



Western Australian Planning Commission

Minutes

Meeting No.306
Wednesday, 28 July, 2021

- Members:**
- David Caddy - Chairman WAPC
 - Michelle Andrews - Director General, Department of Water and Environmental Regulation
 - Jane Bennett - Professions Representative
 - Helen Brookes - Coastal Planning and Management Representative
 - Jodi Cant - Director General, Department of Planning, Lands and Heritage
 - Fred Chaney - Professions Representative
 - Emma Cole - Metropolitan Local Government Representative
 - Lynne Craigie - Nominee of the Regional Minister
 - Veronica Fleay - Local government representative – non-metropolitan
 - Barry McGuire - Professions Representative
 - Justin McKirdy - Urban and Regional Planning Representative
- Apologies:**
- Mike Rowe - Director General, Department of Communities
 - Ralph Addis - Director General, Department of Primary Industries and Regional Development (Associate member)
 - Rebecca Brown - Director General, Department of Jobs, Tourism, Science and Innovation
 - Peter Woronzow - Director General, Department of Transport
- Observers:**
- Lisette Traves - Observer - Department of Communities
- Others present:**
- Andrew Cook - Planning Manager, Metro North East
 - Michael Daymond - Manager, Special Projects
 - Nicholas Dufty - Principal Planning Officer, Metro South and Peel
 - Sam Fagan - Manager Commission Business
 - Poppy Justice – Commission Support Officer
 - Andrew Mill - Manager Strategy, Heritage and Property Services
 - Anthony Muscara - Principal Planning Officer, Schemes and Amendments
 - Michelle Sanfilippo - Commission Support Team Leader
 - David Saunders - Assistant Director General, Land Use Planning

Tracey Scroop - Senior Planning Officer, Land Use Planning Policy
Elisabeth Tamouridou - Senior Planning Officer, Metro North West

1. Declaration of opening

The Chairman declared the meeting open at 9:31 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 Chairman paid respect to elders past and present, and extended solidarity and hope for a just and dignified future for us all.

2. Apologies

Ralph Addis - Director General, Department of Primary Industries and Regional Development.

Rebecca Brown - Director General - Department of Jobs, Tourism, Science and Innovation.

Peter Woronzow - Director General, Department of Transport.

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

Nil.

4. Disclosure of interests

Ms Bennett declared an Actual Impartiality Interest on Item 8.3 - MRS Amendment 1378/57- Lot 71 Chateau Place and Lot 72 Millhouse Road, Aveley - Report on Submissions. Ms Bennett stated that CLE Town Planning + Design, her employer, act for the adjoining developer Stockland and made a submission on the proposed Amendment. Members agreed that Ms Bennett is not permitted to be present during the discussion and/or decision-making procedure on the item.

5. Declaration of due consideration

All members indicated that they had received and considered the agenda items prior to the Western Australian Planning Commission meeting.

6. Minutes

6.1 Confirmation of minutes - Meeting No. 305 on Wednesday 30 June 2021

Moved by Cr Fleay
Seconded by Ms Brookes

That the minutes of the Western Australian Planning Commission meeting held on Wednesday 30 June 2021, be confirmed as a true and correct record of the proceedings.

The motion was put and carried

7. Deputations and presentations

7.1 MRS Amendment 1377/57 Forrestfield North Environmental Conservation Areas - Report on Submissions (Item 8.2)

Presenter: Lynette De Reggi

Ms De Reggi presented to the Western Australian Planning Commission and thanked the Commission for the opportunity to discuss the MRS Amendment 1377/57 Forrestfield North Environmental Conservation Areas - Report on Submissions.

Mr McGuire joined the meeting at 9:35 am

Ms De Reggi advised members that when she and her husband purchased their property 19 years ago, they were unaware of the Bush Forever overlay on the property and they were not aware that they could apply for a property interest report from Landgate, and had they been made aware of the environmental constraints of the property they would not have purchased it.

Ms De Reggi stated that her property was deemed to be Bush Forever based on an aerial survey 25 years ago and noted that the property has never been inspected or surveyed to establish the correct boundaries or the correct percentage of land which this MRS Amendment is based on.

Ms De Reggi informed members that the actual amount of Bush Forever on her property is closer to 20-25%, rather than 58% and that no Wavy-Leaf Smokebush is contained on the property, and therefore the Commission is working with out of date and incorrect information. Ms De Reggi stated that Valuers should be instructed to value her property using the correct Bush Forever percentages, with the balance being valued as urban lifestyle.

Ms De Reggi advised members that when Bush Forever first came into effect, private landowners expressed their concerns about the financial impact on the value of their land and were assured that the intent of Bush Forever is to protect threatened flora and the habitat of our native animals and that there would be no adverse impact to private landowners. Ms De Reggi stated that private landowners are experiencing negative impacts, financially, to their health and with increased stress levels.

Ms Bennett joined the meeting at 9:45 am

Members queried which area of the property Ms De Reggi considered to be Bush Forever. Ms De Reggi advised members that only a small portion of her property, on the Eastern side, contains large trees; the previous owners had cleared a large portion of the property to build a stable, and that area has now been converted into an olive grove. She noted that there is a chook pen and there are sheep in the front paddock, leaving both these areas degraded; and a portion of the land was slashed to form a fire break on request of the City of Kalamunda.

8. Statutory items for decision

8.1 Proposed Warehouse in Planning Control Area 152 - Midland Freight Rail Realignment, at Lot 13 Lakes Road, Hazelmere (21-50623-2)

Members were advised that the application seeks approval for a warehouse development and 23 additional car parking bays on a property that is situated within declared Planning Control Area 152 (PCA) and the proposal is inconsistent with the State's strategic direction for the Midland Freight Rail and with the purpose of the PCA, which is to protect the land identified for the future realignment of the Midland freight railway.

Members were informed that the site is zoned Industrial under the Metropolitan Region Scheme (MRS), an amendment to the MRS (1313/41) was initiated in July 2016 to reserve 18 hectares of zoned land in the City of Swan for Railways and Primary Regional Road, which was endorsed by the WAPC in November 2019 and is currently under consideration by the Minister for Planning.

Members were advised that although the future realignment of the Midland freight railway is a long-term project, the whole of the subject land is affected by the PCA and is to be acquired by the Commission, therefore approval of the development application may have negative impacts on the delivery of infrastructure.

Members were advised that the landowners have been informed that the Department of Planning, Lands and Heritage's (DPLH) recommendation to the Commission is to refuse the development application. Members were informed that should the Commission refuse the development application; the landowners may lodge a claim for compensation.

Members were informed that the City of Swan support the development application and have provided draft approval conditions to the DPLH.

Members noted that the Midland freight railway is a long-term project, the MRS Amendment has not yet been gazetted, and no funding has been allocated to the project, and therefore discussed the option for the approval of the development application for a period of 10 to 20 years, with a condition that the structure be removed at the end of the approval date.

Members considered a recommendation for approval of the application for a 10 year period.

Members were informed that given the approximate cost of building the proposed structure, an approval period of 15 years may be more appropriate, and should the structure remain on the property at the time that the Commission acquire the land, the asset value would be added to the purchase cost.

Members were informed that land that is affected by a PCA is subject to compensation, and may be acquired by the WAPC in the same

circumstances and in the same manner as if the land had been reserved in the MRS for a public purpose.

Members discussed an option for the proposed structure to be located outside of the proposed Metropolitan Region Scheme amendment area but within the Planning Control Area and queried whether this option had been discussed with the applicant. Members were advised that alternate locations for the proposed structure had not been discussed as that is not what they have applied for in the development application.

Members agreed that should the application be approved; an advice note should be added to inform the applicant that the WAPC would be prepared to support an alternative proposal contemplating the proposed warehouse being located entirely outside the future Railways reservation through the lodgement of a separate development application.

Members agreed that should the application be approved for a period of 15 years, that the applicant should then be able to apply for an extension of the approval period by lodging a separate application and members agreed to add an advice note to this effect to the approval.

AMENDING MOTION

Members moved an amendment to the recommendation for approval to extend the approval period in Condition 1 to 15 years.

Moved by Mayor Cole

Seconded by Mr McKirdy

Condition

1. *This development approval is granted for a period of 15 years expiring on 28 July 2036;*

The motion was put and carried

AMENDING MOTION

Members moved to include two advice notes to the tabled recommendation to advise the applicant that upon expiration of this approval, they may lodge a separate application to extend the expiry period; and should they contemplate building the proposed warehouse entirely outside the future Railways reservation, the WAPC would be prepared to support a separate application.

Moved by Mayor Cole

Seconded by Mr McKirdy

Advice

1. *Upon expiration of this approval, the landowner/applicant may apply to obtain approval through a separate application for an extension of the approved timeframe specified in Condition 1. Any such application will be assessed against the prevailing planning framework.*

2. *The landowner/applicant is advised that the WAPC would be prepared to support an alternative proposal contemplating the proposed warehouse being located entirely outside the future Railways reservation which relates to the land (currently subject to MRS amendment 1313/41), through a separate application for development approval.*

The motion was put and carried

ADDITIONAL RESOLUTION

Members agreed that should the applicant lodge a new application proposing the structure be built outside of the proposed Metropolitan Region Scheme amendment area, the WAPC delegates to the Department of Planning, Lands and Heritage after consultation with the WAPC Chairman, the ability to determine the application.

Members agreed that an amended resolution be circulated to members after the meeting for their information.

Substantive Resolution

Moved by Mr Chaney

Seconded by Ms Bennett

That the Western Australian Planning Commission resolves to approve the proposed Warehouse development at Lot 13, Lakes Road, Hazelmere, as depicted on the attached plans date-stamped 12 April 2021 by the Department of Planning, Lands and Heritage, subject to the following conditions and advice:

1. *This development approval is granted for a period of 15 years expiring on 28 July 2036;*
2. *The landowner shall enter into an agreement with the Western Australian Planning Commission for the removal of the proposed warehouse development the subject of this approval following the expiry of the approval period outlined in Condition 1;*
3. *For this approval to remain valid, development shall be substantially commenced within a period of two years, otherwise this approval shall lapse and be of no further effect;*
4. *Prior to a building permit being issued, stormwater disposal plans, details and calculations must be submitted for approval by the City of Swan and thereafter implemented, constructed and maintained on-site to the satisfaction of the City of Swan; and*
5. *Prior to use of the approved Warehouse a total of 174 car bays are to be provided on site in accordance with the approved plans. The design and construction of the car bays shall comply with AS/NZ 2890.1.*

Advice

1. *Upon expiration of this approval, the landowner/applicant may apply to obtain approval through a separate application for an extension*

of the approved timeframe specified in Condition 1. Any such application will be assessed against the prevailing planning framework.

2. *The landowner/applicant is advised that the WAPC would be prepared to support an alternative proposal contemplating the proposed warehouse being located entirely outside the future Railways reservation which relates to the land (currently subject to MRS amendment 1313/41), through a separate application for development approval.*

The motion was put and carried

Additional resolution

Moved by Mr Chaney

Seconded by Ms Bennett

That the Western Australian Planning Commission resolves to delegate to the Director Land Use Planning Metro North after consultation with the WAPC Chairman, the ability to determine a fresh application on the site associated with Lot 13, Lakes Road, Hazelmere and grant approval to a new application, if the proposed structure is located outside of the proposed Metropolitan Region Scheme amendment area but within the Planning Control Area. The proposed MRS Amendment proposes a reservation for the future Midland Freight Rail realignment.

The motion was put and carried

8.2 MRS Amendment 1377/57 - Forrestfield North Environmental Conservation Areas - Report on Submissions (RLS/0790/1)

THIS ITEM IS CONFIDENTIAL

Ms Andrews joined the meeting at 10:11 am

Mr Chaney left the meeting at 10:28 am and did not return

8.3 MRS Amendment 1378/57- Lot 71 Chateau Place and Lot 72 Millhouse Road, Aveley - Report on Submissions (RLS/0822)

Ms Bennett declared an actual impartiality interest on the Item and left the meeting at 10:35 am

THIS ITEM IS CONFIDENTIAL

Ms Bennett returned to the meeting at 10:46 am

8.4 Lifting of Urban Deferment - Lots 1797 & 1798 Matison Road, Southern River (RLS/0748)

Members were advised that the Lifting of Urban Deferment request seeks to transfer approximately 11 hectares of land in Southern River from the Urban Deferred zone to the Urban zone in the Metropolitan Region Scheme and no objections have been raised by the City of Gosnells or relevant State Government agencies.

Members were informed that in 1994, MRS Amendment 927/33: South East Corridor (Canning Vale - Southern River) rezoned the site to Urban Deferred and the amendment report stated that a number of matters were to be addressed prior to the Urban Deferred zoned land being transferred to the Urban zone.

Members were advised that the concurrent amendment of the City of Gosnells Local Planning Scheme No. 6 is recommended by the Department of Planning, Lands and Heritage (DPLH), as there are no constraints or outstanding matters which cannot be appropriately addressed in subsequent planning stages, which would prevent the land being rezoned to the Urban zone.

Members were informed that the provision of an appropriate buffer or development interface between future residential development and Bush Forever 464 is most appropriately addressed in the subsequent local structure planning and subdivision stages of the planning process.

Members were informed that the majority of the subject site is a conservation category wetland with a 50 metre buffer.

Members were advised that the DPLH has been in negotiations with the landowner to prepare a strategic plan to lift urban deferment and allow for residential development to occur outside the 50 metre conservation category wetland buffer.

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

Moved by Mr McKirdy

Seconded by Ms Brookes

That the Western Australian Planning Commission resolves to:

1. *transfer Lots 1797 & 1798 Matison Street, Southern River and portions of adjacent road reserves as shown on Plan No. 4.1649 (Attachment 5) from the Urban Deferred zone to the Urban zone pursuant to Clause 27 of the Metropolitan Region Scheme; and*
2. *concurrently amend the City of Gosnells Local Planning Scheme No. 6 to transfer Lots 1797 and 1798 Matison Street, Southern River to the Residential Development zone, pursuant to section 126(3) of the Planning and Development Act 2005.*

The motion was put and carried

9. Reports for noting

Nil.

10. Stakeholder engagement and site visits

Nil.

11. Urgent or other business

Nil.

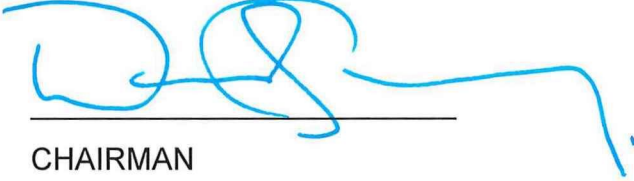
12. Items for consideration at a future meeting

Nil.

13. Meeting closure

The next ordinary meeting is scheduled for 9:30 am on Wednesday 25 August 2021.

There being no further business before the Board, the Chairman thanked members for their attendance and declared the meeting closed at 10:55 am.



CHAIRMAN

25.08.21

DATE