and Mr Hansen advised members that the road reserve is 20 metres, and this section of Brooklands Drive would essentially function as an enabling connector.

Members noted that DCP contributions are on a lot basis and the removal of land from the urban development to build the additional primary school will impact on the amount of public open space and lot numbers. Mr Hansen advised members that the Department of Education will deliver public open space adjacent to the additional primary school and should contribute to the DCP or remove POS10 and not contribute, and that the Islamic College should also contribute.

**7.6 City of Swan Local Planning Scheme No.17, Amendment No.200 (Item 9.1)**

**Presenter: Philip Russell - City of Swan**

Mr Russell presented to the Statutory Planning Committee on behalf of the City of Swan (the City) and advised members that the Development Contribution Plan (DCP) produced by the City is consistent with other DCPs and that abbreviating the timeframe of operation of the DCP runs the risk that infrastructure costs are not recovered from landowners.

Mr Russell informed members that indicating the timing of delivery of infrastructure items within the proposed amendment is unnecessary given the timing of delivery of infrastructure items as outlined in the Capital Expenditure Plan and the Henley Brook Community Capital Expenditure Plan and as infrastructure delivery is based on development triggers, the flexibility of annual review of timing of delivery is desirable, whereas setting out estimated timing in the scheme is likely to be inaccurate and misleading.

Mr Russell stated that the City sees no planning basis for and does not support a further section of Brooklands Drive being included in the proposed amendment because this section of the road is not identified in the adopted Henley Brook Local Structure Plan traffic modelling as operating at a Neighbourhood Connector Level and it will operate as an Access Street C category road for the benefit only of immediate adjoining land and is a local access road and not an item of shared infrastructure.

Mr Russell requested that the Committee support the DCP in this area of Henley Brook, which is fast developing and in high demand, as without the DCP, there could be financial risks to the residents and the City.

Members noted that the Islamic College was approved after the traffic modelling was undertaken and queried whether further traffic modelling should be undertaken to account for the increased traffic the Islamic College may create. Mr Russell advised members that no further modelling has been undertaken, and although it could be postulated that there will be increased traffic due to the approval of the Islamic College, it is not expected to have a high impact on traffic.

Members noted that that Mirvac claim that they are required by the Commission and the City to construct Brooklands Drive to a Neighbourhood Connector standard and asked Mr Russell for comment, Mr Russell stated that he would need to take the question on notice.



**7.7 Proposed Modification to the Kennedy Bay Structure Plan (Item 8.1)**

**Written Submission - Assunta Dinardo - Resident of Bayeux Avenue**

Members noted the written submission on Item 8.1 - Proposed Modification to the Kennedy Bay Structure Plan.

**7.8 Proposed Modification to the Kennedy Bay Structure Plan (Item 8.1)**

**Written Submission - Roley Sharpe - Kennedy Bay Lobby Group**

Members noted the written submission on Item 8.1 - Proposed Modification to the Kennedy Bay Structure Plan.

**The Acting Chairman declared a break at 10:56 am.**

**The meeting resumed at 11:05 am with all members present.**

**ITEMS FOR DECISION**

**8.3 City of Swan – Guildford-Mandoon Heritage Area Local Planning Policy - Amendments to the Deemed-to-Comply Provisions of the Residential Design Codes (TPS/0544)**

**Moved by Mr Kosova**

**Seconded by Mr Iacomella**

*That the Statutory Planning Committee resolves, pursuant to clause 7.3.2 of State Planning Policy 7.3: Residential Design Codes (Volume 1), to approve the amended deemed-to-comply provisions for open space proposed by the draft Guildford – Mandoon Heritage Area Local Planning Policy.*

**The motion was put and carried**

**8.1 Proposed Modification to the Kennedy Bay Structure Plan (SPN/2255)**

Members noted that there was limited discussion in the Department of Planning, Lands and Heritage's (DPLH) report to the Committee in relation to the location of the proposed primary school site within the Metropolitan Region Scheme (MRS) reserve, or the relationship between the *Sale and Development Agreement (SADA)*, Ministerial Statement 1019 and the MRS and expressed concerns that approval of a school on land reserved for MRS Parks and Recreation may create an undue precedent.

Members noted that the City of Rockingham (the City) raised concerns that it did not receive a copy of additional traffic modelling undertaken by the DPLH and therefore had no opportunity to provide comments and advice to the Committee, that the traffic impact assessments by the City and the DPLH differed by approximately 70% in terms of trip generation and the City expect there will be broader traffic impacts for local residents as a result of the proposed double cul-de-sac. Members

also discussed the proposal for the reduced road reserve width of 18 metres.

Members noted that the City raised concerns that the proposed modification to the Kennedy Bay Structure Plan was advertised by the DPLH for a period of 28 days, rather than being advertised by the City for a period of 42 days, which the City deems appropriate for what it considers a major amendment.

Members were advised that the DPLH sought legal advice prior to advertising and were advised that whilst the proposed modifications are a variation from the original structure plan, it could be considered to be a minor modification, therefore a 28 day advertising period would be appropriate, noting that during the advertising period, 400 local residents in the catchment zone impacted by the additional primary school received a letter drop and the modifications were also advertised on both the City and DPLH websites.

Members queried the number of responses received post advertising for the initial structure plan as well as for the modifications and were advised that upwards of 300 submissions were originally received and approximately 55 responses were received resulting from the recent 28-day advertising period.

Members agreed to defer consideration of the item as there are significant issues to address, and further information is requested from DPLH officers in relation to the relationship between the SADA, Ministerial Statement 1019 and the MRS, comprehensive traffic modelling including the impacts of the cul-de-sac and comments from the City due to the discrepancies in traffic modelling, the potential approval of a school site on land zoned Parks and Recreation in the MRS, clarification of legal issues and further discussion in relation to the potential re-advertising for 42 days by the City as the modifications may be seen to be major.

#### **Motion to defer**

**Moved by Ms Lyhne**

**Seconded by Mr Thornton**

*That the Statutory Planning Committee resolves to defer consideration of the proposed modification to the Kennedy Bay Structure Plan, as detailed in the report dated 8 November 2022, pending the receipt of further information from officers and an updated report for further consideration including:*

- 1. More information outlining the relationship between the SADA, Ministerial Statement 1019 and the MRS, including how any conflicts are resolved, specifically in relation to the school site where land reserved for MRS Parks and Recreation is indicated as golf and land-based development in the SADA and MS 1019. Including Legal advice on the process for amendment of the MS and implications for the MRS;*



2. *Information on any precedents whereby land reserved in the MRS for Parks and Recreation has been approved by WAPC for a school site within a structure plan, in advance of MRS rezoning. Including advice on how the issue of 'precedent' will be managed should this matter proceed and whether further legal advice may be required given it may be the first such occurrence;*
3. *A comprehensive and updated traffic impact report including updated comments from the City of Rockingham, and that the updated report reflect traffic impacts on all local roads and impact of cul-de-sacs proposed; and*
4. *Discussion on the issue raised by the City of Rockingham on the advertising time, adequacy of consultation and requirements for major modifications to a structure plan as per the Regulations.*

**The motion to defer was put and carried.**

**8.2 Request for Reconsideration of Conditions - Subdivision of Lots 50, 78 and 200 Bindaring Parade, Claremont to Create Two Lots for Residential Purposes and Two Lots Comprising Land Reserved for Parks and Recreation (158516)**

Members discussed Condition 5, noting that the land is to be transferred to the WAPC free of cost and the proponent is to be allowed ongoing, exclusive use, of the Parks and Recreation (P&R) land under a future lease agreement and queried whether land zoned P&R should be for the exclusive use of the proponent.

Members were advised that both the subdivision and development applications were presented to the Statutory Planning Committee for determination in 2020, at which time the WAPC had no plans to purchase the land. The approved development application includes a condition requiring the transfer of the P&R land to the WAPC free of cost, which the applicant objected to on the grounds that it was intended that following the redevelopment of the site, the future landowners of the adjoining developments would manage the vegetation on the P&R land, and therefore the P&R land needed to stay in private ownership.

Members were informed that the proponent lodged an appeal with the State Administrative Tribunal (SAT) for the reconsideration of Condition 5. The SAT mediation process was used to discuss the possibility of a lease for exclusive use of the P&R land and vegetation management arrangements. However due to uncertainty (from the applicant) relating to how management of the P&R land would occur through the future tenure of the grouped and multiple dwellings, neither the vegetation management, or lease arrangements, were resolved, and the applicant withdrew the appeal. It was noted that although the applicant has withdrawn the appeal, the WAPC's development approval includes an advice note stating that the WAPC will consider a lease for exclusive use of the P&R land and the applicant no longer objects to the land being transferred to the WAPC, or the P&R lots being amalgamated.

Any future lease would require the lessee to manage the vegetation on the P&R land.

Members were notified that this is not an unusual case, as similar agreements for the maintenance and exclusive use of P&R land by the owners have been executed in the past.

**Moved by Ms Lyhne**

**Seconded by Mr Kosova**

*That the Statutory Planning Committee resolves to reconsider its approval to subdivide Lots 50, 78 and 200 Bindaring Parade, Claremont (WAPC 158516) granted in October 2020, and modify the conditions as follows:*

1. *Modify Condition 3 as follows:*

*An Easement in accordance with Section 167 of the Planning and Development Act 2005 specifying an easement for drainage purposes in favour of the Local Government is to be placed on the certificate of title of proposed lot 3, as shown on the attached plan date stamped 26 October 2022. (Local Government);*

2. *Modify Condition 4 as follows:*

*An Easement in accordance with Section 195 of the Land Administration Act 1997, specifying an easement for emergency fire personnel access purposes in favour of the Department of Fire of Emergency Services is to be placed on the certificate of title of the proposed lot 3, as shown on the attached plan date stamped 26 October 2022. (Western Australian Planning Commission);*

3. *Retain Condition 5 without change; and*

4. *Impose new Condition 8 as follows:*

*Arrangements being made with a licensed water provider for the provision of a suitable water supply service to each lot shown on the approved plan of subdivision. (Water Corporation).*

**The motion was put and carried**



**8.4 Reconsideration of Refusal - Proposed Subdivision to create 8 Rural Residential lots - Lot 9001 Allmore Drive, Robinson - City of Albany (WAPC 160198)**

Members discussed the disposal of wastewater and possible impacts on nearby water source wellheads following the construction of houses and stables on individual lots. Members were advised that land uses and the protection of wellheads in this area are tightly controlled in the *City of Albany Local Planning Scheme No 1* and through other relevant legislation/policy. Given these controls, the lot yield is proposed to be reduced to 5 lots and areas have been designated where effluent disposal systems must be located, which are outside of the 300m Wellhead Protection Zone (WHPZ) and a restrictive covenant is proposed to be placed on the certificates of title of the proposed lots to advise that "No effluent disposal systems shall be located within the development exclusion area/WHPZ". This approach has been discussed with the proponent; however it has not been supported.

Members discussed the keeping of livestock on the land and were advised that there is a specific clause in the scheme in relation to the keeping of animals which require the consideration of any potential water pollution and the Department of Water and Environmental Regulation's (DWER) land use capability in the Public Drinking Water Source Areas policy which restricts animals within WHPZ.

Members discussed the provisions under the Government Sewerage Policy and noted that for lots that were created prior to the publication of the policy, and are wholly within an WHPZ, can still accommodate a house and associated effluent disposal system.

Members noted that the DWER and Department of Health do not want to see an increased risk to the regional water source and to public health and the Water Corporation provided advice based on their role as the water utility provider, which does not generally extend to considering matters of public health.

Members agreed that the 300m WHPZ is necessary to protect the quality and quantity of the public drinking water sources.

Members noted that advice note 1 should refer to condition 11, rather than condition 10 and agreed to endorse the recommendation of the Department of Planning, Lands and Heritage.

**Moved by Ms Lyhne**  
**Seconded by Mr Iacomella**

*That the Statutory Planning Committee resolves to approve the request for reconsideration for subdivision of Lot 9001 Allmore Drive, Robinson as shown on the plan date-stamped 5 May 2022 subject to the following conditions and advice:*

## CONDITIONS

1. *The plan of subdivision is to be modified in accordance with Attachment 6 dated 5 May 2022 to amalgamate Lots E, F, G and H into one lot. (Western Australian Planning Commission);*
2. *Prior to commencement of subdivisional works, a detailed plan identifying building exclusion area on all lots on the approved plan of subdivision is to be prepared in consultation with the local government to ensure the appropriate siting of effluent disposal areas, outside of the Wellhead Protection Zone. (Local Government);*
3. *A restrictive covenant, to the benefit of the local government, pursuant to section 129BA of the Transfer of Land Act 1893 is to be placed on the certificate(s) of title of the proposed lots advising of the existence of a restriction on the use of the land. Notice of this restriction to be included on the diagram or plan of survey (deposited plan). The restrictive covenant is to state as follows:*
  - a. *"No effluent disposal systems shall be located within the development exclusion area/Wellhead Protection zone." (Local Government);*
4. *A revegetation plan being prepared, approved and implemented for the revegetation of the area shown on the subdivision guide plan (attached) with appropriate native species to the specifications of the Local Government. (Local Government);*
5. *A fence restricting access to the Development Exclusion/Ridge Protection areas on proposed Lot E (as amended through condition 1) to be constructed to protect native vegetation. (Local Government);*
6. *Uniform fencing being constructed along the boundaries of lots. (Local Government);*
7. *A notification, pursuant to Section 165 of the Planning and Development Act 2005 is to be placed on the certificate(s) of title of the proposed lot(s) 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 or plan of survey (deposited plan). The 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);*
8. *The bushfire management plan [Lot 9001 Allmore Drive, Final, 5 November 2020] being updated to reflect the revised subdivision plan required by Condition 1. (Local Government);*



9. *Information is to be provided to demonstrate that the measures contained in Section 6 that relate to Developer Implementation Responsibilities of the bushfire management plan [Lot 9001 Allmore Drive, Final, 5 November 2020](as updated) have been implemented during subdivisional works. This information should include a completed 'Certification by Bushfire Consultant' from the bushfire management plan. (Local Government);*
10. *A notification, pursuant to Section 165 of the Planning and Development Act 2005 is to be placed on the certificate(s) of title of the proposed lot(s). 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 within close proximity to known sand resources, and mining activities may be proposed in the future. The use of this lot may be affected by operation of machinery, and generation of other noise, dust and odours from Extractive Industry operations being carried out on surrounding landholdings." (Western Australian Planning Commission);*
11. *Arrangements being made with a licensed electricity network operator for the provision of an underground electricity distribution system that can supply electricity to each lot shown on the approved plan of subdivision. (Western Power);*
12. *The transfer of land as a Crown reserve free of cost to Western Power for the provision of electricity supply infrastructure. (Western Power);*
13. *Arrangements being made with a licensed water provider for the provision of a suitable water supply service to each lot shown on the approved plan of subdivision. (Water Corporation); and*
14. *A notification, pursuant to Section 70A of the Transfer of Land Act 1893 to be placed on the certificates of title of the proposed lot(s). 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 of sewage (which includes nutrient removal) will be required. This land is impacted by a Wellhead Protection Zone and the disposal system is not permitted to be located within the zone. 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." (Western Australian Planning Commission).*

#### ADVICE

1. *In regard to Condition 11, Western Power provides only one underground point of electricity supply per freehold lot.*

2. *In regard to Condition 12, the landowner/applicant shall make arrangements with the Water Corporation for the provision of the necessary services. On receipt of a request from the landowner/applicant, a Land Development Agreement under Section 83 of the Water Services Act 2012 will be prepared by the Water Corporation to document the specific requirements for the proposed subdivision.*

**The motion was put and carried**

**9.1 City of Swan Local Planning Scheme No. 17, Amendment No. 200 (TPS/2745)**

**THIS ITEM IS CONFIDENTIAL**

**10. Reports for noting**

Nil.

**11. Stakeholder engagement and site visits**

Nil.

**12. Urgent or other business**

Nil.

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

Nil.

**14. Meeting closure**

The next ordinary meeting is scheduled for 9:30 am on Tuesday, 22 November 2022.

There being no further business before the Committee, the Acting Chairman thanked members for their attendance and declared the meeting closed at 12:16 pm.



CHAIRMAN

12.12.22

DATE