



Statutory Planning Committee

Notice is hereby given that a meeting of the
Statutory Planning Committee will be held on:

**Tuesday 14 October 2014
9.00 am**

**Level 2, Room 2.40
One40 William Street
Perth**



**Tim Hillyard
WAPC Secretary**

Please convey apologies to Leah Carr on 6551 9690 or email
leah.carr@planning.wa.gov.au

Statutory Planning Committee

Membership:

Member	Representation in accordance with <i>Planning and Development Act 2005</i>	Term of office ends
Mr Eric LUMSDEN	Chairman, WAPC Schedule 2 clause 4(2)(a)	04/11/2016
Ms Gail McGOWAN	Director General, Department of Planning Schedule 2 clause 4(2)(b)	Ex officio
Mr Martin CLIFFORD	Nominee of the Regional Minister Schedule 2 clause 4(3)	14/10/2015
Ms Elizabeth TAYLOR	Community representative Schedule 2 clause 4(2)(d)	05/11/2014
Mr Ian HOLLOWAY	Professions representative Schedule 2 clause 4(2)(e)	05/11/2014
Mayor Russell AUBREY	Local government representative Schedule 2 clause 4(2)(f)	23/09/2016
Ms Megan BARTLE	WAPC appointee Schedule 2 clause 4(2)(g)	05/11/2014
Ms Sue BURROWS	WAPC appointee Schedule 2 clause 4(2)(g)	05/11/2014
Mr Ray GLICKMAN	WAPC appointee Schedule 2 clause 4(2)(g)	23/09/2016
Mr Stephen Maitland HILLER	WAPC appointee Schedule 2 clause 4(2)(g)	23/09/2016

Quorum: 4

In accordance with the Western Australian Planning Commission (WAPC) Standing Orders 2009, 3.7 - Quorum for meetings:

(2) A quorum for a meeting of a committee is at least 50% of the number of offices (whether vacant or not) of members of the committee.

Role:

The Statutory Planning Committee is one of four committees set up by the WAPC on 1 March 1995 upon proclamation of the *Planning Legislation Amendment Act (No. 2) 1994*.

Schedule 2(4)(4) of the *Planning and Development Act 2005*

The Statutory Planning Committee is the WAPC's regulatory decision-making body and performs such of the functions of the WAPC under the *Planning and Development Act 2005* and Part II of the *Strata Titles Act 1985* as are delegated to the Statutory Planning Committee under section 16 and such other functions as are delegated to it under that section. These functions include approval of the subdivision of land, approval of leases and licenses, approval of strata schemes, advice to the Minister for Planning on local planning schemes and scheme amendments, and the determination of certain development applications under the Metropolitan Region Scheme.

Delegated Authority (Del 2009/05)

Planning and Development Act 2005 Section 16(1)

- 2.1 Power to determine applications for approval to commence and carry out development lodged with or referred to the WAPC pursuant to the provisions of a region scheme.
- 2.2 Power to approve detailed plans requiring the subsequent approval of the WAPC as a condition of development approval pursuant to the provisions of a region scheme and power to confirm that conditions imposed by the WAPC on a development approval pursuant to the provisions of a region scheme have been complied with.
- 2.3 Power to determine whether or not proposals and the ongoing implementation of a region scheme comply with conditions (if any) applied pursuant to sections 48F and 48J of the *Environmental Protection Act 1986*.
- 2.4 Power to determine whether or not applications to commence and carry out development are of State or regional importance, or in the public interest, pursuant to any resolution of the WAPC made under a region scheme requiring such determination.
- 2.5 Power to request the Minister for Planning to approve the WAPC disregarding the advice of the Swan River Trust in whole or in part in relation to the approval of development of land within the Riverbank or Development Control Area as defined under the *Swan and Canning Rivers Management Act 2006* where the determining authority is the WAPC.
- 2.6 All functions of the WAPC as set out in -
 - (i) Sections 14(a), 14(c), 34, 97, 98, 100, 104, 105, 106, 107, 109, 110, 111, 134, 135, 136, 138, 139, 140, 142, 143, 144, 145, 147, 151, 153, 154, 157, 169, 185, 214, 215, 216 of the Act;
 - (ii) Town Planning Regulations 1967;
 - (iii) Regulations 21, 22, 24 and 27 of the Planning and Development Regulations 2009;
 - (iv) *Strata Titles Act 1985* or the provisions of a strata or survey-strata scheme;
 - (v) Strata Titles General Regulations 1996;
 - (vi) Section 52 and section 85 of the *Land Administration Act 1997*;
 - (vii) Section 40 of the *Liquor Control Act 1988*;
 - (viii) *Perry Lakes Redevelopment Act 2005*.
- 2.7 Power to determine requests for variations to plans of subdivision where WAPC approval is required pursuant to the provisions of an approved local planning scheme.
- 2.8 Power to provide comment on and grant approval to plans known generally as outline development plans, structure plans and similar plans, and to planning policies and similar documents or amendments thereto, requiring the approval or endorsement of the WAPC pursuant to the provisions of a local planning scheme.
- 2.9 Power to provide comments or advice on behalf of the WAPC to a local government or a redevelopment authority where a provision of a local planning scheme or a redevelopment scheme requires comments from the WAPC.

- 2.10 Power to execute and accept the benefit of easements in gross, covenants in gross, records on title and other instruments for dealings in land for subdivisions, strata subdivisions and developments in accordance with any applicable policy and legislation.
- 2.11 Power to make recommendations to the Minister for Planning in relation to requests from local governments to expend monies paid by subdividing land owners in lieu of setting aside free of cost to the Crown, areas of land for public open space, where such recommendations are in accordance with WAPC policy.
- 2.12 Power to determine whether or not a proposal is likely to have a significant effect on the environment pursuant to section 38(1) of the *Environmental Protection Act 1986* and to refer such proposal to the Environmental Protection Authority.
- 2.13 Power to waive or clear conditions affixed as conditions of approval.
- 2.14 Power to endorse diagrams and plans of survey and deposited plans involving the acquisition and resumption of land created pursuant to Part 11 of the Act and the *Land Administration Act 1997*.
- 2.15 Power to advise the Minister for Planning on any appeal or matter arising therefrom pursuant to Part 14 of the Act.
- 2.16 Power to defend and otherwise deal with applications for review lodged with the Administrative Tribunal and to appeal, defend, respond and otherwise deal with any matter that may be appealed to the Supreme Court on a question of law.
- 2.17 Power to defend, respond, appeal and otherwise deal with legal proceedings.
- 2.18 Power to prepare and approve, subject to the prior approval of the Minister for Planning, policies relating to planning matters and/or the functions of the WAPC, save and except for State Planning Policies under Part 3 of the Act.
- 2.19 Power to determine matters under Regional Interim Development Orders.
- 2.20 Such powers and functions of the WAPC as set out in-
- (i) Part 5 of the Act;
 - (ii) *Town Planning Regulations 1967*
- as are necessary for the preparation, promulgation and the making of recommendations in relation to the Improvement Scheme authorised by Improvement Plan No. 37 for the Browse Liquefied Natural Gas Precinct.

This meeting is not open to members of the public.

RELEVANT INFORMATION FOR MEMBERS

Disclosure of interests

In accordance with the *Planning and Development Act 2005* and Part 6 of the Standing Orders 2009, members of Committees (and certain employees) are required to disclose the following types of interests that they have or persons closely associated to them, have:

- direct and indirect pecuniary interests (financial);
- proximity interests (location); and
- impartiality interests (relationship).

A “**direct pecuniary interest**” means a relevant person’s interest in a matter where it is reasonable to expect that the matter if dealt with by the board or a Committee, or an employee in a particular way, will result in a financial gain, loss, benefit or detriment for the person.

An “**indirect pecuniary interest**” means a relevant person’s interest in a matter where a financial relationship exists between that person and another person who requires a board or Committee decision in relation to the matter.

A “**proximity interest**” means a relevant person’s interest in a matter if the matter concerns -

- (i) a proposed change to a planning scheme affecting land that adjoins the person’s land;
- (ii) a proposed change to the zoning or use of land that adjoins the person’s land; or
- (iii) a proposed development, maintenance or management of the land or of services or facilities on the land that adjoins the person’s land.

An “**Impartiality interest**” means an interest that could, or could reasonably be perceived to, adversely affect the impartiality of the member having the interest and includes an interest arising from kinship, friendship, partnership or membership of an association or an association with any decision making process relating to a matter for discussion before the board or a Committee.

Members disclosing any pecuniary or proximity interests for an item can not participate in discussion or the decision making procedure relating to the item and must leave the meeting room during the discussion of the item. Members disclosing an impartiality interest in an item must also leave the room during the discussion or the decision making procedure relating to the item unless the Committee, by formal resolution, allows the member to remain. The reason to allow a member to remain must be stated in the formal resolution and will be minuted.

Disclosure of representations

Where a member has had verbal communication with or on behalf of a person with an interest in a matter which is before a meeting, the member is to disclose the interest.

Where a member is in receipt of relevant written material (including email) from or on behalf of a person with an interest in a matter which is before a meeting, the member is to table the material at the meeting for the information of members and relevant employees.

ORDER OF BUSINESS

1. **Declaration of opening**
2. **Apologies**
3. **Members on leave of absence and applications for leave of absence**
- Ray Glickman for SPC Meetings of 14 and 28 October 2014
4. **Disclosure of interests**
5. **Declaration of due consideration**
6. **Deputations and presentations**
 - 6.1 Strata Titles Act (STA) Reform Project (Item 10.1) –
Mr Vince McMullen – Landgate
 - 6.2 City of Cockburn TPS 3 – Amendment 28 (Item 11.3)
Ms Carol Catherwood, City of Cockburn
7. **Announcements by the Chairperson of the board and communication from the WAPC**
8. **Confirmation of minutes**
- Tuesday, 23 September 2014
9. **Statutory items for decision**
10. **Policy items for discussion/decision**
11. **Confidential items (Statutory & Policy)**
12. **Stakeholder engagement & site visits**
13. **Urgent business**
14. **Items for consideration at a future meeting**

Item No	Report	Request	Report Required by
7509.14.1	Statistics on planning schemes, amendments and structure plans	Briefing required containing appropriate data and reasoning behind delays to approvals for schemes, amendments and structure plans with an outline of financial implications as a result of delays.	14 October 2014
7509.14.2	Policy Review Update	Follow up report to be provided by Ms Burrows.	TBA

7509.14.3 Small lot products 50-80m² An update is required to be TBA submitted to the Committee

7510.7 Legal Services' Report to be presented 14/10/14
Review of delegations

15. Closure

- Next meetings will be held:

- Policy meeting – 28 October 2014
- Ordinary meeting – 11 November 2014

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of ordinary meeting 7510
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Attendance

Members

Mr Eric Lumsden	WAPC Chairman (Presiding Member)
Ms Megan Bartle	WAPC appointee
Mr Martin Clifford	Regional Minister's nominee (Deputy)
Mr Ian Holloway	Professions representative
Ms Gail McGowan	Acting Director General, Department of Planning
Ms Elizabeth Taylor	Community representative

Officers

Ms Gemma Basley	Senior Planner, Perth and Peel Planning
Ms Natalie Cox	Planning Manager, Perth and Peel Planning
Mr Stephen Ferguson	Senior Solicitor, Legislative and Legal Services
Ms Rebecca Fuller	Senior Planning Officer, Schemes and Amendments
Ms Anne Hill	Executive Director, Infrastructure, Projects, Policy and Research
Mr Mat Selby	Planning Director – Metropolitan Central Perth and Peel Planning
Ms Jasmine Tohill	Senior Planning Officer, Perth and Peel Planning
Mr Emille van Heyningen	Planning Manager, Perth and Peel Planning
Mr Alex Watson	Senior Planning Officer, Schemes, Strategies and Amendments

Presenters

Mr David Caddy	TPG
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Committee Support

Ms Leah Carr	Committee Support Officer - Department of Planning
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7510.1 Declaration of Opening

The Presiding Member declared the meeting open at 10.03 am, acknowledged the traditional owners and custodians of the land on which the meeting is taking place and welcomed Members.

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7510.2 Apologies

Nil.

7510.3 Members on Leave of Absence and Applications for Leave of Absence

7510.3.1 Ms Sue Burrows has previously been granted a leave of absence for the Statutory Planning Committee meetings for the period 25 August to 6 October 2014.

7510.3.2 Mr Lumsden has made an application for a leave of absence for the Policy SPC Meeting to be held on 28 October 2014.

Resolved

Moved by Ms Bartle, seconded by Ms Taylor

That approval for a leave of absence be granted to Mr Lumsden for the Statutory Planning Committee meeting of 28 October 2014.

The motion was put and carried.

7510.4 Disclosure of Interests

Nil.

7510.5 Declaration of Due Consideration

No declarations were made.

7510.6 Deputations and Presentations

7510.6.1 Retrospective Application for a Stairway at Lot 13 Cliff Way, Claremont (refer item 9.1)
Presenter Mr David Caddy

Mr Caddy advised Members of his support for the report's recommendations but requested:

- that Conditions 3 and 4 be reconsidered as the work has already been carried out;
- that Advice Note 2 be removed as it pertains to Condition 3;
- that Advice Note 6 be amended as it is not part of the development application and is beyond the control of the applicant - to therefore remove wording after 'Reserve'.

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7510.7 Announcements by the Chairperson of the Board and communication from the WAPC

The Chairman requested that the following Items for Consideration at a Future Meeting be provided to the SPC at the next meeting scheduled for 14 October 2014.

1. Statistics on Planning Schemes, Amendments and Structure Plans; and
2. Policy Review Update.

The Chairman also requested:

- that an update on small lot products 50²-80m² be provided before the end of 2014; and
- that the Legal Services' review of delegations be presented to the 14 October 2014 SPC Meeting.

7510.8 Confirmation of Minutes

7510.8.1 Minutes of the Statutory Planning Committee meeting held on Tuesday 9 September 2014

Resolved

Moved by Mr Clifford, seconded by Mr Holloway

That the minutes of the Statutory Planning Committee meeting held on Tuesday 9 September 2014, be confirmed as a true and correct record of the proceedings.

The motion was put and carried.

7510.9 Statutory Items for Decision

7510.9.1 Retrospective Application for a Stairway at Lot 13 Cliff Way, Claremont

File 02-25680-5
Report Number SPC/707
Agenda Part D
Reporting Officer Senior Planner Metropolitan Central

Members agreed to administratively amend the wording of:

1. Recommendation 1 to clarify the retrospective approval statement - to put the last sentence first;
2. Advice Note 6 to put a full stop after "RetrospectiveReserve"; removing the words ".....and should not be

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considered a precedent for similar development on surrounding lots”.

Resolved

Moved by Ms Taylor, seconded by Mr Holloway

That the Statutory Planning Committee resolves to retrospectively approve the construction of a wooden stairway at Lot 13 Cliff Way, Claremont subject to the following conditions:

- 1. If and when the Parks and Recreation reserve is purchased, or ceded to the Crown, to the specification of the Swan River Trust and to the satisfaction of the Western Australian Planning Commission, the stairway shall be removed in its entirety, including all related structures, from within the Parks and Recreation reserve and the area be reinstated;*
- 2. The landowner indemnifying the Western Australian Planning Commission against any claim for compensation for the improvements located on land reserved for Parks and Recreation when the land is ultimately acquired, to the satisfaction of the Western Australian Planning Commission;*
- 3. The visual impact of the stairway, and its related structures, when viewed from Crown Reserve 24523 and the Swan River shall be addressed to the specification of the Swan River Trust and to the satisfaction of the Western Australian Planning Commission and with the necessary improvements being carried out within 2 months of the date of this approval;*
- 4. A Landscaping plan for the Parks and Recreation Reserve (to replace removed vegetation and to ameliorate the visual impact of stairway) shall be approved and implemented to the specification of the Swan River Trust and to the satisfaction of the Western Australian Planning Commission and with the landscaping being completed within 5 months of the date of this approval;*

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5. *A geotechnical report undertaken by a suitably qualified and practising specialist to conform that the stability of the escarpment has not been adversely impacted as a result of the stairway construction and any recommendations made in this geotechnical report to be implemented to the specification of the Swan River Trust and to the satisfaction of the Western Australian Planning Commission within 3 months of the date of this approval; and*
6. *No further vegetation removal or disturbance to the natural and river park environment shall occur within the Swan River Trust Development Control Area or the 'Parks and Recreation' Reserve.*

ADVICE NOTE

1. *With regard to Condition 2, it is recommended that a legal agreement is put in place to ensure that at such time that the WAPC acquires the P&R, the land shall be acquired at the unimproved value of the land, and that if the improvements are required to be removed by the WAPC, the owner of the land must do so at their cost. This is to ensure the improvements to the land will not prejudice the timely transfer to the Crown in the future.*
2. *With regard to Condition 3, the intent of the condition is to address the bulk, contrasting colour, including the limestone block retaining walls and consideration should be given to treating these in a darker colour in an effort to make them blend with the escarpment landscape.*
3. *Any landscaping within the Parks and Recreation Reserve should be locally native species that are suited to the soil type of the area and strategically placed vegetation should be used to screen the more prominent parts of the stairway structure, where visible from Crown Reserve 24523 and the river. The*

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revegetation shall also be done in such a way to offset the trees that were removed and trimmed during the construction of the stairway.

5. *A planning approval is not an approval to commence any works associated with the development. A Building Permit must be obtained prior to commencement of any site and building works.*
6. *Retrospective Approval to this development should not be constructed as support for any further structures within the Parks and Recreation Reserve.*

The motion was put and carried.

7510.9.2 Proposed Extension to Existing Shed – 98 Railway Parade, Middle Swan

File 21-50436-1
Report Number SPC/708
Agenda Part G
Reporting Officer A/Director Metropolitan North East

In respect to Items 7510.9.2 and 7510.9.3 Legal Services circulated a handout entitled "Primacy of Swan Valley Planning Act and City of Swan Scheme" and advised Members that the WAPC in its functions under the MRS must have 'due regard' to the City of Swan's decisions, the Swan Valley Planning Act and the Swan Valley Interim Policy.

Resolved

Moved by Ms Taylor, seconded by Mr Clifford

That the Statutory Planning Committee resolves to refuse the development application for the lean-to extension to the existing shed for the following reasons:

1. *The application is inconsistent with the objectives of 'Area B' of the Swan Valley Planning Act 1995 and the Swan Valley Interim Planning Policy;*
2. *The subject land is zoned 'Rural' under the Metropolitan Region Scheme and 'Swan Valley Rural' under the City of Swan Local*

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Planning Scheme No.17. The application is contrary to the intent of the rural zoning which is to preserve the rural character and landscape of the area; and

3. *The proposal constitutes 'storage' which is a use not permitted in the 'Swan Valley Rural' zone under the City of Swan Local Planning Scheme No.17.*

The motion was put and carried.

7510.9.3

Proposed Place of Worship - Lot 627 Hyem Road Herne Hill

File 21-50431-1
Report Number SPC/709
Agenda Part G
Reporting Officer A/Planning Manager Metropolitan North East

Officer's Recommendation

That the Western Australian Planning Commission resolves to refuse the development application for a Place of Public Worship at Lot 627 Hyem Road Herne Hill for the following reasons:

1. The proposed development is inconsistent with the objectives of Area B of the Swan Valley Planning Act 1995.
2. The land is zoned 'Rural' in the Metropolitan Region Scheme and 'Swan Valley Rural' within the City of Swan Local Planning Scheme No.17. The proposed development is contrary to the intent of the rural zoning which is to preserve the rural character and landscape of the area.
3. The proposal is inconsistent with the Swan Valley Interim Policy whereby the use of land within Area B of the Swan Valley Planning Act 1995 as a 'Place of Worship' is not permitted unless it is incidental to the predominant use of the subject land.
4. Approval of the proposal would create a precedent for the introduction of development contrary to the objectives of the Swan Valley

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Planning Act 1995 and inconsistent with the rural character of the area.

Members noted that a written submission on behalf of the proponent was circulated prior to the meeting for their consideration.

In discussion it was noted that this Item had been deferred at the SPC meeting on 9 September 2014 in order for additional information and an alternate recommendation to be provided to Members, this was not considered to have occurred.

Ms Bartle advised that she did not support the recommendation in its current form due to the total area of the land being of a lower intensification of use which is currently in use and therefore consideration should be given for appropriate use.

The intent of the Swan Valley Interim Policy is to provide consistent advice and the Policy application must be tested against each proposal.

Members agreed they had two options, ie:

- to uphold the officer's recommendation; or
- to approve the proposal.

The Director General circulated an alternate motion and supporting Conditions and Advice for the Members' consideration (a copy has been placed on file).

Resolved

Motion to Defer

Moved by Ms Bartle, seconded by Mr Holloway

That the item relating to 'Proposed Place of Worship - Lot 627 Hyem Road Herne Hill' as detailed in the report dated 23 June 2014 be deferred to the next meeting of the Statutory Planning Committee to allow further information to be obtained by the Department of Planning including an alternate recommendation.

The motion to defer was put and carried.

The votes were recorded as follows:

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For: Ms Bartle, Ms McGowan, Mr Clifford,
Mr Holloway and Mr Lumsden

Against: Ms Taylor

7510.10 Policy Items for Discussion/Decision

7510.10.1 Residential Design Codes (R-Codes) Variations – Issues Scoping Paper

File 9 September 2014
Report Number SPC/710
Agenda Part DP/14/00301/1
Reporting Officer Executive Director, IPPR

Officer's Recommendation

That the Statutory Planning Committee resolves to:

1. approve the preparation of amendments to the R-Codes to address variations being made to 'deemed-to-comply' standards on a systematic basis;
2. note that this work will be progressed through a working group including the outer metropolitan growth councils and the development/building industry.

Members recommended that Ms Jane Bennett (CLE Town Planning and Design) be invited to join the working group and also nominated fellow member, Mr Holloway, to be part of the working group. The Chairman requested that this working group meet as soon as possible and to report back to the SPC, hopefully before the year end.

It was recommended that a Planning Bulletin be issued for public comment accompanied by a media release by the Chairman indicating that this was an interim measure until such time that the amendments to the R-Codes were completed.

It was noted that Mr Holloway, who has recently resigned from his position with JWH Group and is now acting in a private capacity, made a conscious decision in raising concerns by both the development and housing industries and the urgency for something to be done about it as soon as possible.

Resolved

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Moved by Ms Bartle, seconded by Ms McGowan

That the Statutory Planning Committee resolves to:

1. approve the preparation of amendments to the R-Codes to address variations being made to 'deemed-to-comply' standards on a systematic basis, including the publishing of a planning bulletin to be issued by the Chairman in the interim;
2. note that this work will be progressed through a working group to include SPC Member, Mr Ian Holloway, the outer metropolitan growth councils and the development/building industry.

The motion was put and carried.

7510.11 Confidential Reports

7510.10.1 **Lifting of Urban Deferment (Clause 27) – Portion of The Upper Swan Urban Precinct**
File RLS/0451
Report Number SPC/714
Reporting Officer Senior Planning Officer

file 14/10/14 11.1

THIS ITEM IS CONFIDENTIAL

7510.11.2 **City of Fremantle Local Planning Scheme No.4 Amendment No. 57 - For Final Approval**
File TPS.1112
Report Number SPC/711
Agenda Part B
Reporting Officer Planning Manager, Schemes and Amendments

THIS ITEM IS CONFIDENTIAL

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- 7510.11.3 Shire of Peppermint Grove Draft Local Planning Strategy and Local Planning Scheme No. 4 - Consent To Advertise**
File 853/2/19/7PV
Report Number SPC/712
Agenda Part B
Reporting Officer Manager, Schemes, Strategies and Amendments

THIS ITEM IS CONFIDENTIAL

- 7510.11.4 Shire of Cocos (Keeling) Islands Local Planning Scheme Amendment No. 1 - For Final Approval**
File TPS/0489/2
Report Number SPC/713
Agenda Part E
Reporting Officer Senior Planning Officer

THIS ITEM IS CONFIDENTIAL

7510.12 Stakeholder engagements and site visits

Members discussed and agreed that a site visit to the Swan Valley policy area should be held in the near future.

7510.13 General Business

Nil.

7510.14 Items for Consideration at a Future Meeting

Item No	Report	Request	Report Required by
7509.6.1	Statistics on planning schemes, amendments and structure plans	Briefing required containing appropriate data and reasoning behind delays to approvals for schemes, amendments and structure plans with an outline of financial implications as a result of delays.	14 October 2014
7509.14.2	Policy Review Update	Follow up report to be provided by Ms Burrows.	14 October 2014

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- | | | | |
|------------------|--|---|-----------------|
| 7509.14.3 | Small lot products 50-80m ² | An update is required to be submitted to the Committee. | TBA |
| 7510.7 | Legal Services' review of delegations | Report to be presented. | 14 October 2014 |
| 7510.9.3 | Proposed Place of Worship - Lot 627 Hyem Road Herne Hill | Report with alternate recommendation and supporting relevant conditions/advice. | 14 October 2014 |
| 7510.13 | Closure | The next ordinary meeting is scheduled for 9:00 am on 14 October 2014. | |

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

PRESIDING MEMBER _____


DATE _____


INDEX OF REPORTS

Item	Description
9	STATUTORY ITEMS FOR DECISION
C	SUBDIVISIONAL / AMALGAMATIONS
9.1	FINAL ENDORSEMENT - GLENFIELD DISTRICT ACTIVITY CENTRE STRUCTURE PLAN
9.2	SUBDIVISION LOT 4 AND LOT 105 UNDERWOOD AVENUE SHENTON PARK
G	DEVELOPMENTS / SUBDIVISIONAL / SURVEY STRATA
9.3	PROPOSED PLACE OF WORSHIP - LOT 627 HYEM ROAD HERNE HILL
9.4	PROPOSED SUBDIVISION - LOT 21 QUEENSCLIFFE ROAD, DOUBLEVIEW
9.5	PROPOSED SUBDIVISION – LOT 1 DIXON STREET, EMBLETON
9.6	SUBDIVISION TO CREATE TWO SURVEY STRATA LOTS FOR RESIDENTIAL PURPOSE AT LOTS 15 AND 80 (NO.56) RAILWAY STREET, COTTESLOE
10	POLICY ITEMS FOR DISCUSSION/DECISION
A	POLICY
10.1	REFORM OF THE STRATA TITLES ACT 1985
11	CONFIDENTIAL REPORTS
B	LOCAL OR REGIONAL PLANNING SCHEMES/AMENDMENTS
11.1	SHIRE OF PEPPERMINT GROVE TOWN PLANNING SCHEME NO. 3 - AMENDMENT NO. 15 - FOR FINAL APPROVAL
11.2	CITY OF GOSNELLS LOCAL PLANNING SCHEME AMENDMENT NO. 136 - FOR FINAL APPROVAL
11.3	CITY OF COCKBURN LOCAL PLANNING SCHEME AMENDMENT 28 - FOR FINAL APPROVAL
11.4	CITY OF JOONDALUP DISTRICT PLANNING SCHEME NO. 2 AMENDMENT NO. 73 - FOR CONSENT TO ADVERTISE
11.5	SHIRE OF KALAMUNDA LOCAL PLANNING SCHEME NO. 3 AMENDMENT 55 – CONSENT TO ADVERTISE
11.6	CITY OF FREMANTLE LOCAL PLANNING SCHEME NO. 4 AMENDMENT NO. 42 - FOR FINAL APPROVAL
C	SUBDIVISIONS / AMALGAMATIONS
11.7	JINDEE LOCAL STRUCTURE PLAN NO. 84 - ADDITIONAL MODIFICATIONS REQUESTED BY APPLICANT PRIOR TO FINALISATION

G DEVELOPMENTS / SUBDIVISIONAL / SURVEY STRATA

11.8 STATE ADMINISTRATIVE TRIBUNAL (SAT) SECTION 31
RECONSIDERATION OF CONDITION OF DEVELOPMENT
APPROVAL IN THE CITY OF SWAN – STORAGE YARD,
23 GREAT NORTHERN HIGHWAY, MIDLAND

ITEM NO: 9.1

FINAL ENDORSEMENT - GLENFIELD DISTRICT ACTIVITY CENTRE STRUCTURE PLAN

WAPC OR COMMITTEE:	Statutory Planning Committee
REPORTING AGENCY:	Department of Planning
REPORTING OFFICER:	Manager, Central Regions Statutory Planning
AUTHORISING OFFICER:	A/Executive Director, Regional Planning and Strategy
AGENDA PART:	C
FILE NO:	SPN/0649
DATE:	25 September 2014
REPORT CATEGORY:	Statutory
RECOMMENDATION OUTCOME:	E - Endorse, subject to modifications.
ATTACHMENT(S):	1. Locality Plan - Lot 9000 and Lot 55 2. Activity Centre Boundary 3. Activity Centre Vision (Conceptual) 4. Lot 9000 Activity Centre Structure Plan 5. Schedule of Submissions
REGION SCHEME ZONING:	N/A
LOCAL GOVERNMENT:	City of Greater Geraldton
LOCAL SCHEME ZONING:	Development
LGA RECOMMENDATION(S):	Adopt for final approval
REGION DESCRIPTOR:	N/A
RECEIPT DATE:	10 April 2014
APPLICATION TYPE:	Structure Plan
CADASTRAL REFERENCE:	Lot 9000 Chapman Road, Glenfield

RECOMMENDATION:

That the Western Australian Planning Commission resolves to:

- 1) note the State Administrative Tribunal process currently underway for neighbouring Lot 55 Chapman Road and subsequent requests by the proponent of Lot 55 for this lot to be included within the Glenfield Beach District Activity Centre Structure Plan;***
- 2) determine the submissions in accordance with the Schedule of Submissions, as indicated in Attachment 5;***
- 3) endorse the Glenfield Beach District Activity Centre Structure Plan, subject to modifications, as follows:***
 - a) Update the Structure Plan, Plan 1, to reflect the outcomes and requirements from the Local Water Management Strategy***

(LWMS) results to the satisfaction of the Department of Water, i.e. the location of the drainage swale, and a notation outlining that this swale is to be incorporated into the Chapman Road reserve and vested with the Local Authority;

- b) Update the Structure Plan Report to reflect the outcomes and requirements from the LWMS results to the satisfaction of the Department of Water, including a section within the report summarising the findings and requirements of the LWMS;***
 - c) Update Structure Plan Report, section 5.2 (page 21), last dot point, delete 'provision of appropriate' from beginning of sentence, and revise sentence as follows 'water sensitive urban design principles to be incorporated within built form';***
 - d) Include the final LWMS as a technical appendix to the Structure Plan Report.***
- 4) advise the City of Greater Geraldton of its decision accordingly;***
- 5) advise the State Administrative Tribunal and the proponents of Lot 9000 Chapman Road and Lot 55 Chapman Road of its decision and dismissal of the Lot 55 submission accordingly.***

SUMMARY:

The Glenfield District Activity Centre Structure Plan (the Structure Plan) provides the planning framework to guide the future development of a district commercial activity centre with a residential component (R60). The vision is to provide a gateway to the Glenfield area north of Geraldton and provide a centre of employment and activity for the local community.

The District Activity Centre is linked with the surrounding draft Glenfield Beach Local Structure Plan, which proposes largely residential with a school site and coastal node; as well as the WAPC endorsed Glenfield Structure Plan. Further review of the Structure Plan was required to ensure that the proposal reflects a Department of Water supported Local Water Management Strategy.

The Structure Plan is provided to the Statutory Planning Committee for consideration as a proponent for the neighbouring lot, Lot 55, has approached the Department of Planning via an ongoing State Administrative Tribunal appeal, proposing inclusion of Lot 55 within the Structure Plan. Further correspondence has been received from the proponent of Lot 9000 objecting to this proposal. The report recommends that this proposal be dismissed, and the proponents of Lot 55, Lot 9000 and the State Administrative Tribunal be advised accordingly. The State Administrative Tribunal expects the WAPC's position to be provided on this matter by the 24 October 2014.

Final endorsement subject to the Schedule of Modifications is recommended.

BACKGROUND:

The Glenfield District Activity Centre Structure Plan (the 'Structure Plan') has been prepared for a 12ha portion of Lot 9000 Chapman Road, Glenfield. The subject land is located 11km north of the Geraldton CBD within the Geraldton northern coastal urban growth corridor, midway between Geraldton and Oakajee. The land is currently undeveloped, surrounded by undeveloped lots, and bound by an unconstructed road reserve to the south and Chapman Road to the east (**Attachment 1**)

The subject land is identified as a 'District Activity Centre' or 'District Centre' within the WAPC endorsed City of Greater Geraldton Commercial Activity Centres Strategy (2013) and Glenfield Structure Plan (east of Chapman Road) (2011). The draft Glenfield Beach Local Structure Plan (west of Chapman Road) (2013) is also currently being finalised.

The Structure Plan area is designated as '*Development Zone*' within the City of Greater Geraldton Town Planning Scheme No. 5 (TPS 5) and requires a Structure Plan to be prepared before recommending subdivision or approving development of land.

The Structure Plan was submitted to the Western Australian Planning Commission (WAPC) by the local government for final endorsement on 10 April 2014. Department of Planning (DoP) officers provided preliminary comments and recommended modifications at this time to address issues within the document. At the same time that these modifications were provided, the Department of Water (DoW) informed DoP that further work was required for the Local Water Management Strategy (LWMS) prior to the finalisation of the Structure Plan. The proponent of Lot 9000 has subsequently modified the Structure Plan to address DoP comments, and worked with the DoW to address their needs in regards to water management.

DoW advised in their letter of 25 September 2014 that they now support the Structure Plan and Local Water Management Strategy, subject to the modifications agreed to between the proponent and Department of Water.

LEGISLATION / STRATEGIC PLAN / POLICY:

Legislation

Section:

Planning and Development Act 2005

Section 14, Functions of the WAPC

Strategic Plan

Strategic Goal:

Planning

Outcomes:

Effective delivery of integrated plans

Strategies:

Develop integrated infrastructure and land use plans for the State

Policy

Number and / or Name:

State Planning Policy (SPP):

SPP1 State Planning Framework

SPP2.6 Coastal Planning Policy

SPP2.9 Water Resources

SPP3 Urban Growth and Settlement

SPP3.1 Residential Design Codes
SPP4.1 Industrial Buffer Policy
SPP4.2 Activity Centres Perth and Peel

Other:

Liveable Neighbourhoods
Structure Plan Preparation Guidelines
Better Urban Water Management

DETAILS:

The Structure Plan is divided into two parts. Part one provides the statutory information such as area, content, relationship to scheme, land use and subdivision requirements. Part 2A provides the explanatory section, including the overarching Glenfield Activity Centre Vision with concepts provided for Lot 9000 and immediately adjacent lots (**Attachment 3**). While the remaining sections, provided as Part 2B, outlines the Activity Centre Structure Plan and statutory components for Lot 9000 only (**Attachment 4**).

The vision for the Glenfield Activity Centre Precinct (the Activity Centre) is to be a *"vibrant and exciting gateway to the community of Glenfield, as well as being an employment centre"*. The Activity Centre aims to provide a range of services and activities to the Glenfield residents and surrounding communities, including commercial, mixed use, community, bulky goods, residential and light service/industry.

The boundary of the Structure Plan area (part Lot 9000) has been largely determined by the Glenfield Beach Local Structure Plan boundary and the existing road network. The total subject land area is 12.09ha, with the following characteristics:

- Commercial (approx. 9.1ha) - providing an estimated 400 jobs and 22,500m² of commercial floor space.
- Residential (R60) (approx. 1.6ha) for an estimated 100 dwellings (or 230 persons).
- A possible extension of the R60 area to provide for a retirement village or aged persons accommodation is also included.
- 'Place of Worship' is proposed as an 'A' use within the Commercial zone.
- integrator arterials in east-west directions at the north and centre of the structure plan, linking to the neighbouring Glenfield Beach Local Structure Plan area and providing access to Chapman Road.
- a transit stop within the centre of the Structure Plan area, and along the integrator road and transit stop location.
- a possible central piazza adjacent to the transit stop.
- a Water Corporation wastewater treatment plant (WWTP) odour buffer along the southern extent of the area with final land uses and design remaining subject to further investigation.
- The easternmost boundary along Chapman Road is also subject to detailed design in accordance with a future Urban Water Management Plan, to manage floodplain impacts and provide appropriate drainage infrastructure.

The entire Structure Plan area is designated as requiring future Detailed Area Plans to be prepared prior to development approval (refer to **Attachment 4**).

GOVERNMENT AND CORPORATE IMPLICATIONS:

The Structure Plan provides a broad planning framework and guidance for future development of the Activity Centre. Further Local Development Plans will be required for the detailed planning and development Lot 9000. This will be undertaken by the proponent in consultation with the local authority.

No further implications are anticipated at the State level.

CONSULTATION:

The Structure Plan was provided to Government agencies and infrastructure providers, and publicly advertised for 36 days from 23 January 2014 to 28 February 2014. Seven responses were received, four from Government agencies, one from industry (Coles), one from an adjacent landowner of Lot 55, and a subsequent response from the proponent.

Key issues raised in the submissions related to:

- the effect of proposal on neighbouring lots (east of Chapman Road and outside the Structure Plan boundary)
- the desire to include Lot 55 within the structure planning process.
- the need for compatible land uses within the WWTP buffer area (no residential or sensitive land uses).
- the need to comply with the Draft Country Sewerage Policy and provide reticulated sewerage to development.

A full list of submissions with recommended responses is provided in **Attachment 5**.

Further consultation has since occurred between the DoP, DoW, and the proponent in regards to the submitted Local Water Management Strategy and Structure Plan. Further work has been completed to address flood and surface water management, with the DoW endorsing the Structure Plan subject to their specified modifications.

Since the Structure Plan was released for public comment, a Development Application over Lot 55 was submitted and refused by the Mid-West Joint Development Assessment Panel. This decision is now under appeal with the State Administrative Tribunal (DR 239 of 2014). The proponents of Lot 55 invited DoP Officers to discuss the status of the Structure Plan and its consideration by WAPC as part of this process. The proponents of Lot 55 have also met with DoP Officers to further outline their position and preferences for Lot 55 to be included within the final Structure Plan.

In response to the Lot 55 proposal, the proponents for Lot 9000 have written to the Minister for Planning outlining their objections. The response provided was that this issue will be duly considered by the WAPC as part of the Structure Plan process. This issue is discussed further within the Officers Comments below.

OFFICER'S COMMENTS:

1. State and Local Planning Context

Lot 9000 has been broadly identified as a District Activity Centre in the City of Greater Geraldton ('the City') and WAPC endorsed Commercial Activity Centres Strategy (2013) and Glenfield Structure Plan (east of Chapman Road) (2011). The draft Glenfield Beach Local Structure Plan (west of Chapman Road) (2013) is also currently being finalised by the same proponent for the Structure Plan.

The Structure Plan meets the Structure Planning Areas and Development zone provisions of the Scheme.

Additional to the Scheme requirements, the City has stated that the intended objective of this Structure Plan is to:

- define the boundary of the Activity Centre (as this has been subject to debate with adjacent landowners);
- provide a broad framework and guidance for future planning and development of the lot; and
- have the Activity Centre plan defined for the subject lot.

The Structure Plan has been assessed within the context of these overarching objectives of the City, recognising that:

- Ultimate demand and timing for development is uncertain as it is dependent on the growth of other industries to drive the necessary population.
- Without certainty of demand and population it is not possible to provide certainty in the ultimate plan and design as its dependent on industry proposals and residents to locate there.
- That further detailed area planning (or 'local development plans' as they are now called) will be pursued in future.

The Structure Plan and Report is broadly consistent with the WAPC and Department of Planning (DoP) *Structure Plan Preparation Guidelines 2012* and TPS 5 requirements, any deviations from this document or policy are discussed in detail below.

2. Activity Centre Boundary

One of the City's objectives for the Structure Plan is to define the boundary of the Activity Centre as this has been subject to debate with adjacent landowners. Confusion of neighbouring landowners as to the effect of the Structure Plan on their respective lots was also communicated during the public submissions period.

The Activity Centre boundary is broadly defined within Part 2A of the document, via a 400m radius from the four way intersection between Chapman Road and a future east-west road linking North West Coastal Highway and then following existing cadastre (**Attachment 2**). Part 2A of the Structure Plan provides a vision for the entire Glenfield Activity Centre, including conceptual master planning of future land uses on Lot 9000, as well as neighbouring lots such as Lot 55. The document then provides the Structure Plan for Lot 9000 only within Part 2B of the document (**Attachment 4**).

While it is recognised that the vision versus Structure Plan component of the document has created confusion with neighbouring lots (as outlined in **Attachment 5**) the proponent has done so to meet the requests of the City, and does not contravene TPS 5 or Structure Plan Preparation Guidelines in doing so. Preparation of a Structure Plan for all or part of a Structure Plan area is also permitted by TPS 5. Modifications have been actioned by the proponent prior to submission for final approval to ensure that the vision and Structure Plan component of the document are more clearly defined (as Part 2A and Part 2B). The intent of this modification is to better distinguish between the conceptual vision and the Structure Plan itself.

Waste Water Treatment Plant (WWTP) Odour Buffer

The Structure Plan includes an area designated as WWTP Odour Buffer along the southern boundary. This has been defined via the Water Corporations most recent odour modelling study from 2010. While this updated buffer is not currently reflected within prior planning (i.e. the Greater Geraldton Structure Plan 2011 shows the 1994 buffer area) inclusion of this increased buffer has been agreed to by the proponent.

The Structure Plan outlines the subdivision and development requirements specifically for the buffer area (s.4.1) before subdivision is allowed to proceed. These requirements include Local Development Plans, exclusion of non-compatible land uses, and compliance with Environmental Protection Authority (EPA) and WAPC policy, and consultation with the Water Corporation and City of Greater Geraldton. This is in accordance with *State Planning Policy 4.1 State Industrial Buffer Policy*, and consistent with prior discussions with the DoP for the adjacent Glenfield Beach Local Structure Plan (GBLSP) area.

It is recognised that the proposed approach for the adjacent Glenfield Beach Local Structure Plan (and remainder western portion of Lot 9000) has been to show no zone within the WWTP buffer area. This approach was proposed as the GBLSP proposed residential land uses within the odour buffer, as a sensitive land use this is not acceptable. Comparatively, the portion of Lot 9000 within the WWTP buffer and Activity Centre proposes a 'Commercial' zone. This zone provides for a variety of land uses which could be compatible within the WWTP buffer, subject to the agreement of the City and Water Corporation. This position is adequately reflected within the Structure Plan and Report, and the notation is consistent with the draft Glenfield Beach Local Structure Plan.

3. Public Open Space

The Structure Plan provides for 500m² of POS in a 'central piazza' style proposal adjacent to the indicative transit stop. Section 5.3 Public Open Space of the Structure Plan Part 1 states that "*a POS Schedule for the Residential area shall be provided at the time of subdivision for determination by the WAPC, upon the advice of the Local Government*". While this is not typical it is recognised that the final land uses and design of the residential component of the Structure Plan will be subject to future Local Development Plans. As such, the amount of residential to be provided, and therefore POS required, is unknown at this time. Additional to this, future subdivision will be required to provide the 10% POS and/or provide cash in lieu for POS which may facilitate the maintenance and development of the adjacent POS. This will remain subject to final planning and design at the local development plan stage.

4. Movement Networks and Parking

The movement network and parking proposals have been considered and modification to the Structure Plan was requested to provide for:

- direct frontages to Chapman Road;
- Chapman Road as an Integrator A arterial ;
- service vehicles;
- pedestrian, cycling and public transport linkages; and
- the need for the Structure Plan to potentially be revised should changes in proposed land uses occur within the GBLSP area.

These modifications were provided to the proponent and have been actioned via being reflected in the revised Structure Plan now, or included within the Report and Structure Plan as a notation for future planning considerations. Due to the broad scale of the Structure Plan, the need for further local development plans and unknown delivery timeframes, this approach has been accepted in this instance.

The modification requested regarding Chapman Road has not been actioned at this time as the City's position is that higher traffic volumes should be directed to the adjacent North West Coastal Highway which has been constructed to meet this need.

5. Activity Centres

While the WAPC State Planning Policy (SPP) 4.2 Activity Centres Perth and Peel does not apply to this region, the policy objectives of the SPP have been considered and included within the Structure Plan.

The Structure Plan generally complies with Liveable Neighbourhoods, Element 7 Activity Centre requirements, and further Local Development Plans will provide further detail once known.

6. Urban Water Management

Urban water management has been a significant issue for the neighbouring Glenfield Beach Local Structure Plan, with the presence of the Dolby Creek Floodplain and debate between the proponent, the City and the DoW in regards to the accuracy of the model and the resulting Local Water Management Strategy (LWMS). This has resulted in updates to the LWMS and further studies of the Dolby Creek Floodplain being completed to inform amendments to the GBLSP.

DoW advised of the need for further work to meet DoW and Better Urban Water Management requirements, particularly in regards to flood management and drainage. The proponent has since been working with the Department of Water to address these issues.

DoW has agreed on proposed modifications including revised modelling and the incorporation of a 10m drainage swale along Chapman Road. DoW has advised the DoP of their support for the LWMS and Structure Plan subject to the completion of these modifications. The modifications have been provided to the City, noting that their preference would be for Chapman Road reserve to be widened rather than a separate easement to protect the drainage swale. This can be determined at the Local Development Plan stage.

It is subsequently recommended that the Structure Plan be endorsed subject to Department of Water's requirements as outlined in recommendation 3.

7. Lot 55 Requests

As outlined within the Consultation section above, the representatives for the landowner for Lot 55 have requested for Lot 55 to be included within the Structure Plan. Reasons cited include administrative efficiency, and to provide for a more holistic plan for the entire activity centre precinct. The proponent of Lot 55 also outlined a desire for Lot 55 to receive the same zoning and treatment as that portion of Lot 9000 within the WWTP odour buffer.

The City resolved not to support this request and dismissed the submission on 7 March 2014. Refer to submission number two of **Attachment 5** for further detail.

Pursuant to clause 4.8.2.1 Development Zone Planning Requirements, a Structure Plan is required for Lot 55 prior to development proceeding. It is recommended that the submission be dismissed for the following reasons:

1. technical studies undertaken by the proponent of Lot 55 since March 2014 have not been considered by the relevant authorities, and no Local Water Management Strategy has been completed to date.
2. inclusion of Lot 55 within the Structure Plan represents a significant modification, likely requiring redesign of the activity centre
3. Additional to point 2, should the scope of the activity centre shift south, this would be inconsistent with the prior Structure Planning and the City's *Commercial Activity Centres Strategy*.
4. inclusion of Lot 55 at this late stage of planning would not necessarily result in a more efficient administrative outcome or planning process for either lot.
5. no evidence has been provided by the proponent of Lot 55 to demonstrate the necessity or dependence between Lot 55 and Lot 9000 to be considered within the one plan, nor how the approval of this separate structure plan inhibits the capacity to produce a structure plan for Lot 55.
6. presence of the odour buffer over the entire Lot 55 requires consideration by the Water Corporation and the EPA prior to decision. It is not considered reasonable for this requirement to be transferred to the owners of Lot 9000.

In light of the above, inclusion of Lot 55 within the Structure Plan at this stage is not considered reasonable, and it is recommended that the WAPC uphold the City's position and dismiss the submission. It is also noted that there are currently no barriers to the owners of Lot 55 undertaking their own Structure Plan, in accordance with TPS 5 requirements.

Conclusion

The Structure Plan provides the necessary guidance for future planning and development, and allows for flexibility in the ultimate development recognising uncertain population and industry drivers within the area.

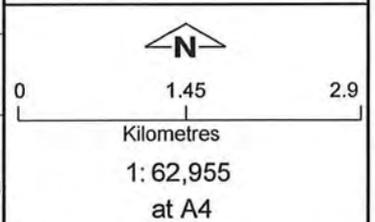
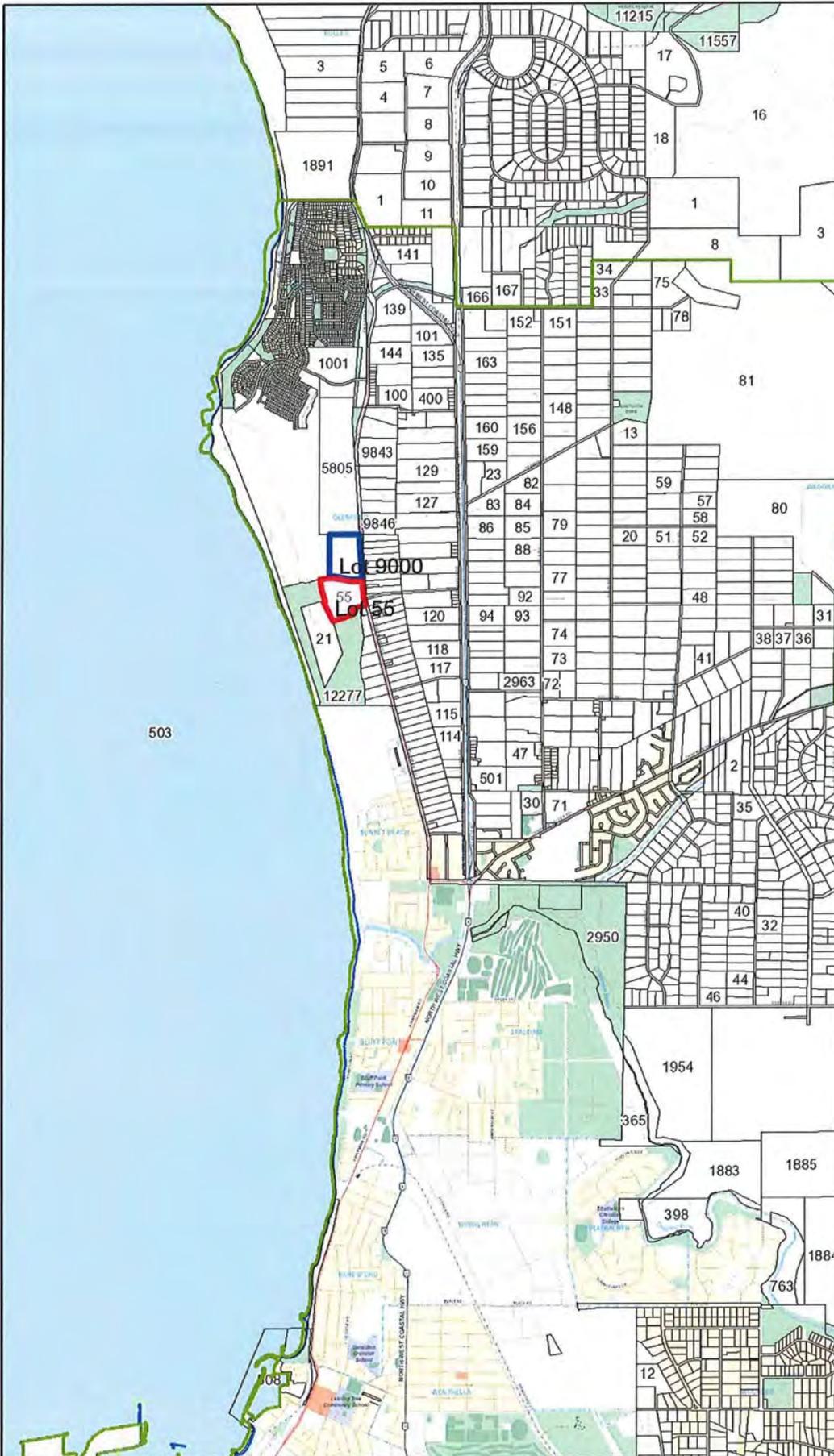
Final endorsement, subject to the Schedule of Modifications is recommended.



Government of Western Australia
Department of Planning

Legend

- Local Government Area
- Cadastre (view 2)
- Cadastre (view 3)
- Cadastre (view 4)
- W.A. Coastline



Projection:
WGS 1984 Web Mercator Auxiliary Sphe

Notes:
The data that appears on the map may be out of date, not intended to be used at the scale displayed, or subject to license agreements. This information is stored in the relevant layers metadata. For these reasons the map should not be distributed outside of the Department.
Map was produced using DoP's PlanViewWA.

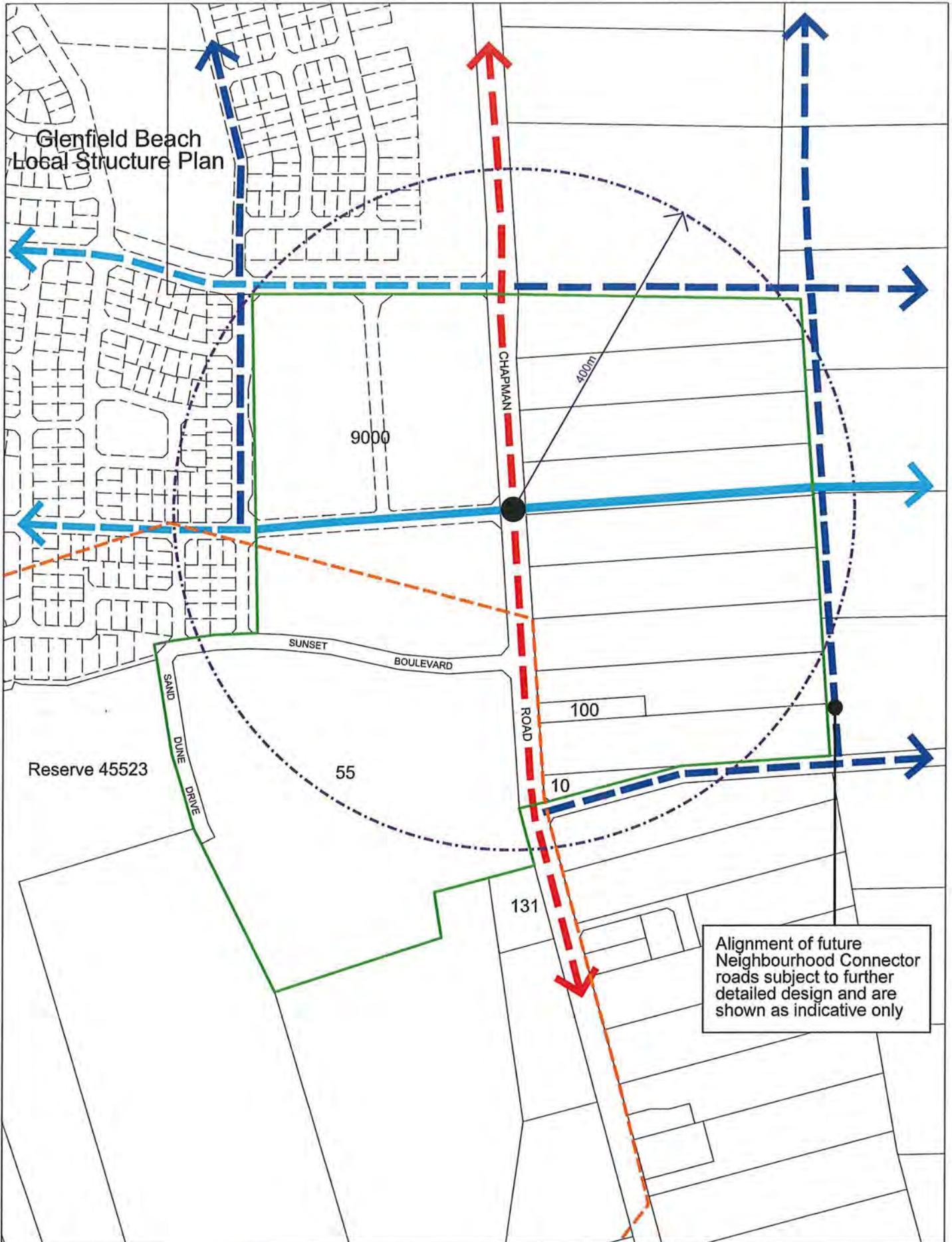
Locality Plan - Lot 9000 and Lot 55 Chapman Road

INTERNAL USE ONLY

Internal Spatial Viewer
[Link to viewer](#)

Produced by:FUNCTIONALITY TO COME

Date produced: 26-Sep-2014



Alignment of future Neighbourhood Connector roads subject to further detailed design and are shown as indicative only

Plan No.: 14511-16
 Revision: REV.4
 Scale: 1:4000@A3

- - - - - Waste Water Treatment Plant Buffer
- — — — — Activity Centre Precinct Boundary
- - - - - Chapman Road (Intergrator Road A)
- — — — — Future Intergrator Road B
- - - - - Future Neighbourhood Connector Roads

**GLENFIELD ACTIVITY CENTRE
 PRECINCT BOUNDARY**

FIGURE 2

DATE DRAWN: 20/08/2014 FILE: 10620 Activity Precinct boundary fig 2.dwg
 DRAWN BY: CdeL V DATUM AND
 CHECKED BY: JJP H DATUM MGA84 (5)





Centre Gross Floor Areas (Approximate)

- Commercial 22,500m²
- Bulky Goods 10,000m²
- Community 750m²
- Mixed Use 14,000m²
- Total 47,250m²

- Legend**
- Commercial
 - Residential (R60)
 - Bulky Goods
 - Community
 - Mixed Use
 - Light Service Industry
 - Residential
 - Waste Water Treatment Plant Buffer
 - Subject Site

Plan No. : 14511-17
 Revision : REV.3
 Scale : 1:3000@A3

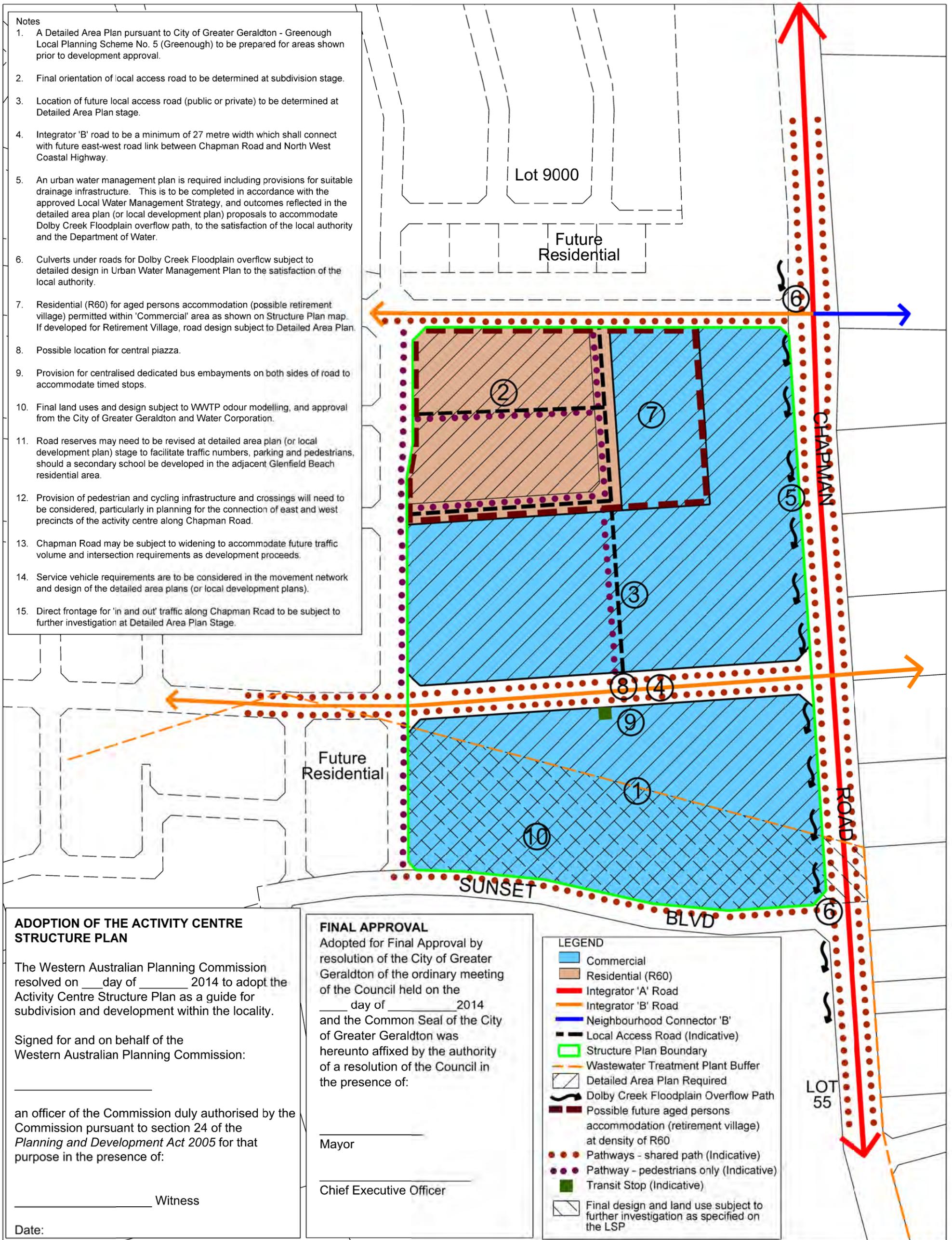
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 133 Scarborough Beach Road Mount Hawthorn WA 6010 www.whelans.com.au

FIGURE 9
GLENFIELD DISTRICT
ACTIVITY CENTRE PRECINCT
CONCEPTUAL MASTERPLAN

DATE DRAWN 20/12/2013 FILE: 13021 Activity centre precinct plan land use_Per1.dwg
 DRAWN BY: CdeL V DARTRE AND H DATUM: MGA84 (50)
 CHECKED BY: JP



- Notes
1. A Detailed Area Plan pursuant to City of Greater Geraldton - Greenough Local Planning Scheme No. 5 (Greenough) to be prepared for areas shown prior to development approval.
 2. Final orientation of local access road to be determined at subdivision stage.
 3. Location of future local access road (public or private) to be determined at Detailed Area Plan stage.
 4. Integrator 'B' road to be a minimum of 27 metre width which shall connect with future east-west road link between Chapman Road and North West Coastal Highway.
 5. An urban water management plan is required including provisions for suitable drainage infrastructure. This is to be completed in accordance with the approved Local Water Management Strategy, and outcomes reflected in the detailed area plan (or local development plan) proposals to accommodate Dolby Creek Floodplain overflow path, to the satisfaction of the local authority and the Department of Water.
 6. Culverts under roads for Dolby Creek Floodplain overflow subject to detailed design in Urban Water Management Plan to the satisfaction of the local authority.
 7. Residential (R60) for aged persons accommodation (possible retirement village) permitted within 'Commercial' area as shown on Structure Plan map. If developed for Retirement Village, road design subject to Detailed Area Plan.
 8. Possible location for central piazza.
 9. Provision for centralised dedicated bus embayments on both sides of road to accommodate timed stops.
 10. Final land uses and design subject to WWTP odour modelling, and approval from the City of Greater Geraldton and Water Corporation.
 11. Road reserves may need to be revised at detailed area plan (or local development plan) stage to facilitate traffic numbers, parking and pedestrians, should a secondary school be developed in the adjacent Glenfield Beach residential area.
 12. Provision of pedestrian and cycling infrastructure and crossings will need to be considered, particularly in planning for the connection of east and west precincts of the activity centre along Chapman Road.
 13. Chapman Road may be subject to widening to accommodate future traffic volume and intersection requirements as development proceeds.
 14. Service vehicle requirements are to be considered in the movement network and design of the detailed area plans (or local development plans).
 15. Direct frontage for 'in and out' traffic along Chapman Road to be subject to further investigation at Detailed Area Plan Stage.



ADOPTION OF THE ACTIVITY CENTRE STRUCTURE PLAN

The Western Australian Planning Commission resolved on ___ day of _____ 2014 to adopt the Activity Centre Structure Plan as a guide for subdivision and development within the locality.

Signed for and on behalf of the Western Australian Planning Commission:

an officer of the Commission duly authorised by the Commission pursuant to section 24 of the *Planning and Development Act 2005* for that purpose in the presence of:

_____ Witness

Date: _____

FINAL APPROVAL

Adopted for Final Approval by resolution of the City of Greater Geraldton of the ordinary meeting of the Council held on the ___ day of _____ 2014 and the Common Seal of the City of Greater Geraldton was hereunto affixed by the authority of a resolution of the Council in the presence of:

_____ Mayor

_____ Chief Executive Officer

- LEGEND**
- Commercial
 - Residential (R60)
 - Integrator 'A' Road
 - Integrator 'B' Road
 - Neighbourhood Connector 'B'
 - Local Access Road (Indicative)
 - Structure Plan Boundary
 - Wastewater Treatment Plant Buffer
 - Detailed Area Plan Required
 - Dolby Creek Floodplain Overflow Path
 - Possible future aged persons accommodation (retirement village) at density of R60
 - Pathways - shared path (Indicative)
 - Pathway - pedestrians only (Indicative)
 - Transit Stop (Indicative)
 - Final design and land use subject to further investigation as specified on the LSP

Plan No. : 14511-19
 Revision : REV.F
 Scale : 1:2500@A3

ACTIVITY CENTRE STRUCTURE PLAN
 LOT 9000 CHAPMAN ROAD
 GLENFIELD
 PLAN 1

DATE DRAWN: 20/08/2014 FILE: 120902 Glenfield District Structure Plan.dgn
 DRAWN BY: CdeL V DATUM: AHD
 CHECKED BY: JEP H DATUM: MGA84 (50)



ITEM NO: 9.2

SUBDIVISION LOT 4 AND LOT 105 UNDERWOOD AVENUE SHENTON PARK

WAPC OR COMMITTEE: Statutory Planning Committee

REPORTING AGENCY: Department of Planning
REPORTING OFFICER: Senior Planner Metro Planning Central
AUTHORISING OFFICER: Director Metro Planning Central
AGENDA PART: C
FILE NO: 149763
DATE: 15 September 2014
REPORT CATEGORY: Statutory
RECOMMENDATION OUTCOME: 1. APPROVE

ATTACHMENTS: Attachment 1 Context Plan
Attachment 2 Application Plan
Attachment 3 EPA Statement
Annexure A Lots Requiring Detailed Area Plans

REGION SCHEME ZONING: Urban
LOCAL GOVERNMENT: City of Nedlands
LOCAL SCHEME ZONING: Development
LGA RECOMMENDATION(S): Refusal
REGION DESCRIPTOR: Perth Metro Central
RECEIPT DATE: 28 March 2014
PROCESS DAYS: 84
APPLICATION TYPE: Subdivision
CADASTRAL REFERENCE: Lot 4 and Lot 105 Underwood Avenue, Shenton Park

RECOMMENDATION:

That the Western Australian Planning Commission resolves to approve the application for subdivision of Underwood Avenue, Shenton Park as shown on the plan date-stamped 28 March 2014. This decision is valid for four years subject to the following conditions and advice:

Local Government Conditions:

- 1. Engineering drawings and specifications are to be submitted, approved, and subdivisional works undertaken in accordance with the approved plan of subdivision, engineering drawings and specifications, to ensure that those lots not fronting an existing road are provided with frontage to a constructed road(s) connected by a constructed road(s) to the local***

road system and such road(s) are constructed and drained at the landowner/applicant's cost.

As an alternative, and subject to the agreement of the Local Government the Western Australian Planning Commission (WAPC) is prepared to accept the landowner/applicant paying to the local government the cost of such road works as estimated by the local government and the local government providing formal assurance to the WAPC confirming that the works will be completed within a reasonable period as agreed by the WAPC. (Local Government)

- 2. Engineering drawings and specifications are to be submitted and approved, and subdivisional works undertaken in accordance with the approved plan of subdivision, engineering drawings and specifications to ensure that:
 - a) street lighting is installed on all new subdivisional roads to the standards of the relevant licensed service provider and**
 - b) roads that have been designed to connect with existing or proposed roads abutting the subject land are coordinated so the road reserve location and width connect seamlessly to the satisfaction of the Western Australian Planning Commission. (Local Government)****
- 3. All local streets within the subdivision being truncated in accordance with the Western Australian Planning Commission's Liveable Neighbourhoods policy. (Local Government)**
- 4. Detailed Area Plan(s) being prepared and approved for the residential and terrace lots shown on Annexure A (attached) date stamped 28 March 2014 to the satisfaction of the Western Australian Planning Commission. (Local Government)**
- 5. The landowner/applicant shall make arrangements to ensure that prospective purchasers of lots subject of a Detailed Area Plan are advised in writing that Detailed Area Plan provisions apply (Local Government).**
- 6. The proposed reserve(s) shown on the approved plan of subdivision being shown on the diagram or plan of survey (deposited plan) as reserve(s) for Recreation and vested in the Crown under Section 152 of the Planning and Development Act 2005, such land to be ceded free of cost and without any payment of compensation by the Crown. (Local Government)**
- 7. Arrangements being made for the proposed public open space to be developed by the landowner/applicant to a minimum standard and maintained for two summers through the implementation of an approved landscape plan providing for the development and maintenance of the proposed public open space in accordance with the requirements of Liveable Neighbourhoods and to the specifications of the local government. (Local Government)**

-
8. ***Uniform fencing being constructed along the boundaries of all of the proposed lots abutting Selby Street and Underwood Avenue. (Local Government)***
 9. ***Engineering drawings and specifications are to be submitted, approved, and subdivisional works undertaken in accordance with the approved plan of subdivision, engineering drawings and specifications, for the provision of shared paths through and connecting to the application area. The approved shared paths are to be constructed by the landowner/applicant. (Local Government)***
 10. ***Satisfactory arrangements being made with the local government for the full cost of upgrading and/or construction of intersection upgrades for all new road connections to Underwood Avenue and Selby Street. (Local Government)***
 11. ***All pedestrian access way(s) within the subdivision being constructed and drained at the landowner/applicant's cost and shown on the diagram or plan of survey (deposited plan) as such and vested in the Crown under Section 152 of the Planning and Development Act 2005, such land to be ceded free of cost and without any payment of compensation by the Crown. (Local Government)***
 12. ***Prior to the commencement of subdivisional works, an urban water management plan is to be prepared and approved, in consultation with the Department of Water, consistent with any approved Local Water Management Strategy/Drainage and Water Management Plan. (Local Government)***
 13. ***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 lot(s) 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)***

Environmental Conditions:

14. ***The Applicant enter into a Deed of Management incorporating a conservation area management plan with the Shenton Park Conservation Association Inc. for the purpose of managing Lots 1, 2 and 6 in a manner consistent with the requirements of the Hon. Minister for the Environment, as set out in the Minister's conditions in Statement No. 835 - Statement that a proposal may be implemented (Pursuant to the provisions of the Environmental Protection Act 1986). (Department of Environment and Conservation)***
15. ***A fence including gates with a minimal height of 1.2 metres restricting vehicle, pedestrian and animal access to Lots 1, 2 and 6 i to be***

constructed to the specifications of the Department of Environment and Conservation and satisfaction of the Western Australian Planning Commission (Department of Parks and Wildlife)

- 16. A restrictive covenant, to the benefit of the Department of Parks and Wildlife, pursuant to Section 129BA of the Transfer of Land Act 1893 is to be placed on the certificate(s) of title of the proposed lot(s) advising of the existence of a restriction on the use of the land to protect areas identified for conservation. Notice of this restriction is to be included on the diagram or plan of survey. (Department of Parks and Wildlife)**
- 17. A fire management plan being prepared, approved and relevant provisions implemented during subdivisional works, in accordance with the WAPC's Guideline Planning for Bushfire Protection Edition 2, May 2010 (in particular Appendix 3) to the specifications of the local government and/or the Department of Fire and Emergency Services. (Department of Fire and Emergency Services)**
- 18. A notification, pursuant to section 70A of the Transfer of Land Act 1893 is to be placed on the certificate(s) of title of the proposed lot(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:**

'The lot(s) is/are subject to a fire management plan.' (Local Government)

Servicing Conditions

- 19. The transfer of land for the purposes of the provision of water and sewerage infrastructure to be shown on the diagram or plan of survey (deposited plan) as a reserve and vested in the Crown under Section 152 of the Planning and Development Act 2005, such land to be ceded free of cost and without any payment of compensation by the Crown. (Water Corporation)**
- 20. Arrangements being made with the Water Corporation so that provision of a suitable water supply service will be available to the lots shown on the approved plan of subdivision. (Water Corporation)**
- 21. Arrangements being made with the Water Corporation so that provision of a sewerage service will be available to the lots shown on the approved plan of subdivision. (Water Corporation)**
- 22. Suitable arrangements being made with the Water Corporation for the drainage of the land either directly or indirectly into a drain under the control of that body. (Water Corporation)**
- 23. 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 lot(s) shown on the approved plan of subdivision. (Western Power)**

-
24. *Arrangements being made to the satisfaction of the Western Australian Planning Commission and to the specifications of Western Power for the provision of necessary electricity easement(s) to the lot(s) shown on the approved plan of subdivision/plan dated 28 March 2014 (attached). (Western Power)*
 25. *Arrangements being made to the satisfaction of the WAPC and to the specification of Western Power for the removal, relocation and/or replacement of electricity supply infrastructure, including plant and/or equipment located on or near the lots shown on the approved plan of subdivision. (Western Power)*
 26. *The transfer of land as a Crown reserve free of cost to Western Power for the provision of electricity supply infrastructure. (Western Power)*

ADVICE:

1. *With regard to Condition 1, direct road frontage is required for each of the proposed lots and may necessitate the amalgamation of proposed lots 2 and 6.*
2. *With regard to Condition 4 Detailed Area Plans are required for the Medium High Density and Terrace House Sites as generally identified on Annexure A date stamped 28 March 2014 and attached to this decision.*
3. *With regard to Condition 8, not all of the lots directly adjoin the roads and in some cases are separated by a linear public open space.*
4. *In regard to Conditions 20 and 21, 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.*
5. *In regard to Condition 23, Western Power provides only one underground point of electricity supply per freehold lot.*
6. *Atco Gas has high pressure gas mains in the vicinity of the property. Atco Gas must be notified of any works within 15 metres of High Pressure gas infrastructure before those works begin.*

SUMMARY:

- The application the subject of this report is for the subdivision of a large site owned by the University of Western Australia (UWA) located on Underwood Avenue, Shenton Park (**Attachment 1 Context Plan**).
- The site has been the subject of an earlier Western Australian Planning Commission (WAPC) approval (reference number 112907) in September 2010, an approval which has now expired.

-
- The primary issues and outcomes of the earlier approval which included the protection of significant vegetation, odour impacts and an agreed buffer to the Subiaco Waste Water Treatment Plant (WWTP) are still relevant to this application.
 - The Local Government does not support the application primarily on the grounds that an Outline Development Plan (ODP) has not been endorsed over the site.
 - The subject application does not differ to the previously approved application and it is recommended that conditional subdivision approval be granted consistent with the earlier decision of the WAPC.

LEGISLATION / STRATEGIC PLAN / POLICY:

Legislation

Planning and Development Act
Environmental Protection Act

Section:

Section 38(6) and 38 (7)

Strategic Plan

Strategic Goal:

Planning

Outcomes:

Effective Delivery of Integrated Plans

Strategies:

Develop integrated infrastructure and land use plans for the state

Implement State and regional planning priorities

Policy

Number and / or Name:

Statement of Planning Policy No. 1 - *State Planning Framework*

Statement of Planning Policy No. 3.1 Residential Design Codes

Directions 2031 and Beyond

Draft Central Metropolitan Perth Sub-regional Strategy.

INTRODUCTION:

The University of Western Australia (UWA) own a large site located at the south western corner of the intersection of Selby Street and Underwood Avenue, which is the subject of a current subdivision application and the subject of this report to the Statutory Planning Committee.

The site is zoned 'Urban' under the Metropolitan Region Scheme and is zoned 'Development' under the City of Nedlands Town Planning Scheme No.2 (TPS 2). The land also contains Bush Forever Site No.119. The zoning of the site provides for residential development and places no restrictions on the density or form of residential development.

The site has been the subject of an earlier subdivision approval, which was issued in September 2010. This subdivision approval was approved under Section 31 of the State Administrative Tribunal Act and was a reconsideration of an earlier WAPC subdivision refusal. The previous application went through an extensive 11 year

process including a planning appeal with the then Town Planning Appeals Tribunal and the State Administrative Tribunal. The primary issues associated with the earlier application are still relevant to this application and include:

- Protection of significant vegetation on the site that has become the subject of an Environmental Protection Authority (EPA) Statement (that a proposal may be implemented pursuant to the provisions of the Environmental Protection Act 1986) as a result of an environmental assessment under the Environmental Protection Act 1986;
- Impacts of the odour from the adjoining Subiaco Wastewater Treatment Plant (WWTP),
- Lack of support for the application by the Local Government because of the absence of an adopted ODP;
- A previous determination from the State Administrative Tribunal concluded that the WAPC is not prevented from approving an application for subdivision in the absence of an adopted ODP; and
- Support for the application by all other agencies including the EPA.

The Department has considered the above matters in the determination of this application and will discuss these in the Consultation and Officer Comments section of this report.

Details of the Application

An application has been received from CLE on behalf of UWA for the subdivision of portion of Lot 4 and Lot 105 Underwood Avenue, Shenton Park. The application area is located at the south western corner of the Selby Street and Underwood Avenue intersection and is bordered by Underwood Avenue to the north, Brockway Road to the west, Selby Street to the east and a number of institutional type uses to the south, including the Subiaco Waste Water Treatment Plant (WWTP), the Paraplegic and Quadriplegic Association and Royal Perth Hospital - Shenton Park Rehabilitation Hospital.

Lot 4 has an area of 44.26 ha and Lot 105 has an area of 0.4515 ha giving the site a combined area of 44.7 ha. The application proposes to subdivide a 32.0896 ha portion in the eastern half of Lots 4 and 105 to create 187 residential lots (**Attachment 2 Application Plan**) comprising the following:

- 163 single dwelling residential lots;
- 7 group dwelling residential lots;
- 3 non-odour sensitive lots - where land uses that are not be sensitive to WWTP odour such as commercial or mixed business can be developed;
- 2 balance lots (balance of Lot 4 and Lot 105);
- 9 lots for public open space (POS) ranging in area from 519m² to 2.0 ha and comprising a total area in the order of 3.03 ha, incorporating the pipeline corridor easement associated with the Bunbury Dampier Gas Pipeline; and
- 3 lots for conservation purposes including Lot 1 (8.2 ha), Lot 2 (2.2 ha) and Lot 6 (3.5 ha) which will be retained in ownership by UWA for conservation purposes consistent with an Environmental Protection Authority (EPA) Ministerial Statement.

The subdivision has been informed by an ODP, which covers the entire site, establishes key infrastructure and movement networks, identifies residential density allocations, outlines principles and processes for built form responses and recognises bushland conservation requirements pursuant to state and federal environmental processes. The ODP is focussed on 3 planning precincts, based on landowner intentions, staging, odour implications and environmental matters. More specifically, the ODP proposes the following precincts:

- Precinct A is located in the eastern part of the site and forms part of the subject subdivision application and is proposed to be subdivided into 170 single and group residential lots and 9 lots for Public Open Space (POS). Precinct A1 is not affected by odour impacts associated with the Subiaco WWTP and is suitable for immediate residential subdivision. Precinct A2 is affected by a low level of odour from the WWTP and can only be utilised for non-sensitive land uses such as commercial or non-residential uses.
- Precinct B is located in the central part of the site and is predominantly affected by the odour buffer line associated with the WWTP is subject to the EPA Statement and is partly proposed for conservation purposes, pursuant to that Statement. Precinct B forms part of the subdivision application and is proposed to be subdivided to create 5 lots for conservation and non-odour sensitive land uses (i.e. non-residential land uses).
- Precinct C is located in the western part of the site and fronts Brockway Road and Underwood Avenue and currently accommodates the UWA Field Research Station. UWA intends to continue to operate the Research Station from this site and therefore has no plans to subdivide the land within Precinct C as part of the ODP or the current subdivision application. Rather Precinct 2 will be subdivided into 2 balance of title lots.

Precinct A of the ODP and the proposed 176 residential lots the subject of this application, have been designed based on the principles of Liveable Neighbourhoods and provide for a diversity of dwelling types based on a permeable and legible road system that supports walking and cycling.

The ODP and the subject subdivision application provide for a range of lot sizes and dwelling densities and is based on a target density of 35 to 40 dwelling units per hectare. In order to achieve this dwelling unit yield, the ODP and subdivision proposes to create 3 types of lots as described below:

- 7 Medium High Density Sites with lots sizes ranging from 1706m² to 4178m² and proposed for grouped or multiple dwelling developments at a density of R60 to R80. These lots front the linear POS that runs through the subdivision;
- 61 Terrace Lots with areas ranging from 234m² to 300m² which will be accessible via a rear laneway allowing for the creation of narrower frontage lots at a higher density of R40; and
- 107 single residential lots with areas ranging from 375m² to 500m² and at a density of R30.

The ODP includes a Public Open Space and Conservation Strategy, which has informed the subject subdivision. The Public Open Space and Conservation Strategy is consistent with EPA Bulletin 1272 and EPA Statement as well as with the principles of Liveable Neighbourhoods. More specifically, POS is proposed as a

linear extension throughout the subdivision and aligns with a Water Corporation Pipeline easement that traverses the site. Conservation lots (Lots 1, 2 and 6) have been created to retain bushland, the Bush Forever site and areas identified for conservation purposes under the EPA Statement, which will be discussed in the Officer Comment section of this report.

The Department considers that the subdivision design has been well considered through the preparation of the ODP and proposes a logical and staged approach to the subdivision of a majorly constrained site in terms of environmental and odour impacts. The subdivision will provide for the creation of a range of residential lots, which will be well serviced by POS and located in proximity to public transport, education, and community and retail facilities.

CONSULTATION:

The application was referred to 10 government and servicing agencies and a summary of their comments is provided below:

Department of Parks & Wildlife and Regional & Fire Management Services Division

The Department of Parks & Wildlife (DPAW) has advised the Department that it expects that implementation of the subdivision will be consistent with the requirements of the Ministerial Statement 835. It has since been confirmed by the Environmental Protection Authority, that the current application is in accordance with Ministerial Statement 835.

In addition, the DPAW has advised that a Fire Management Plan that has been submitted satisfies the requirements of the Department of Fire and Emergency Services and the City of Nedlands and that the subdivision plan does not require clearing of native vegetation within the identified conservation area for fire mitigation.

Appropriate conditions have been included in the recommendation to ensure the implementation of both the EPA Ministerial Statement and the Fire Management Plan, consistent with the earlier WAPC approval.

Environmental Protection Authority

The EPA has commented that the current application is in accordance with Ministerial Statement 835 (**Attachment 3 EPA Statement**) and raises no objection to the application. As discussed above, appropriate conditions have been included in the recommendation to ensure the implementation the EPA Ministerial Statement, consistent with the earlier WAPC approval.

City of Nedlands

The City has objected to the application on the same grounds it did on the previous application and primarily on the grounds that there is not an adopted ODP over the site. As indicated previously, this matter has previously been considered by SAT and SAT has determined there is no restriction to the WAPC approving a subdivision over

the site in the absence of an adopted ODP. This will be discussed further in the Officer Comment section.

The City also raises additional concerns about the subdivision design, bush forever site and the need for a transport assessment and urban water management plan. The Department has maintained its position in response to the concerns of the City of Nedlands as in the earlier approval and does not see the issues raised by the City to be impediments to granting subdivision approval and/or can be addressed through the imposition of appropriate conditions as in the previous approval.

The City of Nedlands has provided the Department with recommended conditions of approval, which have been included in the recommendation where appropriate. A number of conditions including a requirement to prepare Detailed Area Plans for all residential lots and for the construction of crossovers to all residential lots are onerous and have not been included in the recommendation. The recommendation does however support proposed Condition 4, which requires the preparation of Detailed Area Plans for the residential and terrace lots as shown on Annexure A. **Annexure 'A'** is attached to this report and identifies the terrace and residential lots that will require the preparation of a Detailed Area Plan.

Water Corporation

The Water Corporation was involved in the previous approval and a legally binding agreement which was formed between the Water Corporation and UWA in 2007 still applies to the site. The 2007 agreement was part of the outcome of the earlier SAT proceedings and established an odour sensitive buffer over the site in relation to the Subiaco WWTP.

The Water Corporation was consulted during this application and has advised that it supports the current proposal subject to conditions, with the exception of the proposed lots that are within the odour buffer, being proposed Lots 3 and 4 adjacent to Underwood Avenue. The Water Corporation considers that the inclusion of these odour affected lots is against the EPA Ministerial Statement because a land use plan has not been prepared for the odour affected land (as required under the EPA Statement). The position of the Department in relation to this concern, is that the lots that are proposed to be created and that are within the odour buffer are proposed to be created as balance of title and conservation lots and are not proposed to be created as residential lots. The balance and conservation lots are not proposed for residential subdivision or development at this stage and would require the preparation of a land use plan and further environmental approvals before this could occur.

The Department does not therefore consider the Water Corporations concerns to be an impediment to the granting of conditional subdivision approval.

Department of Education

The Department has advised that is has no requirement for contributions towards a school site or for land to be given up to provide for a school site as part of this application

Department of Water

The Department has recommended that an Urban Water Management Plan be prepared in consultation with the Department of Water and Local Government. A condition recommending this has been included in the recommendation.

Atco Gas

Atco Gas has advised that the Bunbury Dampier Gas Pipeline Corridor is in proximity to the site and has requested an Advice Note be included in any approval. An advice Note has been included in the recommendation to deal with this matter.

Servicing Agencies

Western Power and Water Corporation have no objection to the application subject to the imposition of standard servicing conditions, which have been included in the recommendation.

The subject application has been referred to a range of government and servicing authorities and other than the objections raised by the City of Nedlands are supportive of the subject subdivision application.

COMMENTS:

The application proposes to subdivide the site into a range of residential, non-residential, conservation and balance of title lots. The subdivision design has been informed by an ODP, an earlier WAPC subdivision approval, SAT determinations, an EPA Statement and an agreement in relation to the odour buffer of the adjoining waste water treatment plant. The application also meets the Bush Forever and bush fire hazard planning requirements and proposes the implementation of a Fire Management Plan, which has been prepared in accordance with the current WAPC Guidelines for Planning for Bushfire Protection. A summary of these determining factors is provided below.

Outline Development Plan (ODP)

As detailed previously, the land the subject of this application is zoned 'Development' under the City of Nedlands Town Planning Scheme No. 2 (TPS 2). Clause 3.8.1 of TPS 2 states that Council intends to ensure that development of land within the 'Development' zone takes place only after comprehensive planning has been undertaken. Clause 3.8.2 of the scheme states that any proposal to develop land in the 'Development' zone shall be accompanied by an overall concept plan for the land. The City of Nedlands maintains that the subject application does not comply with TPS 2 because an ODP has not been adopted over the site.

A draft ODP has however been submitted to the City by CLE on behalf of UWA in 2001 and since then four variations to this ODP have been subsequently submitted for endorsement. The City of Nedlands has however consistently refused to consider the ODP's for endorsement, despite the SAT ruling that subdivision could proceed in the 'Development' zone in the absence of an adopted ODP. Taking into account the

earlier SAT determination and a detailed planning history provided by the applicant, it is clear that every attempt has been made to undertake comprehensive planning for the site through the preparation of the ODP and whilst it may not have been endorsed by the City, it successfully guides the subject subdivision proposal and future land use of the site.

In considering and determining the earlier subdivision application in 2010, SAT determined ([2009] WASAT 131) that TPS 2 did not operate to fetter the WAPC decision making powers in the absence of an ODP and that a plan of subdivision may be considered for approval in the absence of an ODP. The WAPC agreed with the SAT determination when it granted subdivision approval, pursuant to Section 31 of the SAT Act 2004 (Reconsideration). The Department continues to support this position and recommends that the application be approved in the absence of an endorsed ODP.

Liveable Neighbourhoods

The internal road design is consistent with Liveable Neighbourhoods. The application proposes no direct frontage from the subdivision to the abutting roads and proposes appropriate intersection treatments to Selby Street and to Underwood Avenue. The proposed roads works and intersection treatments are acceptable, consistent with Liveable Neighbourhoods and no conditions are required to address Liveable Neighbourhoods.

Subiaco Wastewater Treatment Plant and Odour Buffer

The Subiaco WWTP adjoins the south western corner of the application area and as part of the earlier application and following extensive consultation, the Water Corporation, WAPC and UWA agreed to a definition of the Odour Line. UWA and the Water Corporation entered into a Co-operative Odour Improvement Agreement in January 2007 and this agreement still applies to the land.

The objective of the agreement is to reduce the odour impacts from the Subiaco WWTP in order to facilitate the residential subdivision of Lots 4 and 105. The outcome of the agreement is that odour is a temporary land use constraint on Lot 4 and as such will be dealt with via staging of the subdivision. The subject application represents the first stage of subdivision and only proposes to create residential lots outside of the odour line, as per the agreement.

Compliance with Ministerial Statement 835 and EPA Bulletin 1127

The earlier application was referred to the Environmental Protection Authority (EPA) as a result of the Bush Forever contained on the site, the potential for the subdivision to impact on the Carnaby's cockatoo roosting and feeding habitat (which is protected under the Commonwealth Environment Protection and Biodiversity Act 1999 and odour impacts associated with the WWTP. As a result of the EPA referral and subsequent formal environmental assessment, the EPA released Bulletin 1127 as an EPA Statement, which contained the Minister for Environment's recommendation in relation to the earlier and current subdivision proposal. The 'Statement that the Proposal may be Implemented' states that the EPA considers that the issue of biodiversity values has been adequately addressed and that the conservation areas

proposed in the subject application, which include the public open space lots, are sufficient to meet the EPA's objectives for this factor.

In respect to odour associated with the WWTP, the Bulletin further states that the subdivision proposal reflects the buffer identified for the Subiaco WWTP and that the EPA accepts there is sufficient confidence that odour is managed such that residential land uses can occur as proposed by way of this application.

The EPA Statement requires that subdivision occur in accordance with the Land Use Plan/ODP and specifically requires:

- The establishment of a Conservation Area of 13.9 ha for the long term protection of plant species suitable for foraging and roosting for Carnaby's Black Cockatoo;
- The 13.9 ha Conservation Area to comprise 3 contiguous parcels being a 2.2 ha western area of existing native vegetation (Lot 2), an 8.2 ha (Lot 1) eastern area of native vegetation and a 3.5 ha (Lot 6) central portion requiring rehabilitation and the creation of an abutting POS lot with an area of 2 ha; and
- Proposed Lot 5 to remain a separate lot subject to future land use planning and approval by the Minister for Environment and proposed Lots 3 and 4 (to the north of Lot 5), whilst being within the odour buffer area are suitable for future low scale commercial uses that are not odour affected. Use and development of Lots 3 and 4 however will be subject to an Outline Development Plan (discussed further below).

The configuration and size of the proposed POS and Conservation lots are consistent with the EPA Statement and this has been confirmed by the EPA. The Department therefore supports the subdivision proposal on environmental grounds subject to the imposition of a condition of approval to require a restrictive covenant be lodged against Lots 1, 2 and 6 for the benefit of the EPA to ensure that the lots will only be used for conservation purposes in perpetuity. A consistent approach was taken with the earlier subdivision approval issued by the WAPC. Similarly, a condition of subdivision approval is recommended to require a deed of management consistent with Statement 835, to ensure the Minister's requirements are met.

Bush Forever

The eastern portion of the subject land is listed as Bush Forever Area No. 119 and is referenced in the Ministerial Statement and requires protection. Bush Forever area 119 is identified as a Negotiated Planning Solution (NPS) under State Planning Policy 2.8 Bushland Policy for Metropolitan Perth (SPP 2.8). SPP 2.8 recommends a retention benchmark of generally not less than 30% bushland to be applied to a NPS.

The original area of bushland within the subject site was 31.5 ha however; when Bush Forever was released in 2000 an agreement to retain 8.23 ha of bushland was proposed. This agreement was never finalised as part of the Bush Forever process and rather the development and conservation areas across the site were then determined by the EPA through the environmental review and the release of EPA Statement 835. The subject application respects the 'Proposed/Adjusted Bush Forever Boundary' which complies with the proposed conservation areas proposed by way of this application.

The MRS will need to be amended in the future to modify the Bush Forever boundaries to reflect the NPS and the EPA Statement however; this should not prevent subdivision of the site in the interim.

State Administrative Tribunal Determinations Relevant to the Site

An earlier subdivision application over the site was refused by the WAPC in August 2002. The UWA applied for a review of the WAPC's decision to refuse the application to the then Town Planning Appeals Tribunal (DR 96 of 2002). Between 2002 and 2007 and negotiations over the odour buffer of the adjoining WWTP, outcomes of the environmental review and the lodgement of an amended plan of subdivision, the WAPC was invited to reconsider its previous decision to refuse the application. The WAPC under Section 31 of the SAT act subsequently determined to grant conditional subdivision approval but this subdivision approval recently expired in September 2014.

In considering the Review, SAT, in accordance with advice put forward by the State Solicitors' Office, confirmed that the City of Nedlands TPS did not contain an express requirement for prior approval of an ODP and that the WAPC was no therefore prevented from granting subdivision approval in the absence of an adopted ODP.

The early determinations and findings of SAT and the State Solicitors Office demonstrate that there is no restriction to the subdivision of the land as a result of the environmental issues, odour impacts or absence of an endorsed ODP and that subdivision approval can be re-issued by the WAPC.

Further separate approvals required prior to subdivision works

The subject land provides foraging, corridor and potential breeding habitat for the Carnaby's Black Cockatoo, a threatened species. Separate approval under the Environmental Protection Biodiversity Conservation Act 1999 (EPBC Act 1999) is required prior to implementation of any subdivision approval for the land.

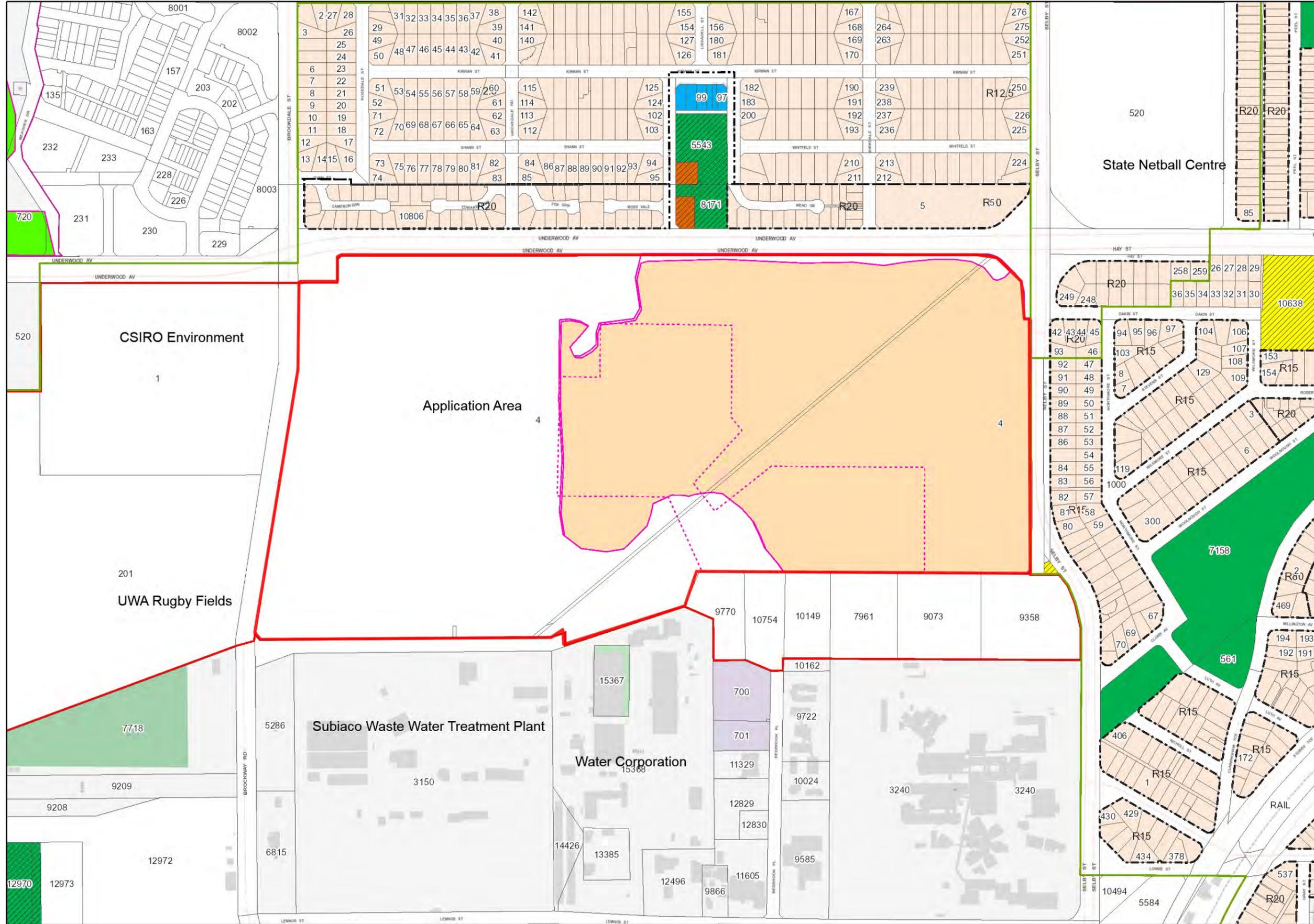
Aboriginal heritage surveys have been undertaken within the subject land in accordance with the Aboriginal Heritage Act (AHA) 1972. Five sites were identified as significant to Aboriginal people, four of which are located within the proposed POS and conservation areas. UWA is however required to seek consent under section 18 of the AHA Act 1972 prior to any disturbance of any sites. This will be required prior to any works associated with the subdivision occurring in the future.

CONCLUSION:

The site the subject of this application has been the subject of an earlier subdivision application, which was initially refused by the WAPC. Following consideration of the proposal by the Minister for Environment, the release of an EPA Bulletin and EPA Statement and review of the proposal by SAT, the WAPC determined to grant conditional subdivision approval the site. This approval has since expired and the owners of the site seek to obtain a new subdivision approval for the site.

The application does not differ to the earlier application, is guided by the draft ODP and proposes to implement all of the requirements of the EPA Statement. Whilst the

ODP has not been endorsed by the City of Nedlands over the subject land, the WAPC, by way of the determination made under WASAT 121 is not constrained from approving the subdivision application in the absence of an ODP. The current plan of subdivision reflects the extensive planning that has occurred over a number of years in accordance with ODP planning processes, and is consistent with state planning policies including Liveable Neighbourhoods and Directions 2031. It is therefore recommended that the application be approved subject to conditions.



- Legend**
- Local Government Area
 - Cadastre (view 1)
 - Cadastre (view 2)
 - Bush Forever areas
 - Proposed/Adjusted Bush Forever Boundary
 - Urban, Industrial or Resource Development Bush Forever Areas
 - Government Lands or Public Infrastructure Bush Forever Areas
 - Bush Forever reserves (existing)
 - R-Code Boundary
- Local Planning Scheme Zones and Land Use**
- Development
 - Light industry
 - Local roads
 - Municipal purposes
 - No zone
 - Open space
 - Public purposes
 - Recreation
 - Residential
 - Retail shopping

Notes:

The data that appears on the map may be out of date, not intended to be used at the scale displayed, or subject to license agreements. This information is stored in the relevant layers metadata. For these reasons the map should not be distributed outside of the Department.

Map was produced using DoP's PlanViewWA.

Context Plan Attachment 1

INTERNAL USE ONLY

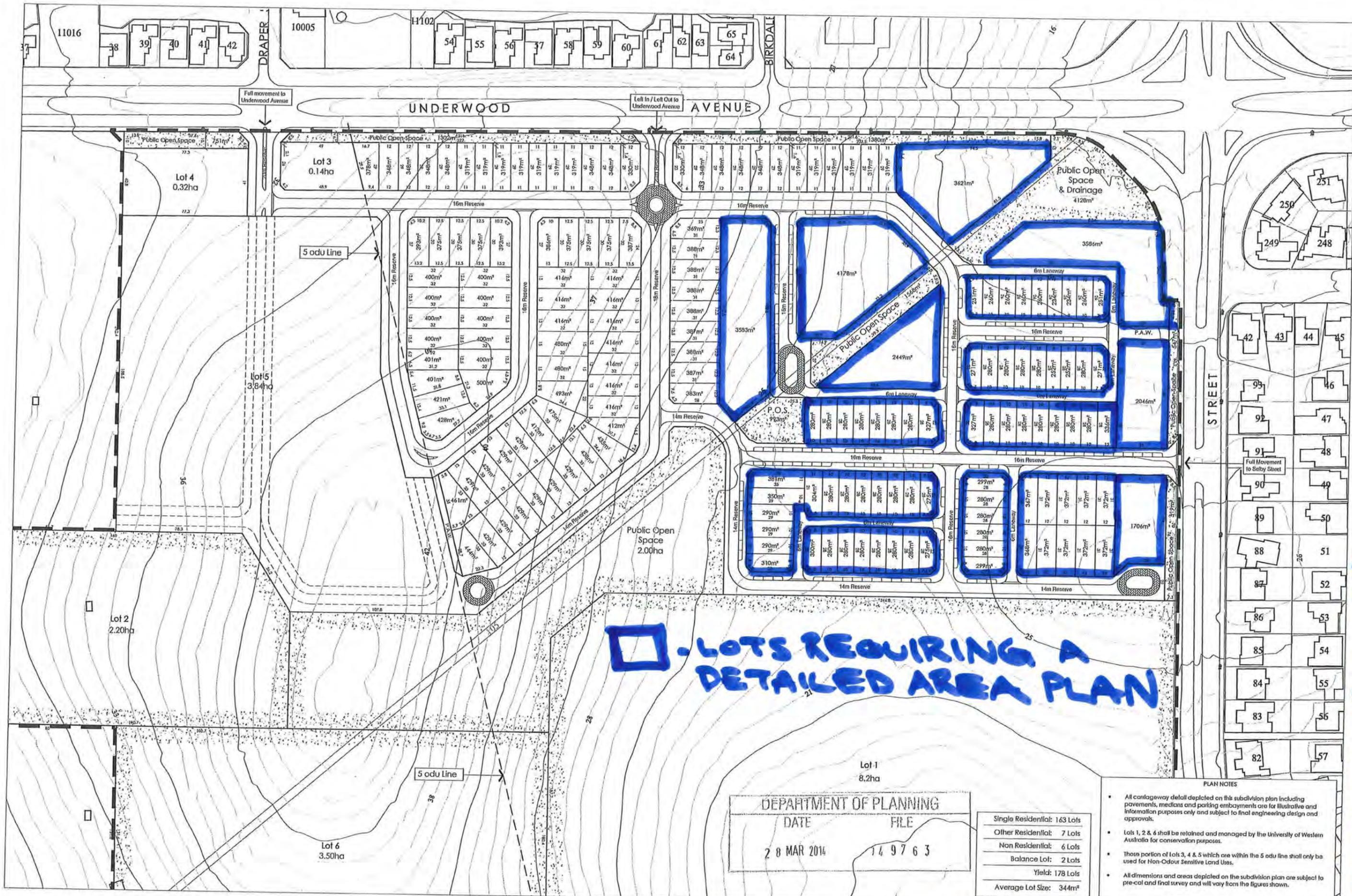
Internal Spatial Viewer
[Link to website](#)



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Produced by: FUNCTIONALITY TO COME



LOTS REQUIRING A DETAILED AREA PLAN

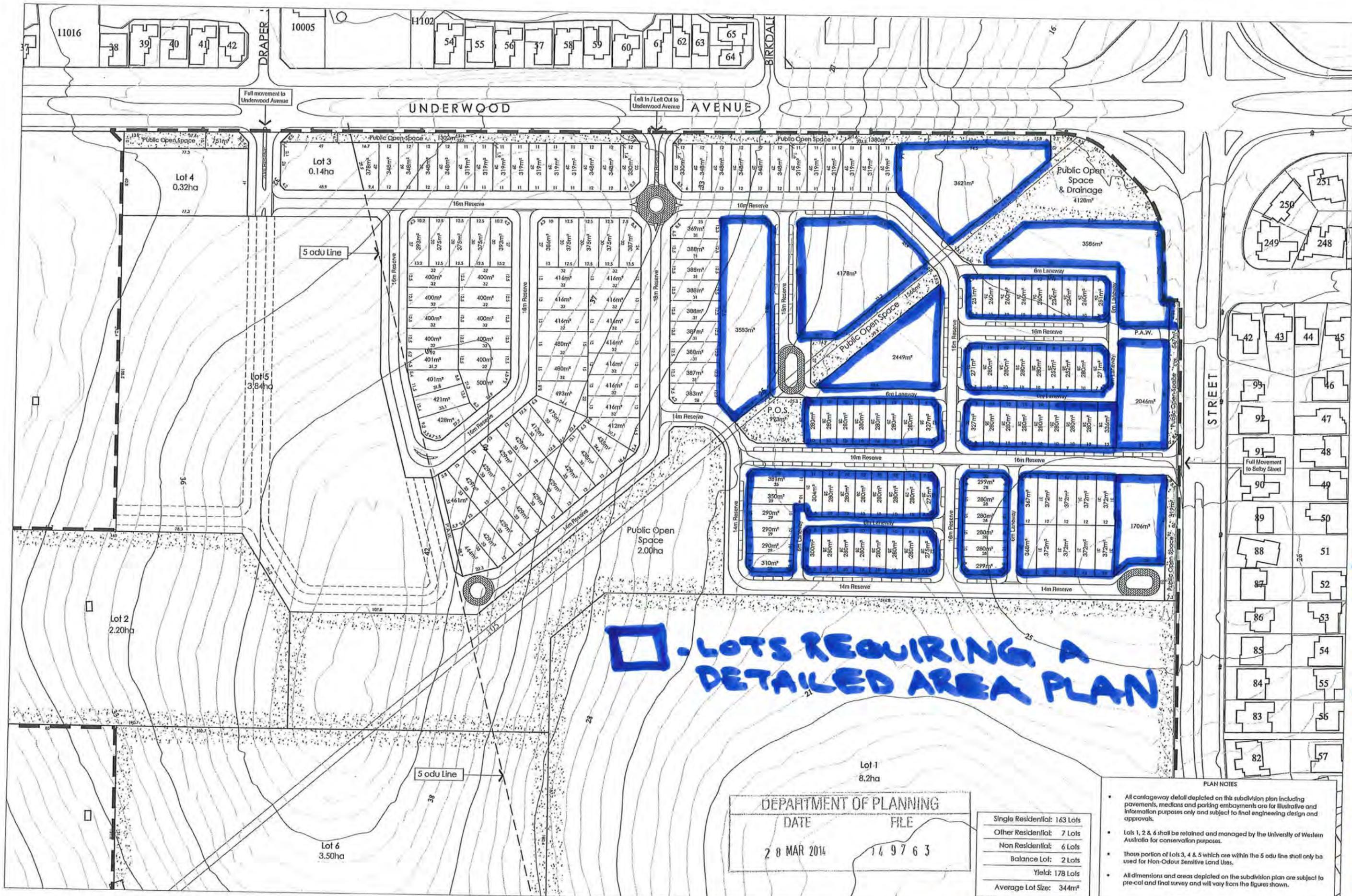
DEPARTMENT OF PLANNING
 DATE: 28 MAR 2014
 FILE: 14 97 63

Single Residential: 163 Lots
 Other Residential: 7 Lots
 Non Residential: 6 Lots
 Balance Lot: 2 Lots
 Yield: 178 Lots
 Average Lot Size: 344m²

PLAN NOTES

- All cartilage detail depicted on this subdivision plan including pavements, medians and parking embayments are for illustrative and information purposes only and subject to final engineering design and approvals.
- Lots 1, 2 & 4 shall be retained and managed by the University of Western Australia for conservation purposes.
- Those portion of Lots 3, 4 & 5 which are within the 5 odu line shall only be used for Non-Odour Sensitive Land Uses.
- All dimensions and areas depicted on the subdivision plan are subject to pre-call and final survey and will vary from the figures shown.

ANNEXURE 'A'



LOTS REQUIRING A DETAILED AREA PLAN

DEPARTMENT OF PLANNING
 DATE: 28 MAR 2014
 FILE: 14 97 63

Single Residential: 163 Lots
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ANNEXURE 'A'

ITEM NO: 9.3

PROPOSED PLACE OF WORSHIP - LOT 627 HYEM ROAD HERNE HILL

WAPC OR COMMITTEE: Statutory Planning Committee

REPORTING AGENCY: Department of Planning
REPORTING OFFICER: Planning Officer Metro Planning North East
AUTHORISING OFFICER: A/Director Metro Planning North East
AGENDA PART: G
FILE NO: 21-50431-1
DATE: 2 October 2014
REPORT CATEGORY: Statutory
ATTACHMENT(S): Attachment 1 - Development Plans
Attachment 2 - Location / Zoning Plan
Attachment 3 - Aerial photograph
Attachment 4 - Land capability maps

REGION SCHEME ZONING: Rural
LOCAL GOVERNMENT: City of Swan
LOCAL SCHEME ZONING: Swan Valley Rural
LGA RECOMMENDATION(S): Conditional Approval
REGION DESCRIPTOR: Metro North East
RECEIPT DATE: 23 June 2014
PROCESS DAYS: 32
APPLICATION TYPE: Development Application
CADASTRAL REFERENCE: Lot 627 Hyem Road Herne Hill

RECOMMENDATION:

That the Western Australian Planning Commission resolves to refuse the development application for a Place of Public Worship at Lot 627 Hyem Road Herne Hill for the following reasons:

- 1. The proposed development is inconsistent with the statutory planning objectives of Area B as stated in the Swan Valley Planning Act 1995.***
- 2. The land is zoned 'Rural' in the Metropolitan Region Scheme and 'Swan Valley Rural' within the City of Swan Local Planning Scheme No.17. The proposed development is contrary to the intent of the rural zoning which is to preserve the rural character and landscape of the area.***
- 3. The proposal is inconsistent with the Swan Valley Interim Policy whereby the use of land within Area B of the Swan Valley Planning Act 1995 as a***

'Place of Worship' is not permitted unless it is incidental to the predominant use of the subject land.

- 4. Approval of the proposal may create a precedent for the introduction of other, similar development contrary to the planning objectives set out in the Swan Valley Planning Act 1995 and inconsistent with the rural character of the area.***

ALTERNATIVE RESOLUTION

Should the Western Australian Planning Commission reject the above recommendation to refuse the development application, then the following alternative resolution is offered:

That the Western Australian Planning Commission resolves to:

- 1. note that the Swan Valley Planning Committee has recommended refusal of the development application for a Place of Public Worship at Lot 627 Hyem Road Herne Hill based on its view that the development is inconsistent with the statutory planning objectives for Area B as stated in the Swan Valley Planning Act 1995 and with the Interim Planning Policy endorsed by the WAPC;***
- 2. note that the development is relatively low impact and thus should not be considered a precedent for future proposals for larger Places of Public Worship in Area B of the Swan Valley;***
- 3. approve the development application for a Place of Public Worship at Lot 627 Hyem Road Herne Hill, subject to the following conditions and advice:***

CONDITIONS

- 1. This approval relates to the proposed Buddhist Meditation Centre Site Plan Drawing No. MQP201 date stamped 23 June 2014 by the Department of Planning.***
- 2. The existing mature vegetation (trees and shrubs) along the boundary of the property shall be retained and maintained to the specifications of the City of Swan.***
- 3. Vehicle parking area, access and circulation areas are to be designed constructed and thereby maintained to the specifications of the City of Swan.***
- 4. Refuse bin areas adequate to service the development being provided to the specifications of the City of Swan.***
- 5. All stormwater being contained onsite, to the specifications of the City of Swan.***

-
6. ***Any External lighting shall comply with the requirements of AS 4282 – Control of Obtrusive Effects of Outdoor Lighting.***
 7. ***Provision being made for access and facilities for use by people with disabilities in accordance with provisions of the Building Code of Australia and AS 1428-1.***
 8. ***All access to the site being restricted to the existing driveways.***

ADVICE

1. ***Main Roads Western Australian advises that this property is affected by land reserved in the Metropolitan Region Scheme as shown on the enclosed extract of Main Roads drawing 1.404 and will be required for road purposes at some time in the future. The project for the upgrading/widening is not in Main Roads current 4-year forward estimated construction program and all projects not listed are considered long-term. Please be aware that timing information is subject to change and that Main Roads assumes no liability whatsoever for the information provided.***

SUMMARY:

The application proposes a change of land use within Lot 627 Hyem Road Herne Hill, from the current use of café and art gallery to 'Place of Worship'. The existing art gallery and cafe buildings are proposed to be converted into a meditation hall and multifunctional hall respectively.

On 9 September 2014, the WAPC's Statutory Planning Committee (SPC) resolved to defer consideration of the application pending receipt of additional information relating to the capability of the land to support viticultural and horticultural activities. The Chairman also requested advice on the legal primacy of the relevant planning instruments. This information was provided to the Committee at its meeting on 23 September 2014, when the SPC resolved to defer consideration of the application once again pending an alternative recommendation, supporting conditions for any approval and a planning rationale being submitted for consideration.

It is recommended that the application be refused, consistent with the Swan Valley Planning Act 1995, endorsed Swan Valley Interim Policy (Interim Policy) and advice from the Swan Valley Planning Committee. However in response to the statutory Planning Committee's request, an alternative resolution has been provided in the event that the Committee determines to support the application, with draft conditions as per the Committee's request.

LEGISLATION / STRATEGIC PLAN / POLICY:

Legislation Planning and Development Act 2005
Swan Valley Planning Act 1995
Metropolitan Region Scheme

Section: Part 10
Swan Valley Planning Act 1995 - Section 8
Metropolitan Region Scheme Text - Part IV subclause 30B(5)

Strategic Plan

Strategic Goal: Planning

Outcomes: Planned Local Communities Developing a Sense of Place

Strategies: Encourage innovation in the design of our communities

Policy

Number and / or Name: Swan Valley Planning Interim Policy

INTRODUCTION:

The application proposes a change of land use within Lot 627 Hyem Road Herne Hill, involving the conversion of an existing art gallery and café on site to a meditation hall and multifunctional hall respectively. The application constitutes a change in land use to 'Place of Worship', which under the City of Swan Local Planning Scheme No. 17 (LPS 17) is defined as '*premises used for religious activities such as a church, chapel, mosque, synagogue or temple*'. No additional buildings are proposed on site (**Attachment 1 - Development Plans**).

Details

Lot 627 is located on the corner of Hyem Road and Great Northern Highway in Herne Hill, within 'Area B' of the Swan Valley Planning Act 1995 (the Act). The subject land is zoned Swan Valley Rural under LPS 17 and 'Rural' under the Metropolitan Region Scheme (MRS) (**Attachment 2 - Location / Zoning Plan**). The subject land is 7086m² in area and also contains a dwelling and outbuildings which are to be retained.

The 204m² meditation hall will be used for meditation, reciting Buddhist teachings and reflection; and the 192m² multifunction hall will be used for lecturing / teaching, counselling, dining and a meeting place. The application states that the proposed halls are to operate on Sundays only, while spiritual reflection will occur fortnightly for a couple of hours. Annual celebrations and events will occur about three to four times a year on Sundays only. The arrival and departure times of vehicles to the site will be dispersed over the course of the day, and the projected maximum number of people onsite at any time during any of the proposed events will not exceed thirty people.

Clause 26 (3) and 30b (5) of the MRS requires that the City of Swan (the City) refer the decision to the WAPC for determination when advice of the Swan Valley Planning Committee (SVPC) is not accepted by the local government. The purpose of this report is to facilitate the SPC's determination of the application under the MRS, not LPS 17 under which a determination has already been made by the City.

CONSULTATION:

The proposal was advertised for public comment between 17 January and 26 February 2014. Landowners within a 200m radius of the subject land and various interest groups were consulted during this time, and a sign was erected on site to advise of the proposed change in land use. A total of eleven submissions were received, all of which objected to the proposal. The main issues raised related to a potential increase in local traffic and congestion, lack of screening for adjacent property owners, visitor enforcement, lack of adequate parking facilities, loss of property value and overall amenity issues citing that the proposal is not consistent with the overall objectives of the zone within LPS 17, and 'Area B' of the Act.

The proposal was referred to the Department of Water and Main Roads Western Australia (MRWA) for comment, both of which raised no objections to the proposal, with MRWA recommending a condition and providing advice that the site is affected by land reserved in the MRS for road widening purposes.

The application was referred to the SVPC, which at a meeting on 3 February 2014, resolved to note that the proposal is not consistent with planning objectives 1, 4 and 7 of section 8 of the Act; and recommended that the City refuse the proposal on the basis that it is an inappropriate use and is not compatible with the rural character of the Swan Valley.

The City at its Ordinary Council meeting of 28 May 2014 resolved to approve the proposal on the basis that the nature and scale of the proposal was considered consistent with the objectives of 'Area B' of the Act, and the objectives of the 'Swan Valley Rural' zone within LPS 17. The City recommended approval of the proposal under LPS 17 subject to conditions, and as the City's decision was not in accordance with the advice of the SVPC, the City's delegation to determine the application under the MRS does not apply.

COMMENTS:

City of Swan's Local Planning Scheme No.17

A 'Place of Worship' is a discretionary use within the Swan Valley Rural zone under TPS 17.

The objectives of the 'Swan Valley Rural' zone under LPS 17 include to:

- (a) promote the core area of the Swan Valley primarily as a horticultural, recreational, tourism and landscape resource;
- (b) provide for limited rural living within the Swan Valley, subject to locational, design and landscaping requirements to enhance the character and amenity of the valley and to ensure compatibility with productive rural activities;

-
- (c) recognise the occurrence of high quality horticultural soils and scarce plastic clays and to protect these resources from development which would jeopardise their current and future use; and
 - (d) ensure that the development and use of land accords with the planning objectives for Area B as specified in the Swan Valley Planning Act (1995).

The proposal does not comply with these objectives and does not provide for horticultural practices, recreation or tourism activities within the site or for rural living. The proposed change in use to 'Place of Worship' is not consistent with the objectives for 'Area B' as specified within the Act.

Swan Valley Planning Act 1995 (Act)

The SVPC resolved on 3 February 2014 not to support the proposal on the grounds that it was not consistent with planning objectives 1, 4 and 7 of section 8 of the Act:

- Objective 1 - the protection of viticulture;
- Objective 4 - the encouragement of traditional activities of the Swan Valley and industries associated with viticulture, horticulture and cottage industry provided that they are compatible with the rural character of the area; and
- Objective 7 - the discouragement of uses that are incompatible with the rural character and traditional agricultural activities of the area.

There are existing vineyards to the south of the subject land approximately 80 to 110 metres from the site (**Attachment 3 - Aerial photograph**), and the placement of a 'Place of Worship' on the site increases the risk of conflicts between the users of the proposed facility and the operations of the adjacent commercial viticultural uses. The proposal does not provide for viticulture or horticultural practices to occur on site, and the proposed change in use is not consistent with the key statutory planning objectives of Area B set out in the Act, or the rural character of the area.

Strategic Implications and the Swan Valley Interim Planning Policy

In recent years, numerous decisions have cumulatively resulted in detriment to the character of the Swan Valley. The Government has now clearly stated its policy position that the Swan Valley is an area of strategic significance to the State, and that the cultural heritage and rural character of the Swan Valley are to be protected and enhanced.

In February 2014, Cabinet endorsed the findings of *The Way Forward, Swan Valley Land Use and Management Report on Submissions and Recommendations*, and committed to establishing a new governance and regulatory framework for the Swan Valley. To achieve the State's objectives for the Swan Valley, the Interim Policy was prepared to assist decision making authorities to provide consistent advice on land use and planning matters within the Swan Valley, until the new legislation and associated planning instruments take effect.

The Interim Policy has been endorsed by the SVPC at its meeting on 7 July 2014 and the SPC on behalf of the WAPC on 22 July 2014. The Interim Policy is to be used by the WAPC when determining subdivision and development applications within the area covered by the Act.

The Act will be replaced in 2015 by stronger legislation to protect the character of the Valley, and a development plan is being prepared to provide clear guidance for the longer term land uses in the area. LPS 17 will also be amended to support and reflect these instruments. In the transition period, it is important that inappropriate development does not cause further deterioration in the rural character of the Swan Valley.

Under the Interim Policy, a 'Place of Worship' is not supported unless it is incidental or ancillary to the predominant viticulture use within 'Area B' of the Act. The proposed 'Place of Worship' would become the primary use of the site and is not considered incidental to the existing use on the site and is therefore inconsistent with the Interim Policy.

Previous decisions

At the meeting on 14 December 2005, the SVPC resolved, to support a proposed development for a Tibetan Buddhist Temple with a meditation hall and accommodation within Lot 6 Campersic Road, Herne Hill, in accordance with advice from the City's planners that the development was considered to be consistent with the objectives of Area B of the Act. Following the resolution by the SVPC, the application was conditionally approved by the City. However, as the decision was made prior to the endorsement of the Swan Valley Interim Policy, it is not considered to be relevant to the current application.

Land Capability

Recent data sets (May 2012) obtained from the Department of Agriculture and Food (DAFWA) (**Attachment 4 - Land capability maps**) provide information relating to the land capability for horticultural, agricultural and viticultural uses within precincts A, B and C of the Act. The data indicates that the subject land is classified as having a very high to fair land capability for horticultural use, a low to very low land capability for viticultural use, and a very high to fair land ability for agricultural use.

In light of the high agricultural and horticultural capability of the soils within the subject land, the use of the site as a 'Place of Worship' is not considered to be consistent with the statutory planning objectives within the Act, the Interim Policy or LPS 17.

Alternative Resolution

At its meeting on 23 September 2014, the SPC requested that an alternative resolution to approve the proposal be prepared for consideration, with supporting conditions and a planning rationale.

The minor nature of the changes proposed by the application and the limited public impact of the changes suggest that a case could be made to potentially support the application on the basis that it is not contrary to the public interest despite being not in accordance with the statutory planning objectives of the Act, the Interim Policy and LPS 17. This case is based on the following considerations:

- The relatively small size of the lot being 7086m², with existing buildings scattered on the site could be considered to be challenging for the

establishment of a commercial horticultural or agricultural enterprise without significant investment.

- The proposal does not significantly alter the actual impact on the land or the surrounding areas, given that the existing cafe and art gallery buildings are to be utilised and no new buildings are proposed on site, and that a maximum number of visitors at any time will be less than 30 people.
- The proposed use could be classified as a 'special use' on the site in the preparation of the relevant planning instruments (i.e. district structure planning, local planning policies and scheme amendments) currently being prepared for the Swan Valley, to avoid detracting from the planning objectives.

The primary purpose of the Interim Policy is to ensure incompatible development does not occur prior to the permanent planning instruments taking effect. In this regard, should the SPC considers that the proposed change of use does not set an undesirable precedent for future development in the Swan Valley due to the minor nature of the proposed changes, then the conditions as appended in the alternative resolution are recommended to be imposed.

Should the SPC, after having due regard to this report, the advice of the SVPC, the Department, and planning instruments, decide to support the application, the Department suggests that the Minutes clarify that the approval is for the current proposal only and justified on the basis of the low-key nature of the proposal, and that this should not be seen as a precedent for the approval of other 'Places of Worship' in the area that are not in accordance with the statutory planning objectives set out in the Act.

Advice on the legislative requirements has indicated that where the TPS 17 and the Interim Policy or Act directly and explicitly conflict, the local planning scheme should prevail. However, where discretion exists under the local planning scheme (as is the case here where 'Place of Worship' is a 'discretionary use' under the Scheme but unacceptable under the Policy), then the Interim Policy should guide the use of that discretion.

CONCLUSION:

It is considered that the proposal is not compliant with the objectives of the LPS 17, the planning objectives for Area B under the Act and the Interim Policy, as it encourages the introduction of uses that are not consistent with the traditional agricultural activities of the area, thereby detracting from the rural character of the area and increasing the risk of land use conflicts with adjacent agricultural activities to the detriment of those activities.

332
DP59453

GREAT NORTHERN HWY

100.58

627

7086m²

NATIVE TREES AND SHRUB

337

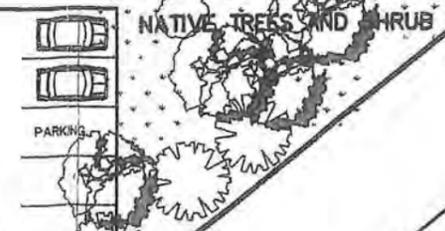
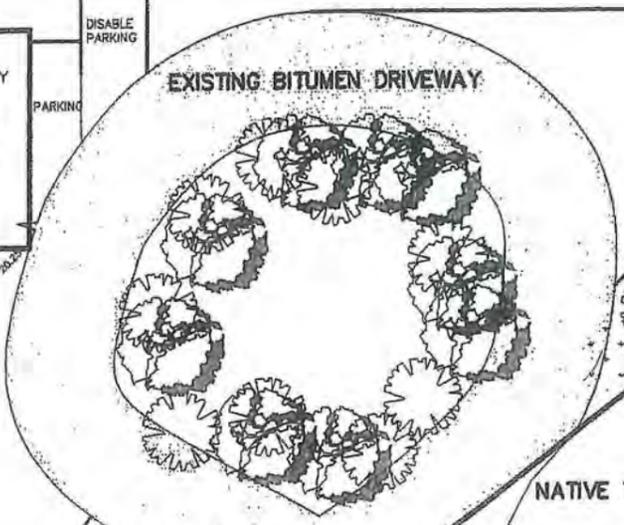
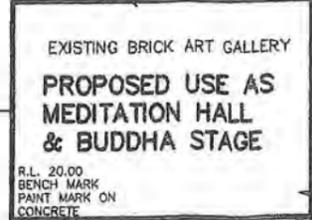
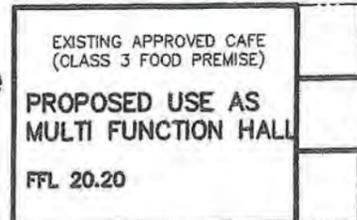
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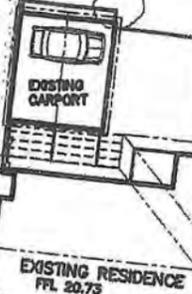
63877



EXISTING ROOF STORMWATER DISCHARGE A MIN. 10000M AWAY FROM BUILDING.

NATIVE TREES AND SHRUB

EXISTING HUT



EXISTING POOL AND PERGOLA

NATIVE TREES AND SHRUB

164.48

HYEM ROAD

CAR ENTRY

DEPARTMENT OF PLANNING
23 JUN 2014
FILE 21-50431-1

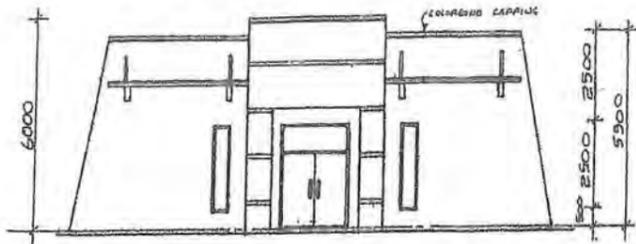
SITE PLAN

SCALE 1:400

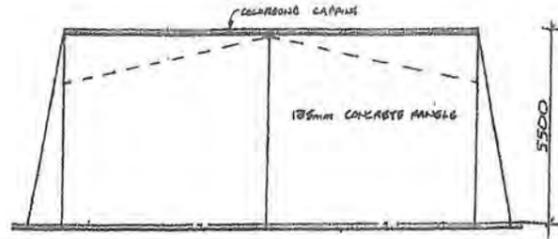


PROPOSED:			
BUDDHIST MEDITATION CENTRE			
AT: LOT 627 - No. 5			
HYEM RD. HERNE HILL - WA 6056			
FOR:			
17/11/13	SITE PLAN	DWG.No. MQP201	AMENDED
DRAWN: DP.	SC: 1/400	SHEET No: 1/1	

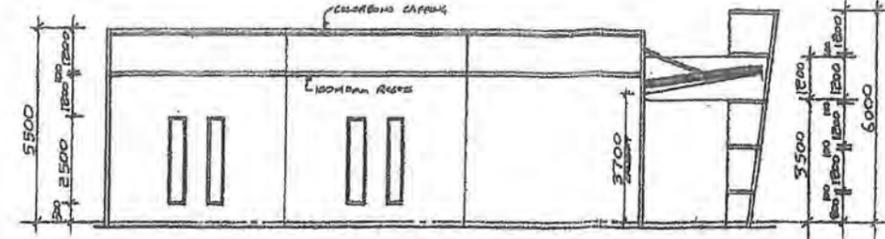
GALLERY PLAN



EAST ELEVATION



WEST ELEVATION

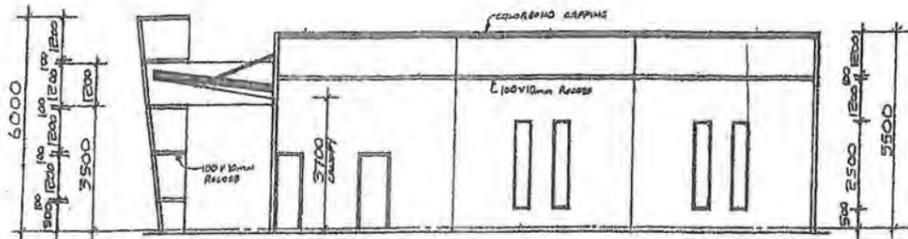


SOUTH ELEVATION

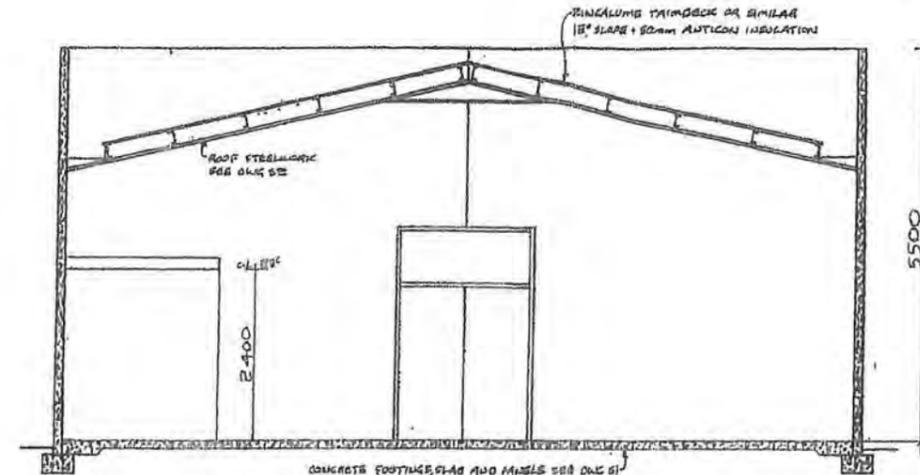
DEPARTMENT OF PLANNING

23 JUN 2014

FILE 21-50431-1

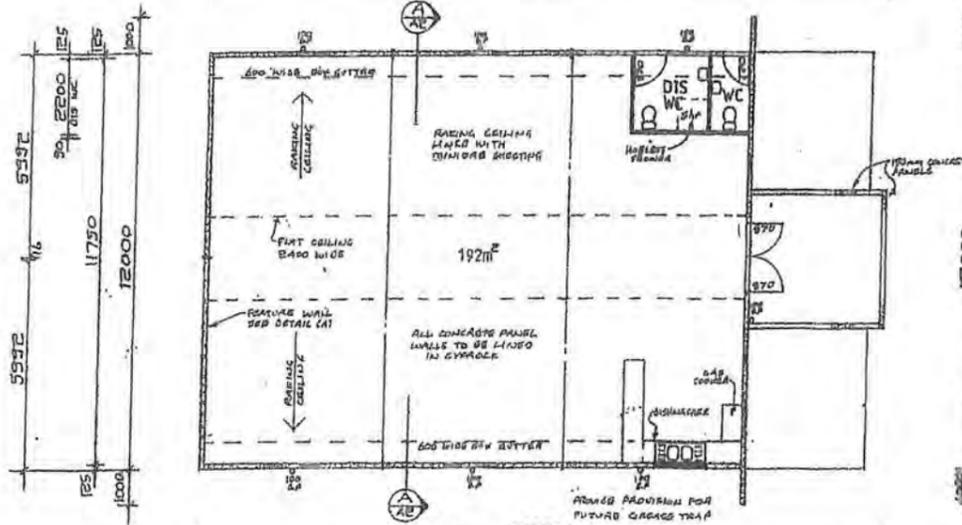
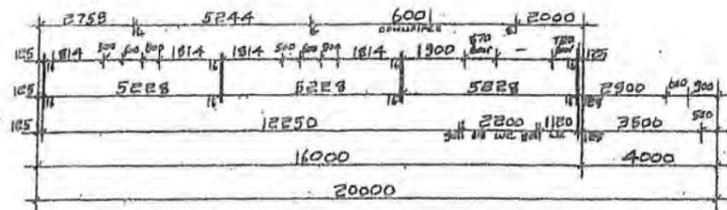


NORTH ELEVATION

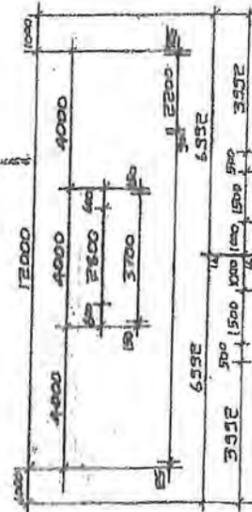


SECTION A-A
SCALE 1:50

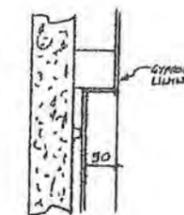
EXISTING GALLERY CAFE
TO REMAIN FOR MULTI FUNCTION ROOM.



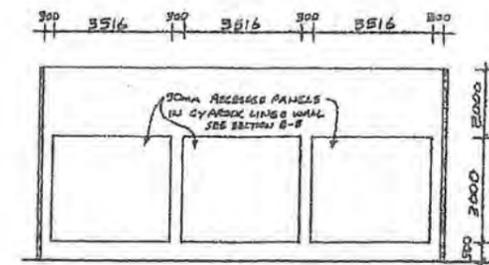
MULTI FUNCTION ROOM
FLOOR PLAN
GALLERY



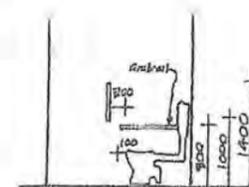
FLOOR PLAN
DISABLED TOILET



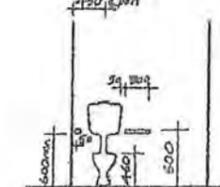
SECTION B-B



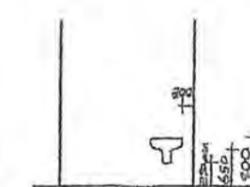
DETAIL A



ELEVATION 1

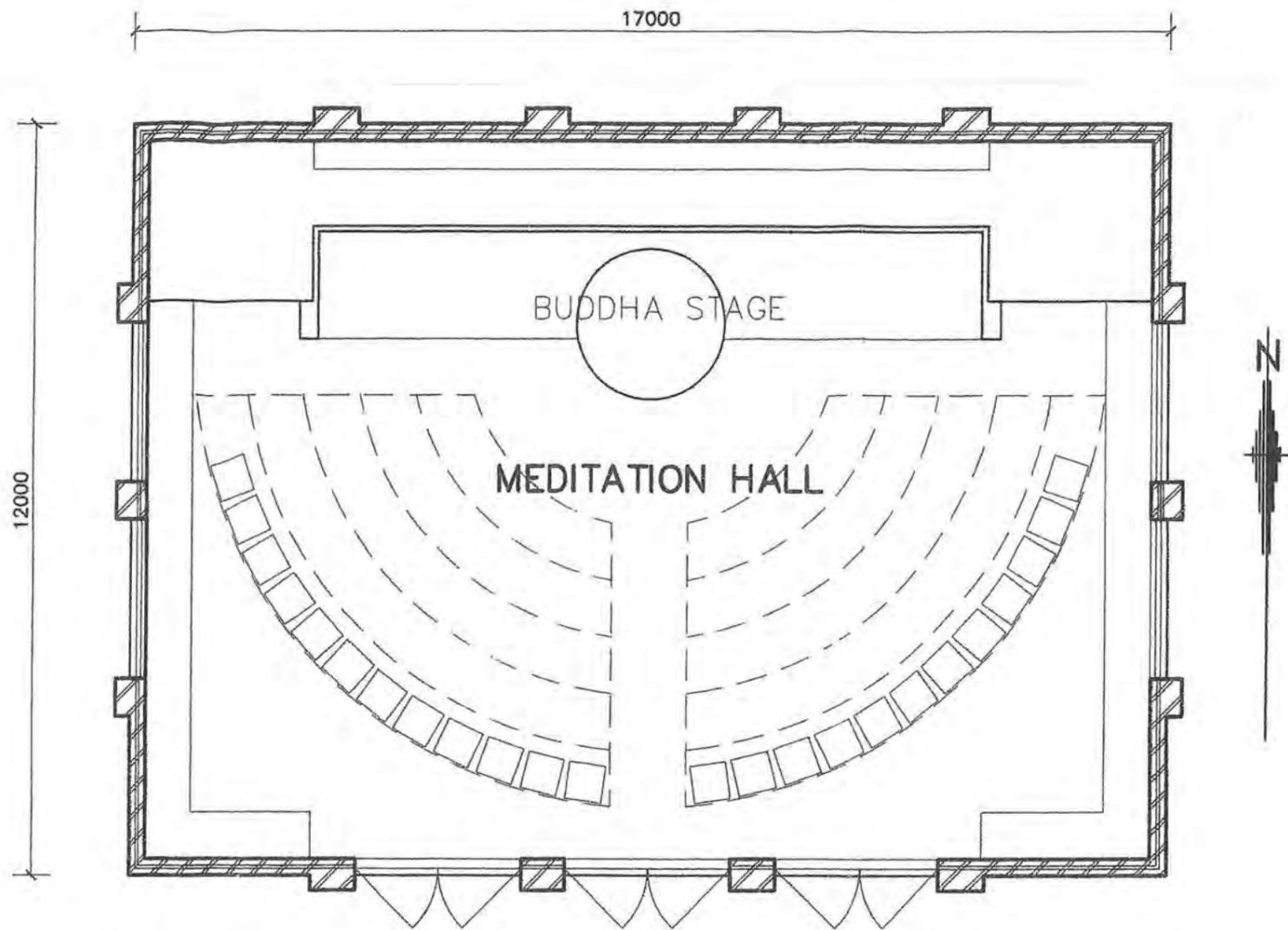
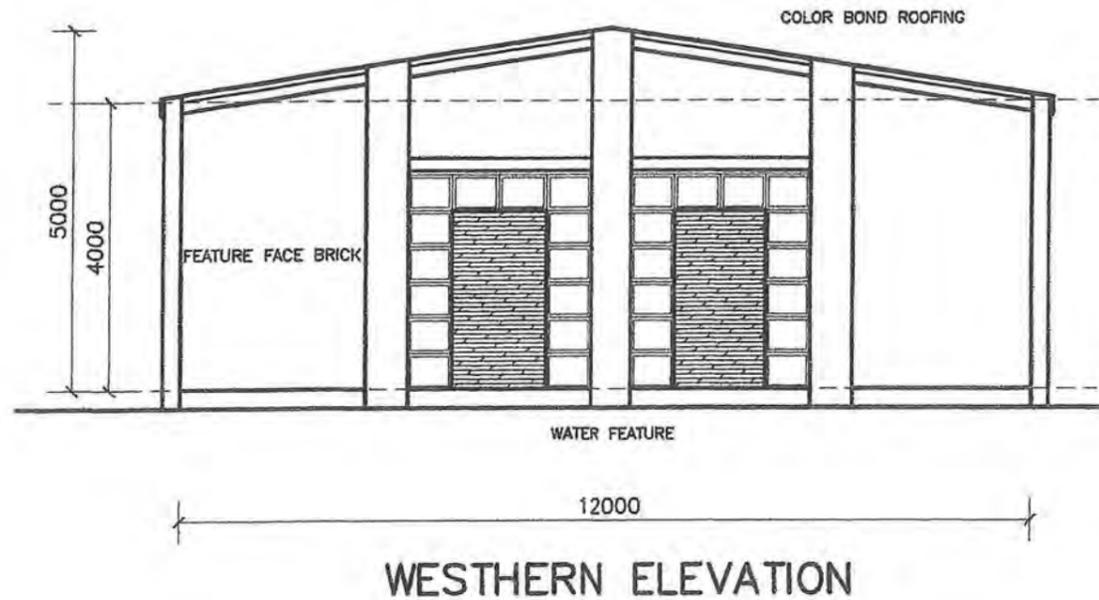


ELEVATION 2



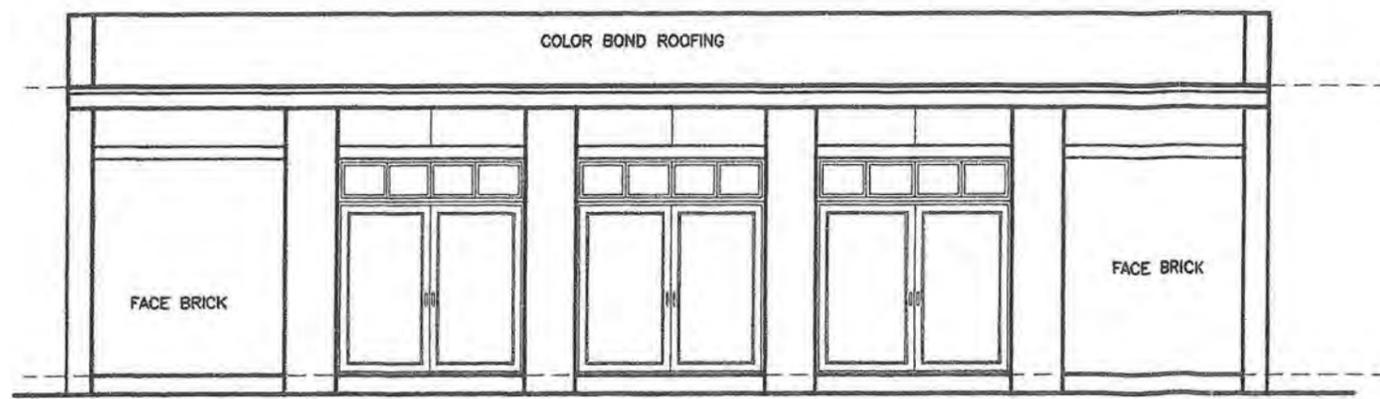
ELEVATION 3

CONDIPODERO & ASSOCIATES
STRUCTURAL ENGINEERS & DESIGNERS
2 VALE STREET MALAGA 6000
Ph: (08) 9249 3856 Fax: (08) 9249 3866
THE COMPANY'S MEMBERSHIP IS LIMITED TO THE FIRM'S
AS TRUSTEES FOR THE CA & CONDIPODERO FAMILY TRUST.
KIA
PROPOSED GALLERY
LOT 303 (No 5) HYEM ROAD HERNE HILL
FOR - R. GALLAGHER

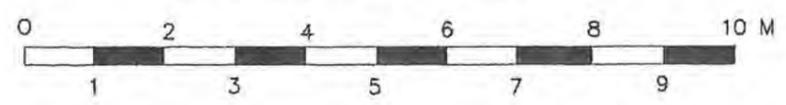


FLOOR PLAN

DEPARTMENT OF PLANNING
 23 JUN 2014
 FILE 21-50431-1

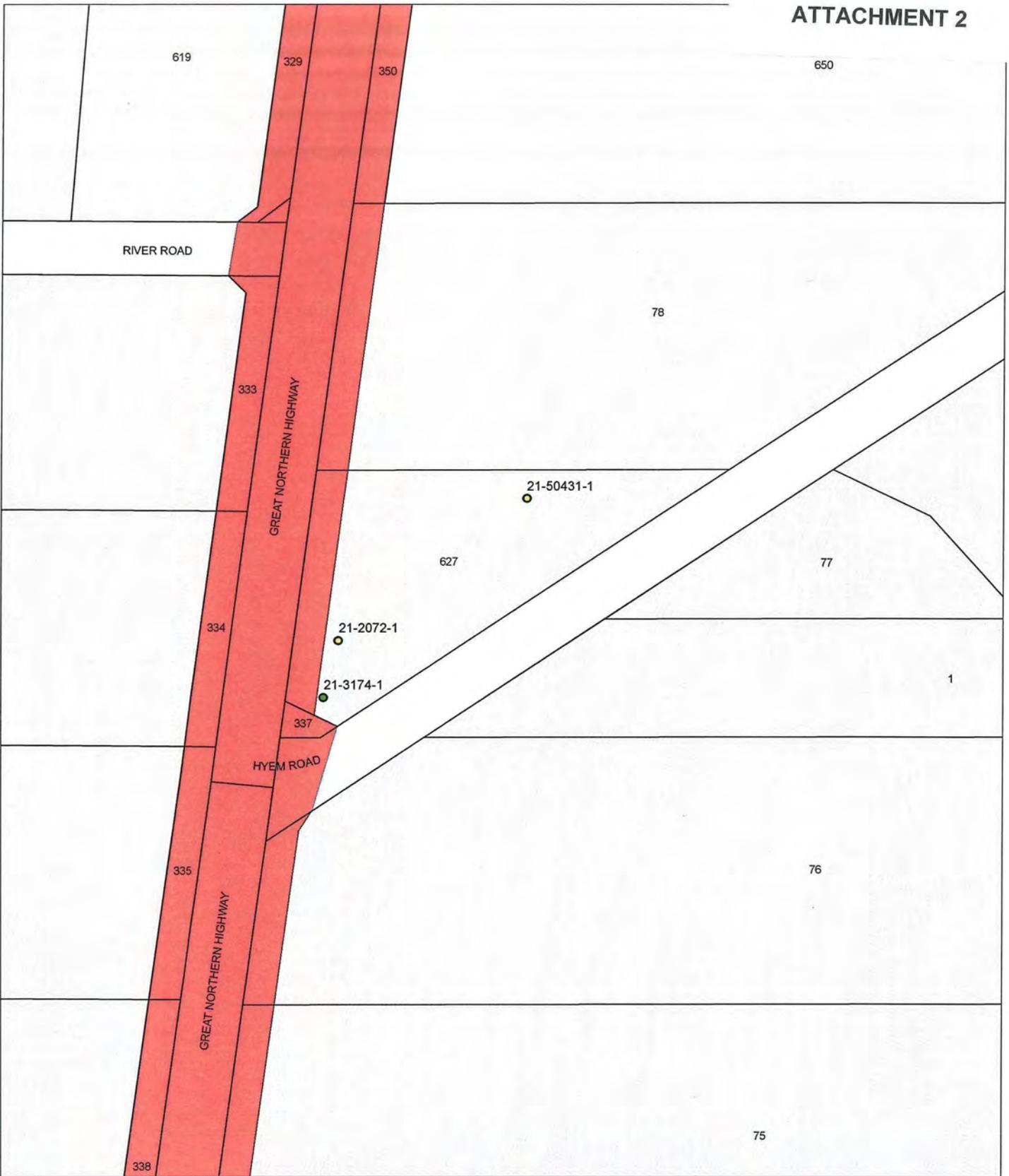


SOUTHERN ELEVATION



MAKE GOOD EXISTING FULL BRICK PREMISE
 FOR USE AS MEDITATION HALL.
 PROVIDE UPGRADE TO BCA CLASS 9B
 CONSTRUCTION WHERE REQUIRED.

17/11/13	1st. FLOOR PLAN	DWG.No. MQP201	AMENDED
DRAWN: DP.	SC: 1/100	SHEET No. 274	7

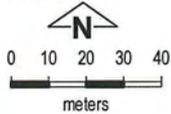


LOCATION PLAN

Development Application 21-50431-1

Decision: **OUTSTANDING**

Printed: 24/06/2014



Department of Planning



Western Australian Planning Commission

This data is to be used only for the processing of Development Application

Legend

Development Applications

- Approved
- Outstanding

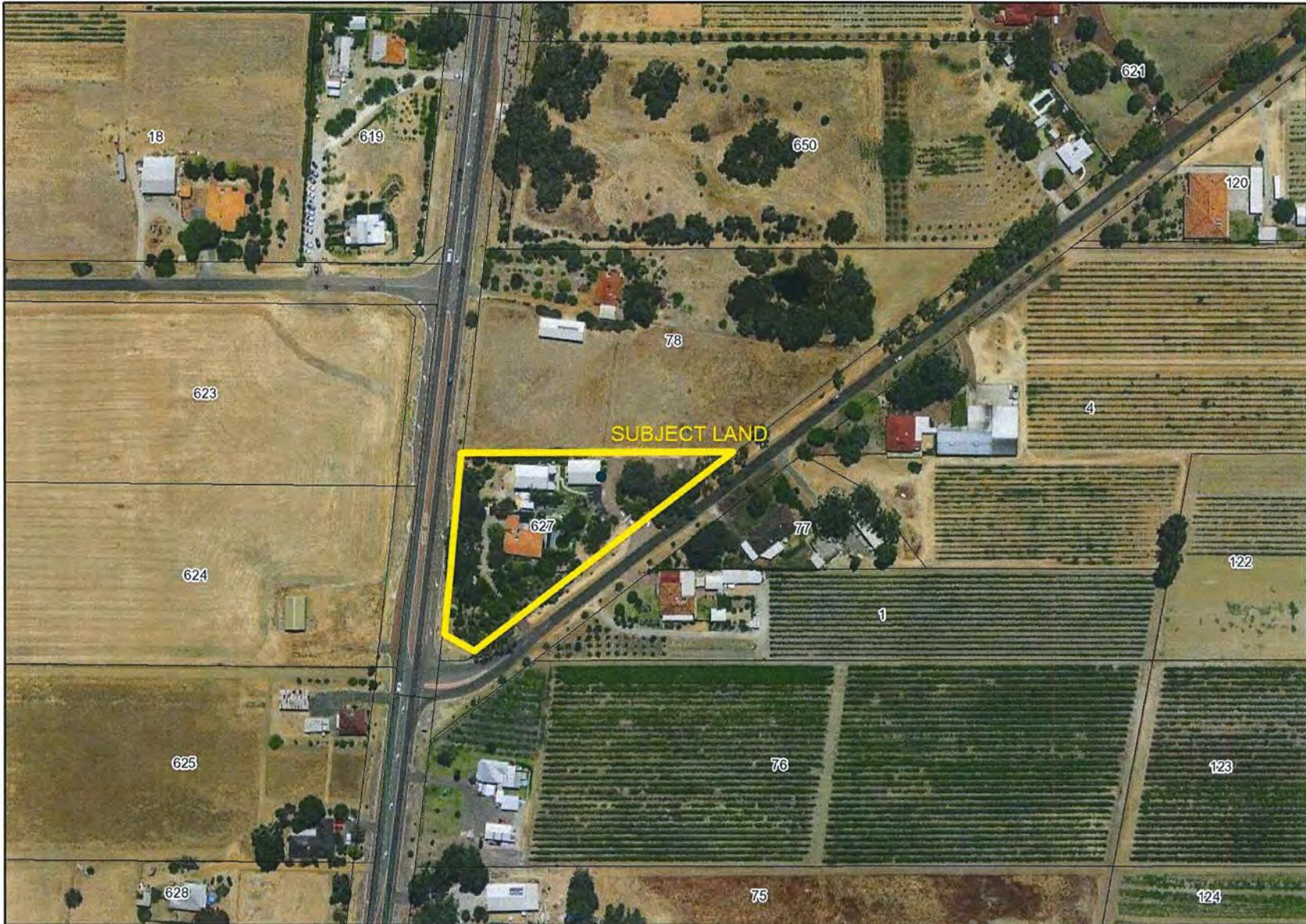
□ Cadastre with Lot number

Existing Region Scheme Reserves

■ Primary Regional Roads

Existing LPS Zone Category

□ Rural



Government of Western Australia
Department of Planning

Legend

- Local Government Area
- Cadastre (view 1)
- Cadastre (view 2)
- Cadastre (view 3)
- Cadastre (view 4)
- W.A. Coastline
- Landgate Imagery

Notes:

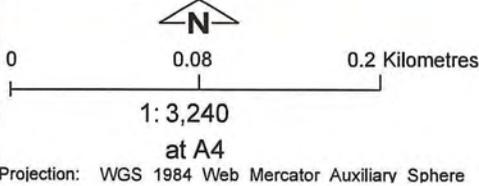
The data that appears on the map may be out of date, not intended to be used at the scale displayed, or subject to licensing agreements. This information is stored in the relevant layers metadata. For the reasons the map should not be distributed outside of the Department.

Map was produced using DoP's PlanViewWA.

Aerial Photograph

INTERNAL USE ONLY

PlanViewWA
[Link to viewer](#)



Produced by: FUNCTIONALITY TO COME
Date produced: 29-Jul-2020

ITEM NO: 9.4

PROPOSED SUBDIVISION - LOT 21 QUEENSCLIFFE ROAD, DOUBLEVIEW

WAPC OR COMMITTEE:	Statutory Planning Committee
REPORTING AGENCY:	Department of Planning
REPORTING OFFICER:	Planning Officer, Metropolitan Central, Perth and Peel Planning
AUTHORISING OFFICER:	Director, Metropolitan Central, Perth and Peel Planning
AGENDA PART:	G
FILE NO:	150330
DATE:	18 September 2014
REPORT CATEGORY:	Statutory
RECOMMENDATION OUTCOME:	Approve
ATTACHMENT(S):	Attachment 1: Plan of Subdivision Attachment 2: Location Plan and LGA Zoning

RECOMMENDATION:

That the Western Australian Planning Commission resolves to approve the application for subdivision of Lot 21 Queenscliffe Road, Doubleview as shown on the plan date stamped 7 July 2014 subject to the following conditions and advice:

CONDITIONS:

- 1. All septic sewer systems including all tanks and pipes and associated drainage systems (soak wells or leach drains) and any stormwater disposal systems are to be decommissioned, in accordance with the Health (Treatment of Sewerage and Disposal of Effluent and Liquid Waste) Regulations 1974, removed, filled with clean sand and compacted. Proof of decommissioning is to be provided in the form of either certification from a licensed plumber or a statutory declaration from the landowner/applicant, confirming that the site has been inspected and all septic tanks, soak wells, leach drains and any associated pipework have been removed. (Local Government)***
- 2. Other than buildings, outbuildings and/or structures shown on the approved plan for retention, all buildings, outbuildings and/or structures present on proposed lots 1 and 2 at the time of subdivision approval being demolished and materials removed from the lot. (Local Government)***

-
3. **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)**
 4. **Arrangements being made with the Water Corporation so that provision of a suitable water supply service will be available to the lots shown on the approved plan of subdivision. (Water Corporation)**
 5. **Arrangements being made with the Water Corporation so that provision of a sewerage service will be available to the lots shown on the approved plan of subdivision. (Water Corporation)**
 6. **Suitable arrangements being made with the Water Corporation for the drainage of the land either directly or indirectly into a drain under the control of that body. (Water Corporation)**
 7. **Pursuant to Section 150 of the Planning and Development Act 2005 and Division 3 of the Planning and Development Regulations 2009 a covenant preventing vehicular access onto Queenscliffe Road or Shearn Crescent being lodged on the certificate(s) of title of the proposed lot(s) at the full expense of the landowner/applicant. The covenant is to prevent access, to the benefit of the Local Government, in accordance with the plan dated 7 July 2014 (attached) and the covenant is to specify:**

“Vehicular access is only permitted from one road.” (Local Government)

ADVICE:

1. **In regard to Condition 2, planning approval and/or a demolition licence may be required to be obtained from the local government prior to the commencement of demolition works.**
2. **In regard to Condition 3, Western Power provides only one underground point of electricity supply per freehold lot.**
3. **In regard to Conditions 4, 5 and 6, 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 67 of the Water Agencies (Powers) Act 1984 will be prepared by the Water Corporation to document the specific requirements for the proposed subdivision.**
4. **In regard to Condition 7, vehicle access to both front and rear boundaries is not favoured. The covenant is required to limit access to proposed lots 1 and 2 to one street only.**

SUMMARY:

The application is presented to the Statutory Planning Committee (SPC) due to an objection raised by the City of Stirling relative to the average lot size. The Department of Planning (DoP) does not agree with the City's objection to the average lot size variation.

The proposed subdivision does not satisfy the average lot sizes required for the creation of lots in the R20 density coding as specified by Table 1 of the R-Codes, resulting in a variation of 7.4% (inclusive of truncation). However, these variations satisfy the provisions of the WAPC's Development Control Policy 2.2 'Residential Subdivision' (DC 2.2) and can be supported on that basis.

The application is presented to the SPC on the basis that the variation to the average lot size is greater than the 5% variation allowed by the provisions of the WAPC's Development Control Policy 2.2 'Residential Subdivision' (DC 2.2).

LEGISLATION / STRATEGIC PLAN / POLICY:

Legislation Planning and Development Act 2005
Section: Subdivision / Development Approval / Reconsiderations Part 10

Strategic Plan
Strategic Goal: Planning
Outcomes: Effective Delivery of Integrated Plans
Strategies: Implement State and Regional Planning priorities

Policy
Number and / or Name: State Planning Policy 3.1 – Residential Design Codes
Development Control Policy 2.2 – Residential Subdivision

INTRODUCTION

The application proposes the subdivision of a 813m² lot (not including truncation) to create two residential lots of 400m² and 413m². All existing structures are to be removed. **(Attachment 1 – Plan of Subdivision)**.

The subject land is zoned 'Urban' under the Metropolitan Region Scheme (MRS) and Residential R20' under the City of Stirling's Town Planning Scheme No. 3. **(Attachment 2 – Location Plan)**.

CONSULTATION:

The City of Stirling (City) does not support the proposal for the following reasons:

1. *The proposed subdivision does not comply with the Western Australian Planning Commission's Development Control Policy DC 2.2 by reason of the average per lot site area of the proposed subdivision being below the site area*

nominated by the R20 density coding specified in the Residential Design Codes.

2. *Approval to the subdivision would set an undesirable precedent for the further subdivision of other lots of a similar size in this locality which would undermine the objectives and provisions of the City of Stirling's Local Planning Scheme No. 3 for lots subject to the same density coding.*

Notwithstanding, the City has recommended conditions to be imposed should the WAPC support the proposal.

Western Power and Water Corporation raise no objections to the proposal subject to the imposition of standard servicing conditions.

All recommended conditions have been assessed and where considered fair, reasonable and relevant, they should be imposed.

PLANNING ASSESSMENT:

Residential Design Codes

The application does not comply with the average site area requirements of the Residential Design Codes 2013 (R-Codes) for the R20 density coding, resulting in a 7.4% variation - 450m² required, 416.5m² provided (inclusive of truncation).

The above variation was calculated as per Part 5, C1.3i. of the R Codes, which allows corner lots with corner truncations, up to a maximum of 20m² of that truncation to be added to the area of the adjoining lot.

In considering variations to the average lot size requirements, Clause 3.2.3 of the WAPC's Development Control Policy 2.2 '*Residential Subdivision*' (DC 2.2) requires that:

- a) All lots in the subdivision meet the minimum lot size requirements;
- b) The variation reduces the average lot size of the overall subdivision by no more than 5% of the average lot size specified in Table 1, or elsewhere in the R Codes; and
- c) The applicant has provided information that demonstrates the variation will have a beneficial outcome for the community, or the WAPC forms the opinion that it will have a beneficial outcome for the community.

In this instance the proposal meets the necessary criteria for minimum lot size requirements and there is sufficient information to demonstrate that the subdivision will have a beneficial outcome as the lots have separate and sufficient frontage to more than one public street. The requirement is that the variation be no more than 5%, however a variation of 7.4% in this case is considered to be acceptable and is supported by the DoP.

Frontage to Two Constructed Roads

The application proposes, that each of the lots will have frontage/access to both Queenscliffe Road and Shearn Crescent. In accordance with the principles of the

WAPC's Development Control Policy 2.2 - Residential Subdivision (DC 2.2), the creation of lots having road access to both front and rear boundaries is not generally favoured, although exceptions may be made if the proposed lot is specifically designed for multiple or grouped dwellings and the proposal is consistent with the operational and safety requirements of the abutting streets and relevant R-Codes provisions.

In the case of this application, the proposed lots are for single dwelling purposes only and do not warrant an exception to the intent of DC 2.2. It is therefore recommended that the application be approved subject to a condition, which places a road access restriction (via a restrictive covenant) and will require the new titles of the proposed lots to be encumbered with such a covenant restricting access to one of the roads. Subject to the imposition of this condition, the application and the creation of lots with two road frontages is considered to be acceptable.

MERIT OF PROPOSAL

It is considered that the proposal can be supported for the following reasons:

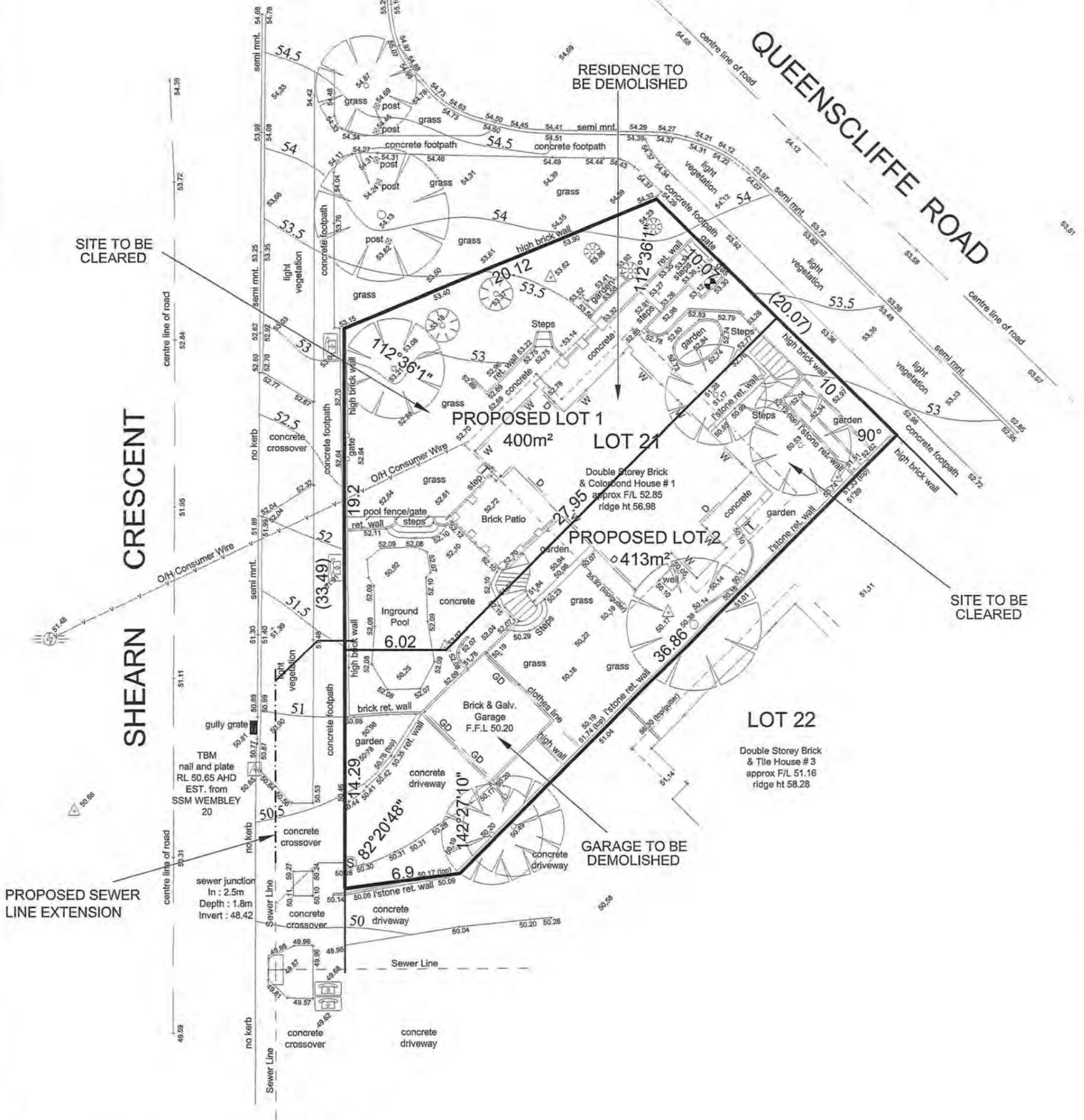
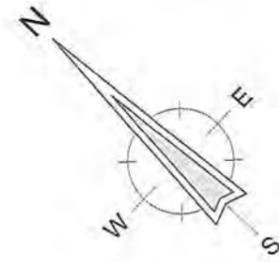
- The proposal is consistent with the general intent of the local planning scheme;
- The proposal will assist with using residential land to its best advantage by enabling additional lots to be created;
- The proposal will facilitate infill development in an established residential area, utilising existing infrastructure and services;
- The proposal will provide a wider choice of residential lot sizes in the locality; and
- This small infill proposal will contribute towards the dwelling targets of the *Central Metropolitan Sub-regional Strategy and Directions 2031* which call for an additional 31,000 dwellings within the City of Stirling municipality by 2031.

On the basis of the above arguments there is sufficient justification to support the application.

CONCLUSION:

The proposal meets the minimum lot size requirements of the R Codes and has sufficient justification to demonstrate that the subdivision will have a beneficial outcome - the lots have separate and sufficient frontage to more than one public street. The variation to the average lot size required is considered acceptable and this is a consistent practice to support corner lots that meet the minimum lot area. Conditional approval is recommended.

SUBJECT TO WAPC CONDITIONS. SEE FINAL STRATA-PLAN OR DEPOSITED PLAN



I, the client/s of Vision Surveys recognise this plan as the proposal to be submitted to the department of planning and infrastructure for a ... Lot by Strata / Built Strata / Green Title subdivision and agree to the conditions of this plan's use.

Client Signature/s _____ Date _____

TOTAL AREA: 813m²

ATTACHMENT 1



Title: Proposal to the WAPC for the creation of TWO (2) GREEN TITLE LOTS AT LOT 21 (1) QUEENSLIFFE ROAD DOUBLEVIEW
 TEL (08) 6144 0000 FAX (08) 6144 0099
 59 SCARBOROUGH BEACH RD, SCARBOROUGH WA 6019
 Email: info@visionsurveys.com.au

Level Datum: AHD (Approx.)
 Scale: 1:300
 Date: 03/08/2014
 Dwg Ref: Queenscliffe Rd 1 Doubleview P
 Surveyor: Stuart Colam
 Drafter:
 Job # 4006
 Sheet 1 of 1 A3

- BOUNDARY POSITION CANNOT BE VERIFIED DUE TO LACK OF SURVEY MARKS/PEGS. ALL BUILDING DIMENSIONS & FEATURES ARE APPROX. ONLY. BOUNDARY POSITIONS HAVE BEEN TAKEN FROM BUILDINGS, FENCINGS, RETAINING WALLS AND OTHER TYPICAL FEATURES LOCATED ON THE BOUNDARY WHICH MAY NOT BE ON THE CORRECT ALIGNMENT AND ARE TO BE VERIFIED WHEN REPEGGED.
 - BEFORE ANY WORK IS STARTED ON SITE OR PLANS ARE PRODUCED BY DESIGNERS/ARCHITECTS, THE BOUNDARIES MUST BE REPEGGED AND EXACT OFFSETS MEASURED TO EXISTING STRUCTURES AND FENCING.
 - VISIONS SURVEYS ACCEPTS NO RESPONSIBILITY FOR ANY CHANGES TO THE PARCEL OR PORTION OF THE PARCEL OF LAND SHOWN ON THIS SURVEY INCLUDING BUT NOT LIMITED TO ANY ADJOINING NEIGHBOURS LEVELS AND FEATURES THAT HAVE OCCURRED AFTER THE DATE ON THIS SURVEY.
 - SEWER / DRAINAGE MAY VARY FROM SCHEMATIC PRESENTATION / CHECK WITH APPROPRIATE AUTHORITY BEFORE ADOPTION OF POSITION.
 - THIS SURVEY DOES NOT GUARANTEE THE LOCATION OF BOUNDARY PEGS OR FENCES.
 - CHECK TITLE FOR EASEMENTS / COVENANTS ETC.
 - PROPOSED BOUNDARIES AND LOTS MAY BE SUBJECT TO WAPC CONDITIONS WHICH MAY VARY AND/OR ENCUMBER THE PROPOSAL.
 - PROPOSED BOUNDARIES AND LOTS MAY BE SUBJECT TO FUTURE EASEMENTS, RESTRICTIVE COVENANTS ETC WHICH MAY VARY AND/OR ENCUMBER THE PROPOSAL.

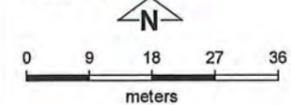


LOCATION PLAN

Subdivision Application 150330

Decision: **OUTSTANDING**

Printed: 8/07/2014



Produced by GeoSpatial Planning Support, Department of Planning, Perth WA
Base Information supplied by Western Australian Land Information Authority LI 430-2009-6

This data is to be used only for the processing of Subdivision Application

Legend

Subdivision Applications

- Conditional Approval
- Outstanding
- Cancelled

Existing LPS Zone Category

- Residential
- R Code Boundaries

ATTACHMENT 2

ITEM NO: 9.5

PROPOSED SUBDIVISION – LOT 1 DIXON STREET, EMBLETON

WAPC OR COMMITTEE:	Statutory Planning Committee
REPORTING AGENCY:	Department of Planning
REPORTING OFFICER:	Planning Officer, Metropolitan Central, Perth and Peel Planning
AUTHORISING OFFICER:	Director, Metropolitan Central, Perth and Peel Planning
AGENDA PART:	G
FILE NO:	949-14
DATE:	25 September 2014
REPORT CATEGORY:	Statutory
RECOMMENDATION OUTCOME:	2. Approve
ATTACHMENT(S):	Attachment 1 - Plan of Subdivision Attachment 2 - Location Plan

RECOMMENDATION:

That the Western Australian Planning Commission resolves to approve the application for subdivision of Lot 1, Dixon Street, Bayswater subject to the following conditions and advice:

CONDITIONS:

- 1. Other than buildings, outbuildings and/or structures shown on the approved plan for retention, all buildings, outbuildings and/or structures present on lot(s) 3 and 4 at the time of subdivision approval being demolished and materials removed from the lot(s). (Local Government)***
- 2. All septic sewer systems including all tanks and pipes and associated drainage systems (soak wells or leach drains) and any stormwater disposal systems are to be decommissioned, in accordance with the Health (Treatment of Sewerage and Disposal of Effluent and Liquid Waste) Regulations 1974, removed, filled with clean sand and compacted. Proof of decommissioning is to be provided in the form of either certification from a licensed plumber or a statutory declaration from the landowner/applicant, confirming that the site has been***

inspected and all septic tanks, soak wells, leach drains and any associated pipework have been removed. (Local Government)

3. *Arrangements being made to the satisfaction of the Western Australian Planning Commission and to the specification of Western Power, for the provision of an electricity supply to the survey-strata lots shown on the approved plan of subdivision, which may include the provision of necessary service access rights either as an easement under Section 136C and Schedule 9A of the Transfer of Land Act 1893 for the transmission of electricity by underground cable, or (in the case of approvals containing common property) via a portion of the common property suitable for consumer mains. (Western Power)*
4. *Arrangements being made with the Water Corporation so that provision of a suitable water supply service will be available to the lots shown on the approved plan of subdivision. (Water Corporation)*
5. *Arrangements being made with the Water Corporation so that provision of a sewerage service will be available to the lots shown on the approved plan of subdivision. (Water Corporation)*
6. *Suitable arrangements being made with the Water Corporation for the drainage of the land either directly or indirectly into a drain under the control of that body. (Water Corporation)*

ADVICE:

1. *In regard to Condition 1, planning approval and/or a demolition licence may be required to be obtained from the local government prior to the commencement of demolition works.*
2. *In regard to Condition 3, Western Power provides only one underground point of electricity supply per freehold lot.*
3. *In regard to Conditions 4, 5 and 6, 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 67 of the Water Agencies (Powers) Act 1984 will be prepared by the Water Corporation to document the specific requirements for the proposed subdivision.*

SUMMARY:

The application proposes the survey-strata subdivision of a 636m² lot to create two residential survey-strata lots of 310m² and 326m². There is an existing dwelling on the parent lot which is to be demolished.

The proposed subdivision satisfies the minimum required lot sizes required for the creation of lots in the R25 density coding as specified by Table 1 of the R-Codes. The application does not satisfy the average lot size requirement required for the creation of lots in the R25 density coding as specified by Table 1 of the R-Codes resulting in a variation of 9.14%.

The application is presented to the SPC on the basis that the variation to the average lot size is greater than the 5% variation allowed by the provisions of the WAPC's Development Control Policy 2.2 '*Residential Subdivision*' (DC 2.2).

It is recommended that the application be supported subject to standard conditions.

LEGISLATION / STRATEGIC PLAN / POLICY:

Legislation *Planning and Development Act 2005*
Section: Subdivision / Development Approval / Reconsiderations Part 10

Strategic Plan
Strategic Goal: Planning
Outcomes: Effective Delivery of Integrated Plans
Strategies: Implement State and Regional Planning priorities

Policy
Number and / or Name: State Planning Policy 3.1 – *Residential Design Codes*
Development Control Policy 2.2 – *Residential Subdivision*

INTRODUCTION:

The application proposes the survey-strata subdivision of a 636m² survey-strata lot to create two residential lots of 310m² and 326m². There is an existing dwelling on the parent lot which is to be demolished (**Attachment 1 – Plan of Subdivision**).

The subject land is zoned 'Urban' under the Metropolitan Region Scheme (MRS) and 'Residential - R25' under the City of Bayswater Town Planning Scheme No. 24 (TPS 24) (**Attachment 2 – Location Plan**).

CONSULTATION:

The City of Bayswater (City) does not support the proposal for the following reasons:

The City has considered the application and notes the proposed average site area (318m²) is less than the 350m² required under Table 1 of the Residential Design Codes (R Codes) for lots with an R25 density coding under Town Planning Scheme 24.

Furthermore, it is noted that the proposed variation to the average lot size is more than the 'five (5) per cent variation' pursuant to WAPC Development Control Policy 2.2 and the City does not support the proposed subdivision.

Notwithstanding the above the City has recommended conditions to be imposed should the WAPC support the proposal.

Western Power and Water Corporation raise no objections to the proposal subject to the imposition of standard servicing conditions.

All recommended conditions have been assessed and where considered fair, reasonable and relevant, they should be imposed.

COMMENTS:

Residential Design Codes 2013 (R Codes)

The application complies with the minimum lot size required for the R25 density (300m² required, 310m² provided).

Notwithstanding this, the application does not comply with the required average lot size for the R25 density (350m² required, 318m² provided), a deficiency of 32m² per lot representing a 9.14% variation to the average lot size.

In considering site area variations to the average lot size only, Clause 3.2.3 of the WAPC's Development Control Policy 2.2 'Residential Subdivision' (DC 2.2) requires that:

- All lots in the subdivision meet the minimum lot size requirements;
- The variation reduces the average lot size of the overall subdivision by no more than 5% of the average lot size specified in Table 1 or elsewhere in the R-Codes; and
- The applicant has provided information that demonstrates the variation will have a beneficial outcome for the community, or the WAPC forms the opinion that it will have a beneficial outcome for the community.

In this instance the proposal meets the necessary criteria for a variation to the average lot size requirement apart from the requirement that the variation be no more than 5%, as in this case the required variation is 9.14%.

MERIT OF PROPOSAL

It is considered that the proposal can be supported for the following reasons:

- The minimum lot size of 300m² is satisfied;
- The proposal is consistent with the general intent of the local planning scheme;
- The proposal will assist with using residential land to its best advantage by enabling additional lots to be created;

-
- The proposal will facilitate infill development in an established residential area, utilising existing infrastructure and services;
 - The proposal will provide a wider choice of residential lot sizes in the locality;
 - The proposal will facilitate the development of lots with separate and sufficient street frontage to more than one public street; and
 - This small infill proposal will contribute towards the dwelling targets of the *Central Metropolitan Sub-regional Strategy and Directions 2031* which call for an additional 8,500 dwellings within the Bayswater municipality by 2031.

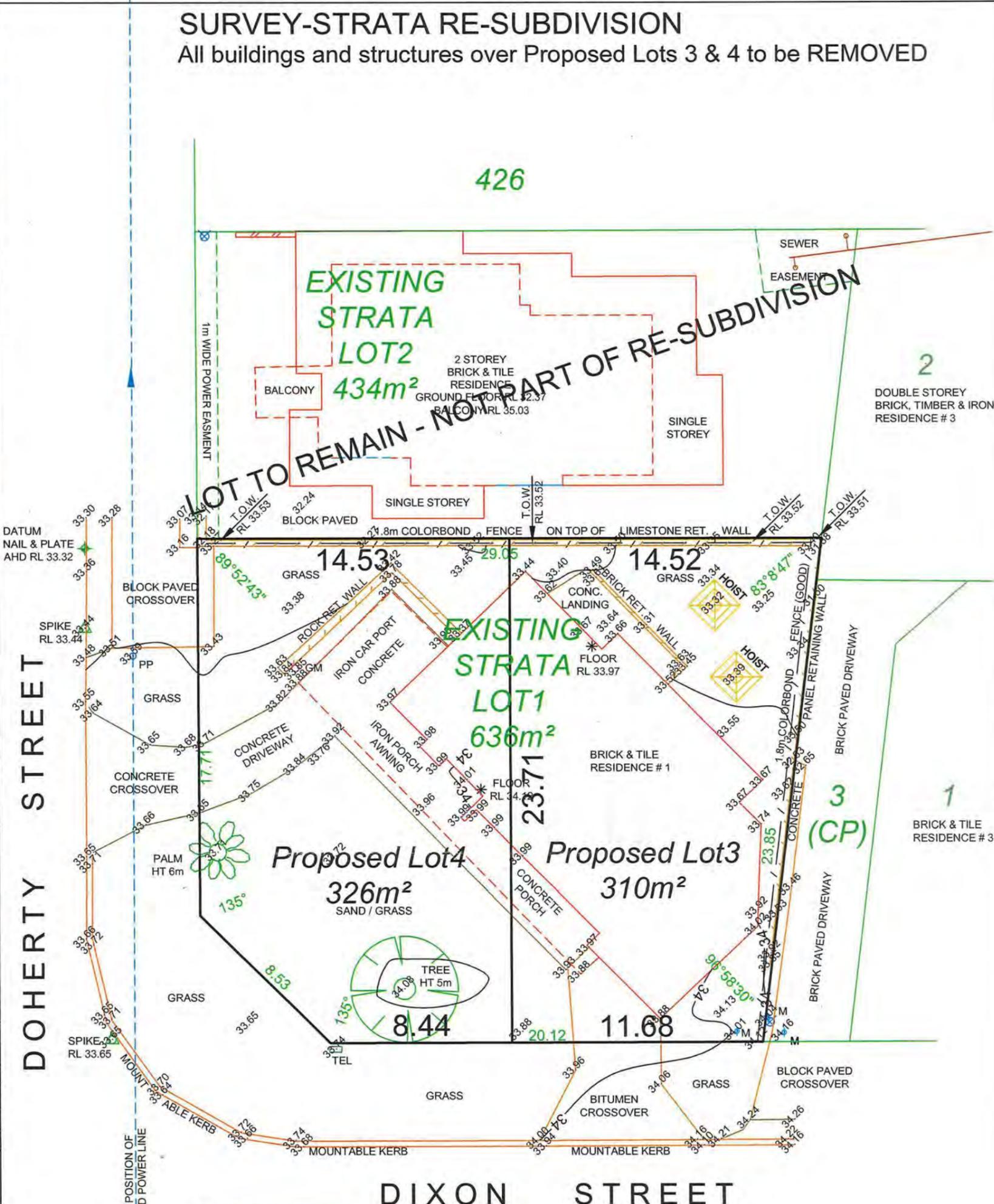
CONCLUSION:

The application meets the minimum lot size requirements set out in WAPC policy. The variation to the average lot size required is minor in nature. Conditional approval is recommended.

SURVEY-STRATA RE-SUBDIVISION

All buildings and structures over Proposed Lots 3 & 4 to be REMOVED

SERVICE LEGEND				
DRAINAGE				
GRATE				
SIDE ENTRY PIT				
STORM WATER MANHOLE				
ELECTRICITY				
CABLE DOME				
CABLE MANHOLE				
CABLE PIT				
CONSUMER POLE				
LIGHT POLE				
POWER POLE				
STAY POLE				
STAY WIRE ANCHOR				
O/H POWER LINE				
GAS				
GAS MARKER				
GAS METER				
GAS VALVE				
SEWERAGE				
SEWER MANHOLE				
INSPECTION OPENING				
SEWER LINE				
TELECOMMUNICATIONS				
TEL / COMM MANHOLE				
TEL / COMM MARKER				
TEL / COMMS PIT				
WATER				
FLUSH POINT				
HYDRANT				
STOP VALVE				
TAP				
WATER MARKER				
WATER METER				
SURVEY				
DATUM				
PEG FOUND				
OTHER				
AWNING / EAVES				
MAIL BOX				
WINDOW / DOOR				
SERVICE RECORD				
SERVICE	LOCATED	AVAILABLE	NO SERVICE	CONFIRM
	✓	✓	✓	✓
WATER	✓			
SEWERAGE		✓		
GAS	✓			
TEL / COMM	✓			
POWER U/G	✓			✓
O/H	✓			✓
SERVICES MARKED CONFIRM REQUIRE BUILDER / CLIENT TO CONFIRM AVAILABILITY AND / OR POSITION ON SITE.				



DEPARTMENT OF PLANNING
 DATE: 06 AUG 2014
 FILE: 949-14

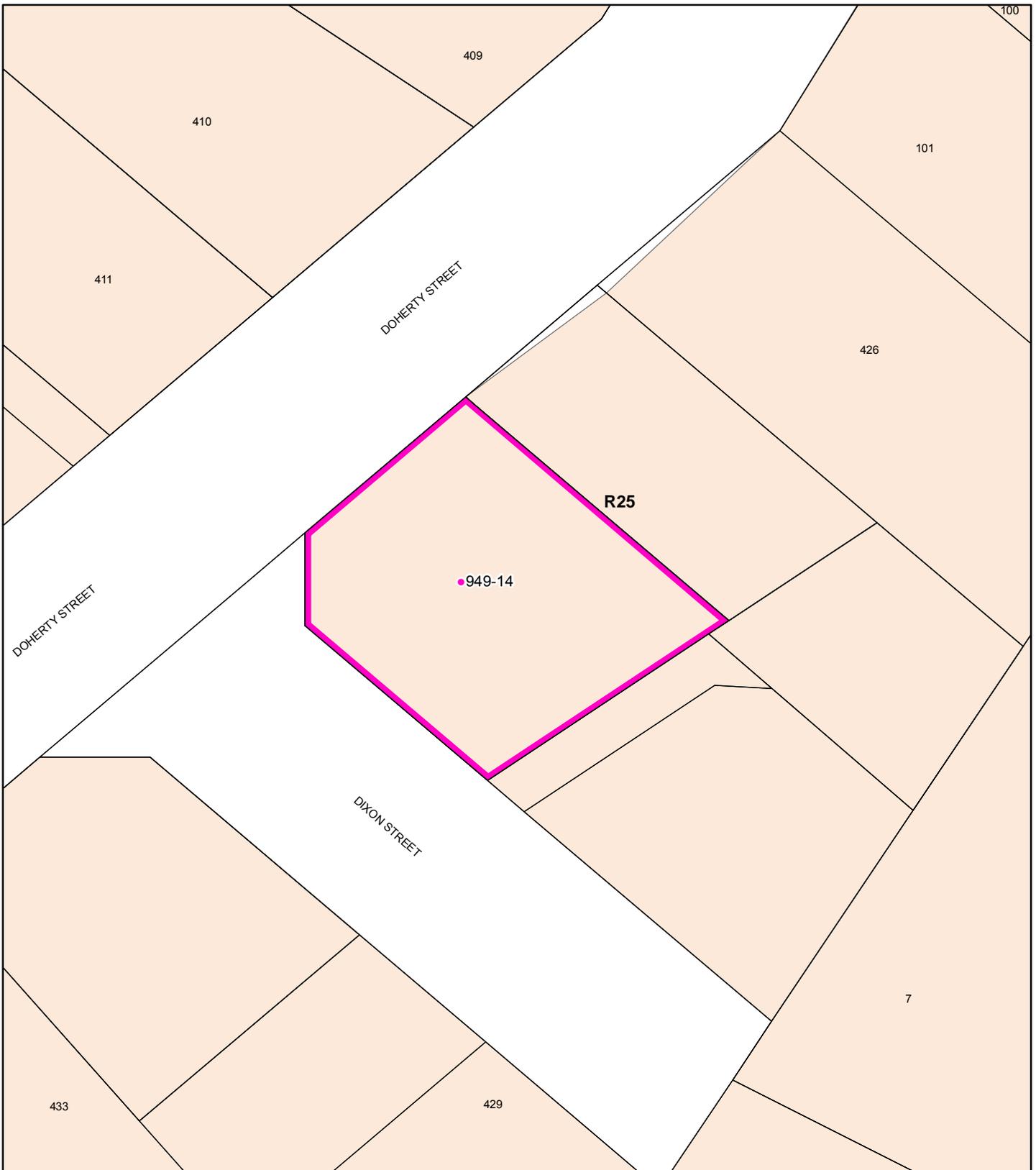
NOTE:
 APPROXIMATE AHD LEVEL DERIVED FROM SEWERAGE MANHOLE Y6316.

WARNING!
 BOUNDARY RE-ESTABLISHMENT SURVEY REQUIRED TO CONFIRM LOT BOUNDARY POSITION AND DIMENSIONS.

THIS LOT IS BURDENED WITH A MINERAL RESERVATION. SEE STRATA PLAN 56743 FOR FURTHER DETAILS.

NOTE:
 NO INTERNAL SEWER INFORMATION WAS AVAILABLE AT TIME OF SURVEY. IF FURTHER INFORMATION IS REQUIRED PLEASE ENQUIRE WITH THE WATER CORPORATION.

CLIENT : A & A ALLIA	SURVEYED ON : 04/06/2014	LOT : 1 (# 1) DIXON STREET
AUTHORITY : BAYSWATER	PROCESSED BY: NP	SUBURB : EMBLETON
MAP REF : 344 32 59	SURVEYED BY : RJ	C/T :
LANDGATE STREET SMART / MELWAY GREATER PERTH STREET DIRECTORY		BUILDER :
STRATA PLAN 56743		
<p>Land Surveys</p> <p>PO Box 746 BELMONT WA 6984 Telephone (08) 9477 4477 Fax (08) 9477 4499 admin@landsurveys.net.au</p>		
SCALE : 1:200	BUILDER REF No :	JOB No :
		1400657
	DWG No :	REV. :
	1400657	A

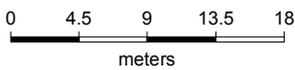


LOCATION PLAN

Survey Strata Application 949-14

Decision: **OUTSTANDING**

Printed: **8/08/2014**



Department of Planning



This data is to be used only for the processing of Strata Application

Legend

Strata Applications

 Outstanding

Existing LPS Zone Category

 Residential

 R Code Boundaries

ITEM NO: 9.6

SUBDIVISION TO CREATE TWO SURVEY STRATA LOTS FOR RESIDENTIAL PURPOSE AT LOTS 15 AND 80 (NO.56) RAILWAY STREET, COTTESLOE

WAPC OR COMMITTEE: Statutory Planning Committee

REPORTING AGENCY: Department of Planning
REPORTING OFFICER: Planning Officer, Metropolitan Central, Perth and Peel
AUTHORISING OFFICER: Planning Director, Metropolitan Central - Perth and Peel.
AGENDA PART: G
FILE NO: 614-14
DATE: 30 September 2014
REPORT CATEGORY: Statutory
RECOMMENDATION OUTCOME: 3. Approve

ATTACHMENT(S): 1 - Plan of Subdivision
2 - TPS Zoning and Location Plan
3 - Aerial Photograph

RECOMMENDATION:

That the Western Australian Planning Commission resolves to approve the application for survey-strata of Lots 15 and 80 (No.56) Railway Street, Cottesloe as shown on the plan date stamped 26 May 2014 subject to the following conditions and advice:

CONDITIONS:

1. ***Other than buildings, outbuildings and/or structures shown on the approved plan for retention, all buildings, outbuildings and/or structures present on lot(s) 1 and 2 at the time of subdivision approval being demolished and materials removed from the lot(s). (Local Government)***
2. ***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 lot(s) 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)***

-
3. ***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)***
 4. ***All local streets within the subdivision being truncated in accordance with the Western Australian Planning Commission's Liveable Neighbourhoods policy. Local Government)***
 5. ***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 lot(s) shown on the approved plan of subdivision. (Western Power)***
 6. ***Arrangements being made with the Water Corporation so that provision of a suitable water supply service will be available to the lots shown on the approved plan of subdivision. (Water Corporation)***
 7. ***Arrangements being made with the Water Corporation so that provision of a sewerage service will be available to the lots shown on the approved plan of subdivision. (Water Corporation)***

ADVICE:

1. ***In regard to Condition 1, planning approval and/or a demolition licence may be required to be obtained from the local government prior to the commencement of demolition works.***
2. ***In regard to Condition 5, Western Power provides only one underground point of electricity supply per freehold lot.***
3. ***In regard to Conditions 6 and 7, 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.***

SUMMARY:

The key points relating to this report are as follows:

- The application proposes the amalgamation and re-subdivision of Lots 15 and 80 Railway Street, Cottesloe (the subject site) to create two (2) survey strata lots.
- The Town of Cottesloe does not support the application due to the proposed variation to the average site area requirement of the *Residential Design Codes 2013* (R-Codes).

-
- The application has been referred to the Statutory Planning Committee (SPC) for determination due to the variation to the average lot size is greater than the 5% variation allowed by provisions by the WAPC's Development Control Policy 2.2 'Residential Subdivision' (DC2.2).

LEGISLATION / STRATEGIC PLAN / POLICY:

Legislation Planning and Development Act 2005
Section: Section 10

Strategic Plan
Strategic Goal: Planning
Outcomes: Effective Delivery of Integrated Plans
Strategies: Implement State and Regional Planning Priorities

Policy
SPP 3.1 Residential Design Codes. Proposal complies with WAPC policies unless discussed in Planning Assessment section.
WAPC Policy 2.2 Residential Subdivision.

INTRODUCTION:

The application proposes the amalgamation and re-subdivision of two (2) existing lots to create two (2) survey-strata lots of 235m² (Lot 1) and 230m² (Lot 2). A single dwelling presently straddles the two existing lots. It is proposed to demolish the dwelling inclusive of all other built form. Access is presently taken via Railway Street. The proposed configuration will re-orientate the lots with access to each lot likely to be taken via Wentworth Street. (**Attachment 1 - Plan of Subdivision**).

The site is zoned 'Urban' under the Metropolitan Region Scheme (MRS) and 'Residential' with a density code of R35 under the Town of Cottesloe Town Planning Scheme No.3 (TPS 3) (**Attachment 2 - Location & Zoning Plan**).

The application has been referred to the Statutory Planning Committee (SPC) due to the non-compliance with the average site area requirements.

CONSULTATION:

The Town of Cottesloe (the Town) does not support the proposal for the following reason:

- The proposed subdivision will result in lot sizes below the average lot size required by the Residential Design Codes 2013.*
- The proposed subdivision does not represent orderly and proper planning as it will result in a residential density increase.*

Notwithstanding this objection, in the event the Commission issues approval to the proposed subdivision, the Town recommends various conditions relating to the preparation of land for residential development.

Western Power and the Water Corporation support the application subject to the imposition of standard servicing conditions.

All recommended conditions have been assessed and where considered fair, reasonable and relevant, they should be imposed. The conditions are in accordance with the Model Subdivision Conditions schedule 2012.

COMMENTS:

Proposal

The proposal meets the minimum site area requirements (220m² required, 230m² provided) but does not meet the average site area requirements (260m² required, 232m² provided) as specified in the R-Codes for the R35 density code.

Based on the above lot sizes the variation proposed to the average lots size is 11%.

Policy Context

The application is presented to the SPC due to the average site area of the proposed survey-strata lots requiring a variation of more than 5%, as permitted under the R-Codes and Clause 3.2.3 of WAPC Development Control policy 2.2 *Residential Subdivision* (DC 2.2). The policy supports green title and survey-strata subdivision applications that seek variations to lot sizes below the minimum and/or average lot sizes subject to the following criteria:

- i) *all lots in the subdivision meet the minimum lot size requirements;*
- ii) *the variation reduces the average lot size of the overall subdivision by no more than 5% of the average lot size specified in Table 1 or elsewhere in the R-Codes; and*
- iii) *the variation has been demonstrated by the applicant to have a particular beneficial outcome for the community, or the Commission forms the opinion that it will have a particular beneficial outcome for the community.*

With respect to Clause 3.2.3 of DC 2.2, the proposal meets the minimum site area requirement under the R35 coding of the land.

However, in terms of average lot size requirements, the proposal represents a departure to this policy insofar it proposes a variation greater than 5% (11%).

Planning Merit

Notwithstanding, the proposed additional variation, the proposal is considered to have a number of beneficial outcomes as follows:

- i) Will allow for the creation of lots that meet the minimum lot size required by the R-Codes and achieves direct frontage access to a constructed public road;
- ii) Assists with using residential land to its best advantage by enabling an additional lot to be created;
- iii) Provides a wider choice of residential lot sizes in the locality;

-
- iv) Makes best use of existing infrastructure and services located in close proximity to the proposal site; and
 - v) Will contribute towards the dwelling targets of the draft *Central Metropolitan Sub-regional Strategy and Directions 2031*.

The proposal accords with State level policy which supports the strategic increase in density and infill of existing urban land, and also with the intention of TPS No. 3 to facilitate higher density subdivision in appropriate areas. It is noted that this street block has been up-coded to R35 from a previous density code of R20 (under previous Town Planning Scheme No. 2).

- While only one dwelling presently exists, two residential lots exist. Both lots could theoretically be built upon without any adjustment to lot boundaries;
- The proposed configuration is better orientated. Access via Wentworth Street is preferred given it is a secondary and less busy road;
- The subject site is strategically well located to be able to benefit from good public transport infrastructure, public open space, schools and other servicing provision;
- The proposal would not be detrimental to the amenity of the locality nor contrary to orderly and proper planning;
- Each lot is regularly shaped and could accommodate a dwelling in keeping with the character of the streetscape; and
- The proposal will contribute towards the dwelling targets for Cottesloe which is 1300 under the draft *Central Metropolitan Sub-regional Strategy and Directions 2031*.

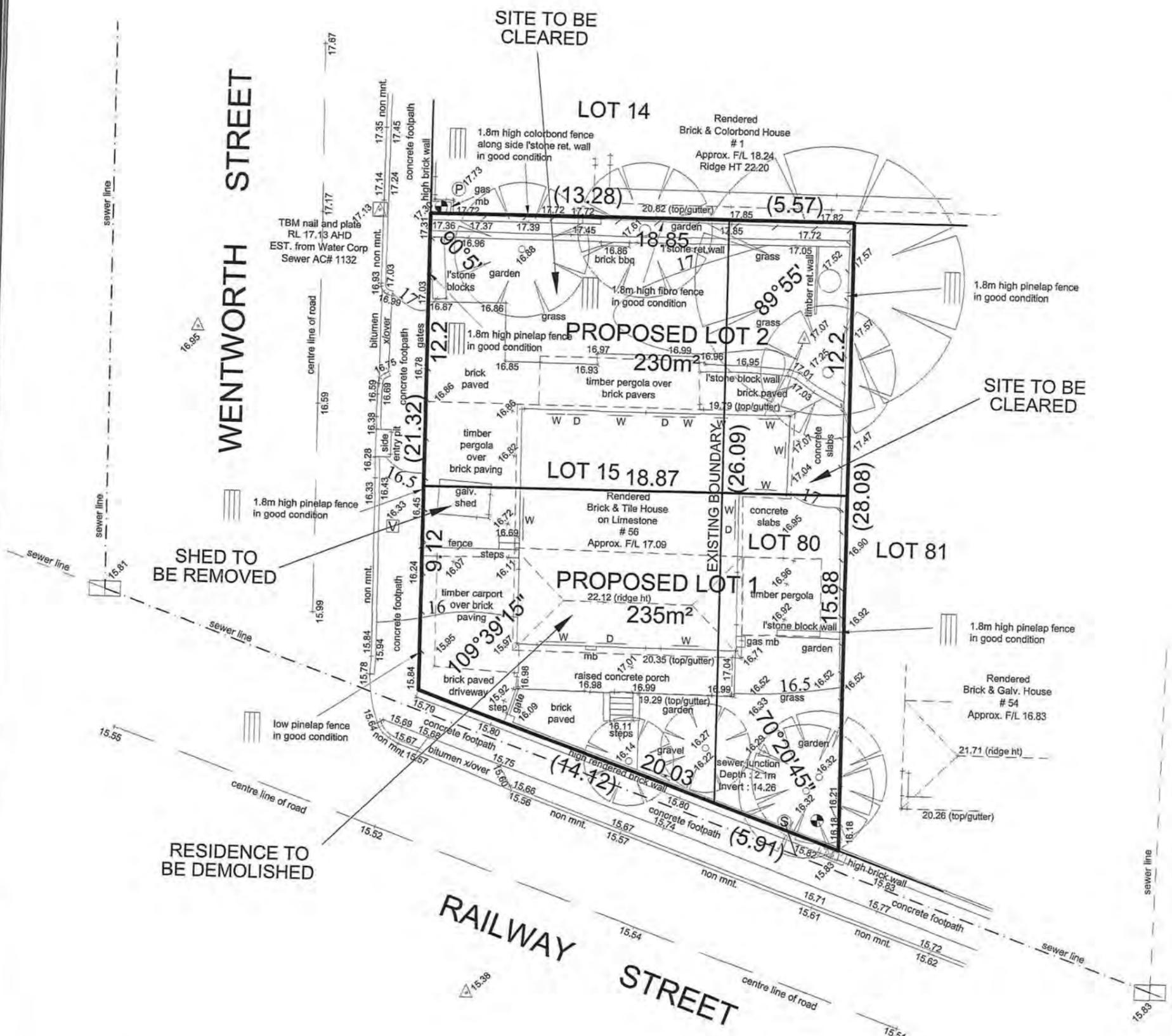
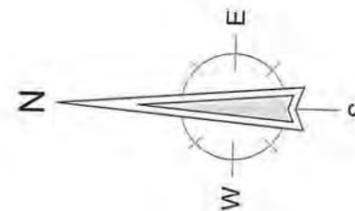
Access

In regard to access, it is noted that the subject lot presently achieves access via a crossover onto Railway Street. However, since it is proposed to re-orientate the proposed lots access to both lots will likely be taken via Wentworth Street. This is considered advantageous on the basis that Wentworth Street is a less busy road if compared to Railway Parade.

CONCLUSION:

Having regard to the circumstances which apply to the proposed subdivision, it is appropriate in this instance to approve the application and in doing so support a variation of 11% to the average site area requirement. Conditional approval is therefore recommended.

SUBJECT TO
WAPC CONDITIONS.
SEE FINAL STRATA-PLAN
OR DEPOSITED PLAN



DEPARTMENT OF PLANNING
DATE FILE
26 MAY 2014 614-14

I, the client/s of Vision Surveys recognise this plan as the proposal to be submitted to the department of planning and infrastructure for a... Lot Survey Strata / Built Strata / Green Title subdivision and agree to the terms and conditions of this plan's use.

Client Signature/s _____ Date _____

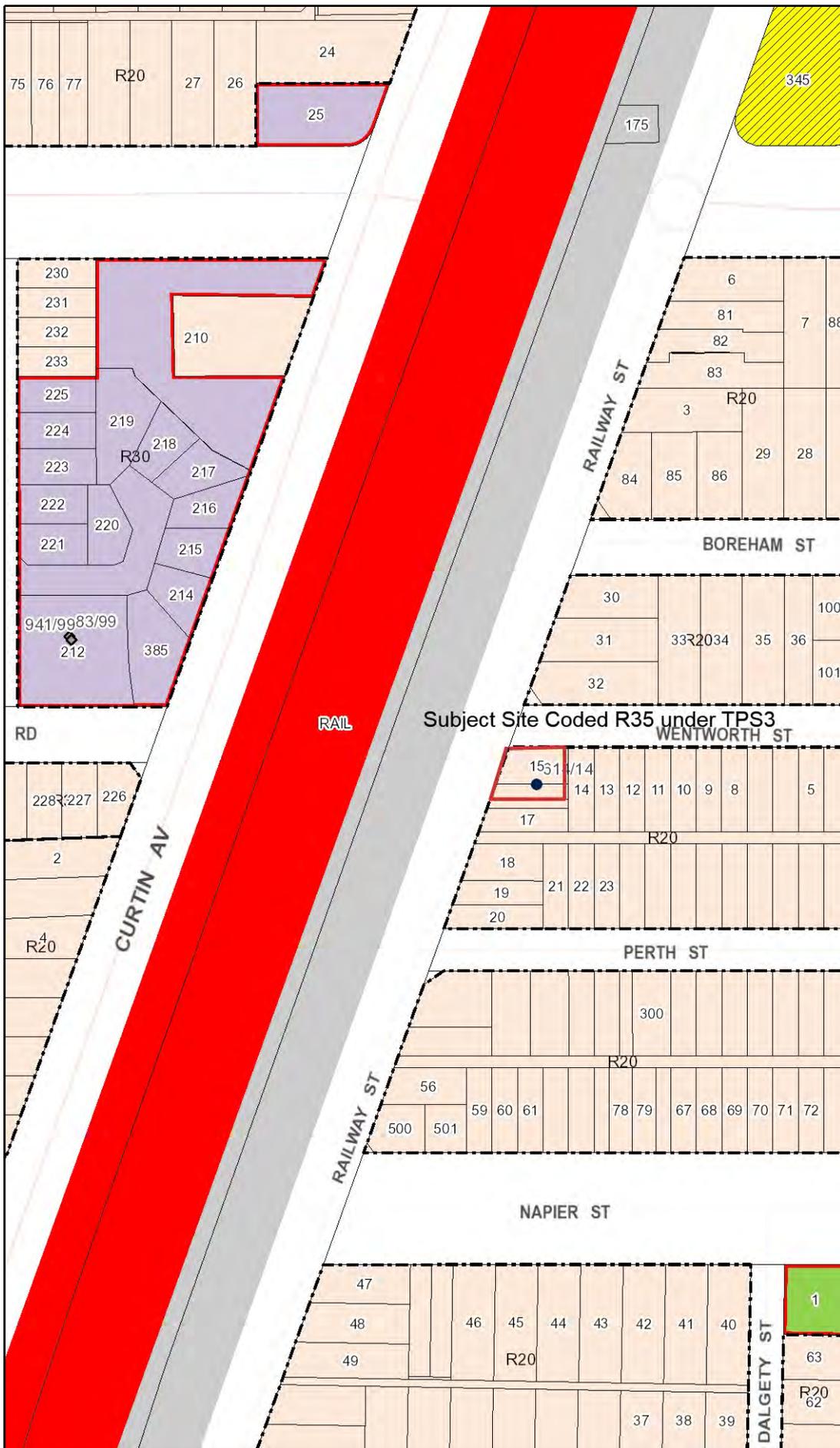
TOTAL AREA: 465m²

VISION SURVEYS
Licensed & Engineering Surveyors
Land Development Consultants
Project Managers

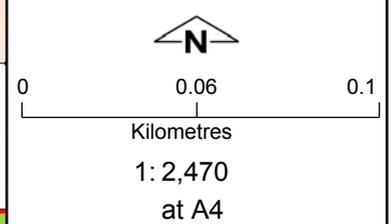
Title Proposal to the WAPC for the creation of TWO (2) SURVEY STRATA LOTS AT LOT 15 & 80 (56) RAILWAY STREET COTTESLOE
TEL (08) 6144 0000 FAX (08) 6144 0099
59 SCARBOROUGH BEACH RD, SCARBOROUGH WA 6019
Email: info@visionsurveys.com.au

Level Datum	AHD(Approx.)
Scale	1:200
Date	14/04/2014
Dwg Ref	Railway St 56 Cottlesloe P
Surveyor	Stuart Colson
Drafter	
Job #	3865
Sheet 1 of 1	A3

BOUNDARY POSITION CANNOT BE VERIFIED DUE TO LACK OF SURVEY MARKS/PEGS. ALL BUILDING DIMENSIONS & FEATURES ARE APPROX. ONLY. BOUNDARY POSITIONS HAVE BEEN TAKEN FROM BUILDINGS, FENCING, RETAINING WALLS AND OTHER TYPICAL FEATURES LOCATED ON THE BOUNDARY WHICH MAY NOT BE ON THE CORRECT ALIGNMENT AND ARE TO BE VERIFIED WHEN REPEGGED.
BEFORE ANY WORK IS STARTED ON SITE OR PLANS ARE PRODUCED BY DESIGNERS/ARCHITECTS, THE BOUNDARIES MUST BE REPEGGED AND EXACT OFFSETS MEASURED TO EXISTING STRUCTURES AND FENCING.
VISION SURVEYS ACCEPTS NO RESPONSIBILITY FOR ANY CHANGES TO THE PARCEL OR PORTION OF THE PARCEL OF LAND SHOWN ON THIS SURVEY INCLUDING BUT NOT LIMITED TO ANY ADJOINING NEIGHBOURS LEVELS AND FEATURES THAT HAVE OCCURRED AFTER THE DATE OF THIS SURVEY.
SEWER / DRAINAGE MAY VARY FROM SCHEMATIC PRESENTATION / CHECK WITH APPROPRIATE AUTHORITY BEFORE ADOPTION OF POSITION.
THIS SURVEY DOES NOT GUARANTEE THE LOCATION OF BOUNDARY PEGS OR FENCES.
CHECK TITLE FOR EASEMENTS / COVENANTS ETC.
PROPOSED BOUNDARIES AND LOTS MAY BE SUBJECT TO WAPC CONDITIONS WHICH MAY VARY AND/OR ENCUMBER THE PROPOSAL.
PROPOSED BOUNDARIES AND LOTS MAY BE SUBJECT TO FUTURE EASEMENTS, RESTRICTIVE COVENANTS WHICH MAY VARY AND/OR ENCUMBER THE PROPOSAL.



- Legend**
- Local Government Area
 - Cadastre (view 1)
 - Cadastre (view 2)
 - Cadastre (view 3)
 - Cadastre (view 4)
 - W.A. Coastline
 - ◆ Strata (point)
 - Strata Applications - Application**
 - Final Approval
 - Approval
 - Outstanding
 - Deferred
 - Refused
 - Cancelled
 - Not Applicable
 - Strata Applications - Internal Bou**
 - Final Approval
 - Approval
 - Outstanding
 - Deferred
 - Refused
 - Cancelled
 - Not Applicable
 - R-Code Boundary
 - Special Additional, Restricted an Use
 - Special Points
 - Special Lines
 - Special Areas
 - Local Planning Scheme Zones a**
 - Aboriginal reserve
 - Access road
 - Aerial landing ground
 - Aerodrome
 - Agricultural industrial



Projection:
WGS 1984 Web Mercator Auxiliary Sphe

Notes:

The data that appears on the map may be out of date, not intended to be used at the scale displayed, or subject to license agreements. This information is stored in the relevant layers metadata. For these reasons the map should not be distributed outside of the Department.

Map was produced using DoP's PlanViewWA.

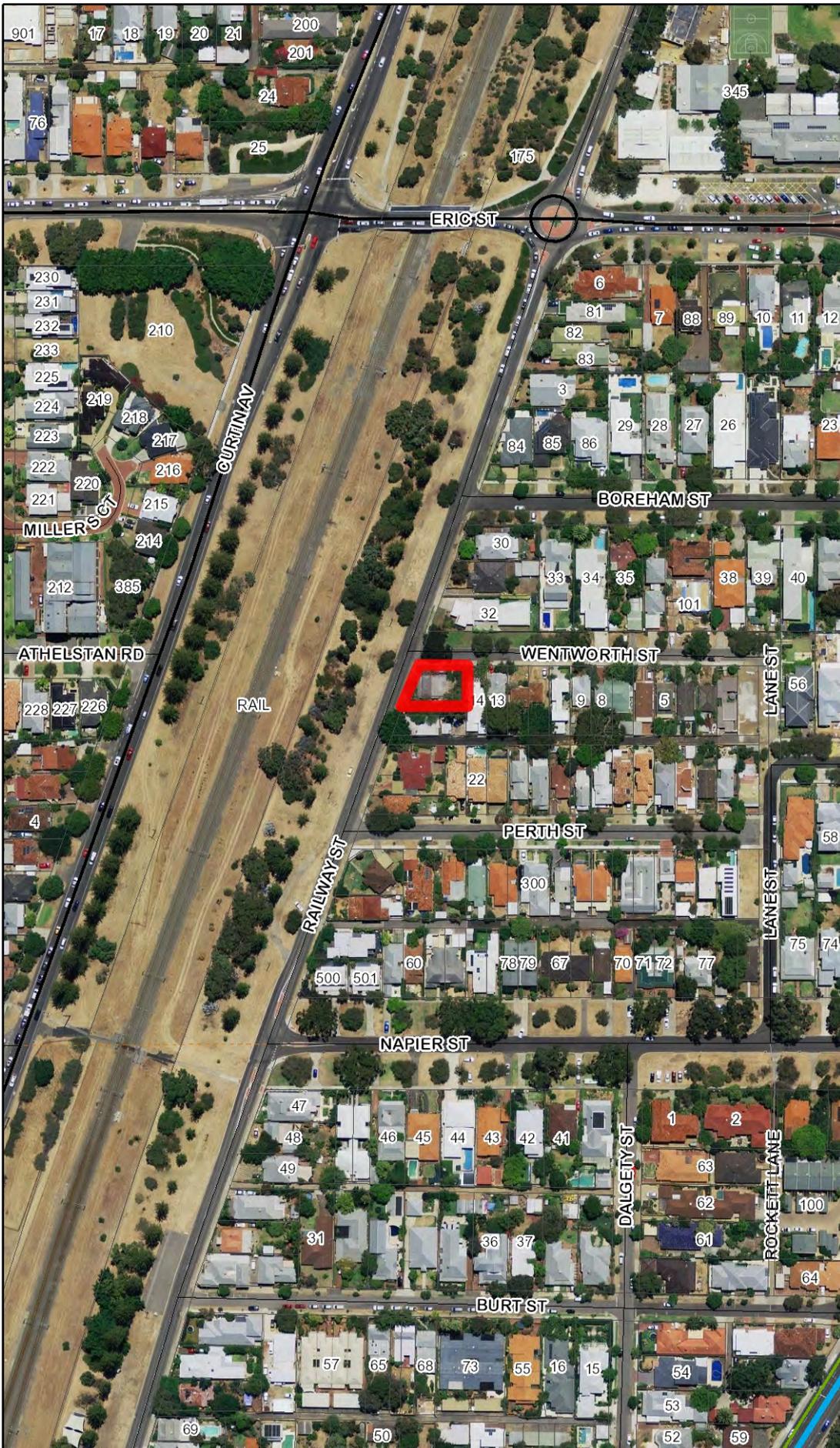
Produced by:FUNCTIONALITY TO COME

Date produced: 02-Oct-2014

PlanViewWA Map

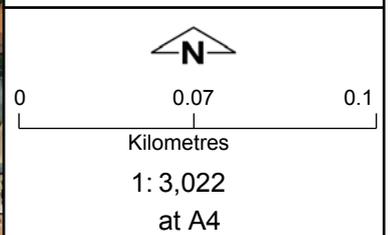
INTERNAL USE ONLY

Internal Spatial Viewer
[Link to viewer](#)



Legend

- Local Government Area
- Cadastre (view 1)
- Cadastre (view 2)
- Cadastre (view 3)
- Cadastre (view 4)
- W.A. Coastline
- Road Names**
- Road Centrelines**
- National Highway
- State Highway
- Freeway
- Main
- Minor
- Mall
- Laneway
- Track
- Not Applicable
- Landgate Imagery**



Projection:
WGS 1984 Web Mercator Auxiliary Sphe

Notes:

The data that appears on the map may be out of date, not intended to be used at the scale displayed, or subject to license agreements. This information is stored in the relevant layers metadata. For these reasons the map should not be distributed outside of the Department.

Map was produced using DoP's PlanViewWA.

Produced by:FUNCTIONALITY TO COME

PlanViewWA Map

INTERNAL USE ONLY

Internal Spatial Viewer
[Link to viewer](#)

ITEM NO: 10.1

REFORM OF THE STRATA TITLES ACT 1985

WAPC OR COMMITTEE:	Statutory Planning Committee
REPORTING AGENCY:	Department of Planning
REPORTING OFFICER:	Planning Director and Senior Solicitor
AUTHORISING OFFICER:	A/Executive Director, Regional Planning and Strategy
AGENDA PART:	A
FILE NO:	DP/11/02217
DATE:	2 October 2014
REPORT CATEGORY:	Statutory
RECOMMENDATION OUTCOME:	ADT
ATTACHMENTS:	<ol style="list-style-type: none">1. proposed heads of power for the Commission's decision-making concerning the new forms of land tenure; and2. Landgate's proposed model for the interface of the <i>Planning and Development Act 2005</i> and Strata Titles Act for Community Title Schemes.

RECOMMENDATION:

That the Statutory Planning Committee resolves to:

- 1. note the presentation provided by Landgate officers in relation to reform of the Strata Titles Act 1985;**
- 2. support the proposed heads of power for the Commission's decision-making regarding the new forms of Strata Titles land tenure, including Western Australian Planning Commission determination of Development Statements (as set out at Attachment 1), as the basis of further drafting and refinement;**
- 3. support the proposed model for the interface of the Planning and Development Act 2005 and Strata Titles Act for Community Title Schemes, as set out at Attachment 2, including the following aspects:**
 - a) the introduction and definition of 'Development Statements';**
 - b) development Statements being subject to the Commission's approval; and**
 - c) that an approved Development Statement may have the status and effect of a Local Structure Plan or Local Development Plan depending on the scale of the proposal.**

-
4. ***require further examination of the desirability of registered Development Statements binding Western Australian Planning Commission decision-making (as outlined in paragraphs 22-24 of Attachment 2) due to the inherent flexibility associated with structure plans;***
 5. ***note that following passage of amending legislation to provide for the tenure and other reforms of the Strata Titles Act, it would be necessary for relevant policies and procedures of the Commission to be updated to align with the changes; and***
 6. ***request that consideration be given in formulating proposals for amendments to the Strata Titles Act clarifying that Development Statements should not govern matters relating to ongoing operational management, property rights for owners and dispute resolution, other than planning matters that would normally be considered by the State Administrative Tribunal.***

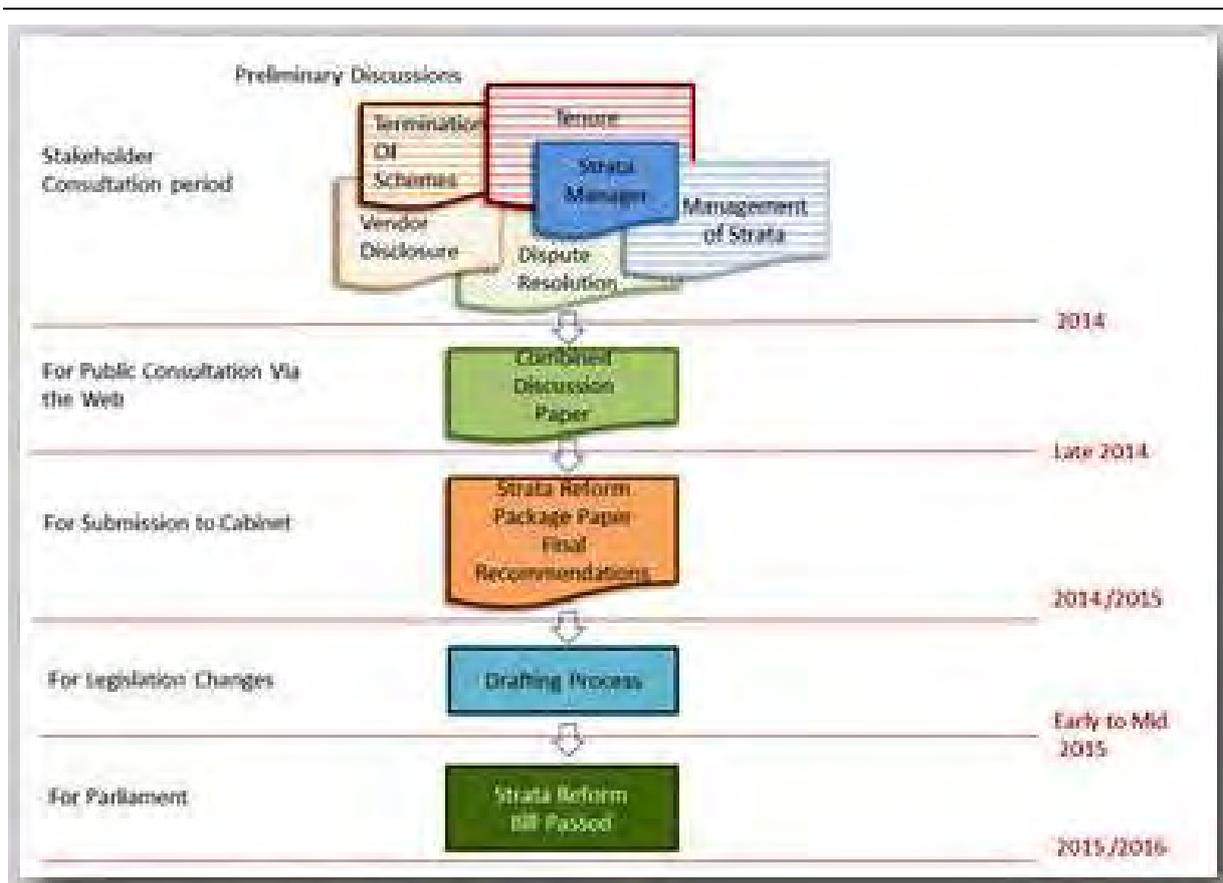
SUMMARY:

Reform of the *Strata Titles Act 1985* is being undertaken by Landgate, and a presentation is to be made on this topic. The Department of Planning has been involved in regular consultation at officer-level and the Executive Management Committee has given broad support to the directions being taken. The advice and input of the Statutory Planning Committee on behalf of the Western Australian Planning Commission is requested prior to Cabinet referral. The reform project includes a formal consultation period and the Department and Commission will have further opportunity to comment.

BACKGROUND:

The State Government has set Strata Reform as a key priority and Landgate has been tasked to deliver reforms to the *Strata Titles Act 1985* in 2015. The reforms will ensure Western Australia has a modern Strata Titles Act to better meet the State's needs for future growth. Reforms will also help provide more flexible, affordable and liveable housing options, to benefit developers, strata owners and residents.

As shown in the diagram below, reform of the Act has six main elements; Tenure, Termination of Schemes, Vendor Disclosure, Dispute Resolution, Management of Strata and Strata Manager. The element that is of most relevance to the Planning portfolio is 'Tenure Reform'.



LEGISLATION / STRATEGIC PLAN / POLICY:

Legislation *Strata Titles Act 1985*
 Section: all

Strategic Plan
 Strategic Goal: Regulation
 Outcomes: Effective, consistent and enforceable regulation
 Strategies: Improve, streamline and simplify regulatory processes within a risk based framework

Policy
 Number and / or Name: N/A

DETAILS:

The proposed tenure reforms are:

1. Community Title Schemes - 'Community title' land tenure is a form of strata titling that has been introduced in all other Australian jurisdictions, and provides for multiple strata schemes within the 'umbrella' of a 'parent' body corporate. Introduction of 'community titles' in WA will complement strategic planning directions, especially in the metropolitan area, by facilitating the design and development of more sophisticated strata schemes that better provide for large sites, mixed uses, staged subdivision and development, and provision and operation of some infrastructure.

-
2. Community Title in a building - to permit multiple strata schemes in one building, to manage different uses e.g.: residential, commercial and retail.
 3. Leasehold Strata over Freehold Land - this will permit a landowner to retain ownership of the land and to enter into a long-term lease arrangement with a developer, authorising the developer to undertake a strata development on the site.
 4. Simplified staged development for existing and new strata schemes – this proposes to permit more flexible staged development procedures in strata schemes already registered, that will enable minor variations from the development plans disclosed to the initial strata lot owners.

GOVERNMENT AND CORPORATE IMPLICATIONS:

Drafting Instructions for amendments of the Strata Titles Act 1985 have been approved by Cabinet previously. The full package of reforms of the *Strata Titles Act 1985* will be subject to further public consultation prior to finalisation of proposals, which will then be further considered by Cabinet.

Relevant policies and procedures of the Commission will also need to be updated.

CONSULTATION:

Considerable prior consultation was undertaken by the Community Titles Advisory Committee (CTAC) from 1997 - 2007 and the Land Tenure Committee (LTC) from 2007 – 2013. For the current project, Landgate prepared discussion papers relating to the main elements of the reforms and used these to undertake targeted consultation with stakeholders including the Department. Landgate also published a Tenure Reform Discussion Paper in June 2014

[http://www.landgate.wa.gov.au/docvault.nsf/web/AU_STAR/\\$FILE/LandTenureDiscussionPaper.pdf](http://www.landgate.wa.gov.au/docvault.nsf/web/AU_STAR/$FILE/LandTenureDiscussionPaper.pdf)

Consultation has narrowed the range of matters that the Department and Commission will need to consider as Strata Titles reform continues.

OFFICER'S COMMENTS:

The proposed changes to the *Strata Titles Act 1985* provide potential for a titles system that has greater flexibility for developers, clarity for owners, occupiers and regulators, and is more manageable in the context of larger scale strata schemes, mixed use development and major 'brownfield' redevelopment proposals.

Landgate has consulted with the Department and there is broad officer-level agreement on the intent of proposed changes to the Strata Titles Act. The Department and Commission will have further opportunity for comment during the consultation period, and there will be ongoing liaison between agencies as the legislation is drafted. Though there is broad agreement, the following matters will require further consideration and discussion:

-
- 1. Inclusion and definition of Development Statements – Attachment 2** defines and outlines the proposed parameters for Development Statements, which are intended to be determined by the WAPC under the revised Strata Titles Act. As legislation is drafted, it will be critical for the Commission to ensure that matters such as vendor disclosure, property rights for owners and dispute resolution are specifically excluded from Development Statements, as these are matters that need to be settled outside the realm of land use planning.

Increased developer flexibility may result in reduced certainty for purchasers in large and staged strata schemes. The balance between flexibility and certainty is proposed to be addressed in part by the Vendor Disclosure regime.

- 2. Effect of ‘registering’ a Development Statement** - Development Statements proposed under the revised Strata Titles Act could have the status and effect of a Structure Plan or Local Development Plan depending on the scale of the proposal. The effect of ‘registering’ a Development Statement under the revised Strata Titles Act could give statutory effect to planning instruments that can be broadly strategic and flexible in nature, however Development Statements could set parameters for minor variations.

WAPC approval of a Development Statement may remove the need for preparation and/or approval of a Structure Plan or Local Development Plan, which is in keeping with the Government’s intention to streamline and simplify planning instruments. **Attachment 2** proposes that the effect of registering a Development Statement is for it to ‘prevail’ over a Structure Plan or Local Development Plan, but not to modify an operative planning scheme.

It is also proposed that registered Development Statements would bind decision-makers in terms of subdivision and development, and while this is suitable in principle, the extent to which the Commission wishes to be ‘bound’ is a matter that will need further consideration.

Whilst the proposed model for the interface of the respective Acts is supported, the implications of ‘registering’ and amending Development Statements and WAPC decision-making will need to be considered in more detail during the reform process.

- 3. Amendments to the Planning and Development Act 2005** - It is expected that the necessary amendments to the *Planning and Development Act 2005* will be part of an amending Act that consequentially amends a number of Acts as part of the Reform Package. Other than consequential changes, no amendments to the Planning Act are anticipated, with most of the substantive amendments being within the Strata Titles Act (similar to the current arrangements for the approval of a strata plan).
- 4. Planning Policy and Practice** – The proposal for WAPC to be the decision-maker for Development Statements is similar to the approach proposed for Structure Plans in the revised Model Scheme Text. This may require reconsideration of delegation instruments in future. The project and its implementation may also impact existing procedures and policies. It is expected that following passage of legislation, Landgate would continue liaison with the

Department in order to ensure adequate lead time prior to commencement of the tenure reforms and other parts of the legislation that may impact operational matters.

ATTACHMENT 1

WAPC HEADS OF POWER – STRATA TITLE SUBDIVISION

1. Current Heads of Power

Planning and Development Act 2005 ('PD Act')

The PD Act sets out general functions and powers of the Western Australian Planning Commission ('WAPC'). S 135 of the PD Act prohibits subdivision (including amalgamation) without the WAPC's approval and the PD Act sets out specific provisions relating to subdivision of land. The *Planning and Development Regulations 2009* at r 21 provide some elaboration as to matters the WAPC will have regard to when considering a subdivision application.

Strata Titles Act 1985 ('STA')

S 25 of the STA requires that every strata plan lodged for registration shall be accompanied by a certificate of approval given by the WAPC. A number of exemptions for WAPC approval are provided by r 15 of the *Strata Titles General Regulations 1996* and only LG certification is required for these types (classes) of strata applications.

S 25A of the STA requires that if a strata plan or a plan of re subdivision or consolidation for a strata scheme submitted to the WAPC under s 25 contains any vacant lot, the WAPC shall comply with provisions of the PD Act relating to its processing of subdivision applications as if the plan were a plan of subdivision which required the approval under the PD Act.

The WAPC when considering a green title subdivision '...is to have due regard to the provisions of any local planning scheme that applies to the land under consideration ...' (PD Act s 138(2)), and the operation of STA s 25B (1) makes it clear that this provision is applicable also to survey-strata subdivision.

2. Proposed additional Heads of Power

The Tenure Discussion Paper (v4.0 - 30 June 2014) published by Landgate sets out a range of proposed heads of power generally and in relation to specific tenure reforms.

Community Title Schemes (Section 3)

- Community plans defining lots by survey will require WAPC subdivision approval (p 21).
- The corresponding Community Development Statement will also require WAPC approval (p 21).
- Possible consequential amendments to strengthen land tenure and planning interface include (p 22):
 - Giving WAPC the discretion to allow a longer period in which the subdivision approval of a community plan will be valid.
 - Recognising the power of the Commission to impose conditions on the subdivision approval.
 - Permitting the Commission to:
 - impose a condition requiring specific provisions, standards, additional detail or clarity to be inserted into the Community Development Statement;

- require the developer, in the Community Development Statement, to set out or follow a particular sequence in which various stages of the development will be implemented.
- require the developer to specify in the Development Statement when infrastructure, shared facilities and services will be constructed or landscaping completed as part of the sequencing of the development;
- require the subdivision and development to be undertaken in accordance with the Community Development Statement;
- to take into account the need for public access to or across some or all parts of the community property;
- Assess an appropriate allocation for or contribution to public open space or other facilities or amenities ordinarily required, consistent with established planning policies and practices, and the development of that land to an appropriate standard, in addition to whatever private open space or amenities may be proposed.

Some potential restrictions are as follows (p 23):

- A community title scheme should not be proposed where conventional or other land tenure arrangements would be preferable or necessary in order to achieve planning and development outcomes.
- Community title schemes should only be approved where the intention is to create multiple management levels where a single strata scheme with one management level is ineffective.
- A community lot will not be used for the construction of a single dwelling.
- It is expected that the final tier of development of community lots will be a number of strata schemes and/ or survey-strata schemes, which will provide for lots for separate use and disposition.
- Community title schemes may not include green title lots, although they may cede land for public purposes, road or reserves etc.

Changes to an established Community Title Scheme (p 35)

- WAPC approves the merger and the revised tenure arrangements, as reflected in the various plans reflecting the new status of lots. (p 36)
- the appropriation of the whole or part of a community parcel must be provided for in the legislation. Similarly land in a subsidiary scheme may be taken for a road widening or other public purpose. (p 37)

Conversion of Existing Registered Schemes to Community Schemes (p37)

- WAPC consent to new tenure arrangements is required to be endorsed on the community plan. (p 38)
- Streamlining Conversion of Tenure of Two Lot Schemes/ Small Strata Schemes: it is not proposed that the tenure reforms should wait for consensus to be reached on this issue. (p39)

Community Title Scheme within a Building (Section 5)

Some potential restrictions are as follows (p 46):

- The land over which the community plan for a layered building is registered must be:
 - a whole green title lot – in this case, the plan creating the layered building is a community plan; or
 - a community lot or community development lot in a registered community plan – in this instance the plan creating the layered building will be a secondary community plan and the secondary community corporation that is created to manage the layered building will be a member of the community corporation for the total development.
- Community plans for a layered building may not be used to create airspace lots.
- A community title scheme in a building will not be used to provide for the staged construction of a building.
- The scheme cannot include green title lots within the building.

Leasehold Strata Schemes (Section 6)

- It is expected that the replacement leases to accompany the strata plan, being leases of parts of the building, may be exempt from WAPC approval. (p56)
- If a leasehold survey-strata plan is to be registered, approval is expected to remain with WAPC. (p 56)

Staged Strata Schemes (Section 7)

- A Development Statement (p 62) will accompany the strata plan/ survey-strata plan when lodged with the WAPC for subdivision approval.
- The plan and Development Statement will require approval by the WAPC.

**ATTACHMENT 2
LANDGATE'S PROPOSED INTERFACE OF THE PLANNING AND DEVELOPMENT
ACT ('PD ACT') AND STRATA TITLES ACT ('STA') FOR COMMUNITY TITLE
SCHEMES**

Proposed statutory content required to provide for preparation, consideration, status and effect of a Development Statement.

Note: the table below has been primarily framed with reference to community title schemes. Modifications as appropriate would be required in respect of staged strata schemes and community title schemes within buildings.

	Provision	Comment	Statutory Reference
1.	Define: 'development statement'.	Separate from 'management statement'.	STA s 5C, Schedule 2A;
2.	A development statement is required for: <ul style="list-style-type: none"> community title schemes including schemes creating community lots [vacant land] by survey and community lots in a building [lots defined by reference to a floorplan]. staged strata schemes that are not within community schemes. [Here the 'built' strata plan also creates vacant lots for future development]. 	Forms part of community title and staged strata schemes scheme.	New
3.	A development statement will set out the subdivision, land use, development, transport, infrastructure, amenities and facilities for a community title scheme, including the general number, or range or yield as appropriate, arrangement and size of lots for each 'development lot' and such other details as the decision-maker may require to be set out in detail, including in respect of staging, timing and sequencing of subdivision, development, provision of infrastructure and so on.	Substantive scope. This provision may be complemented by relevant policy or guidelines.	New schedule or cross ref to STA sch 2A (as amended)
4.	A development statement may be in the form of text, maps, plans, tables, diagrams, sketches, specifications, schedules, cadastre, levels, and so on, and <ul style="list-style-type: none"> (i) shall be in such format as is prescribed; (ii) shall include information as prescribed; and (iii) may include by reference provisions of a gazetted State Planning Policy or Australian Standard. 	Form and content. This provision may be complemented by relevant policy or guidelines.	New
5.	A development statement may set out procedures and processes for consideration by the bodies corporate established by the scheme of proposed development of lots within a community title scheme.	Procedural scope.	New
6.	A proposed development statement, or amendment of a development statement may be prepared by the landowner/s of the land subject to the proposed community title scheme, or authorised parties acting on their behalf.	Who may prepare.	Could be dealt with in relevant subsidiary legislation.
7.	Lodgement of a proposed development statement, or amendment of a development statement, is to the WAPC.	Lodgement (this is implied in any case by following steps).	New

	Provision	Comment	Statutory Reference
8.	A development statement may be prepared and considered prior to or concurrently with plan/s of subdivision for community title scheme, but a plan/s of subdivision for a community title scheme shall not be considered without a proposed development statement.	Timing. This provision may be complemented by relevant policy or guidelines directed at identifying circumstances in which the development statement should precede the proposed subdivision.	New
9.	The approval of the WAPC is required before a development statement, or amendment of a development statement, may be registered by the Registrar of Titles.	Relationship to registration. (WAPC retains power to delegate.)	Analogous to fetter on powers of Registrar for Titles in PD Act s 146,
10.	Irrespective of whether a development statement is prepared and considered prior to plan/s of subdivision for community title scheme, within 7 days of receipt of a proposed development statement, the decision-maker is to refer it to the responsible local government and any other relevant agency or utility for their advice in respect of the proposed statement, to be provided within 28 days of their receipt of the proposed statement, or such longer period as is agreed.	Referrals – who & how long?	Modelled on similar provisions re Development Applications.
11.	Nothing prevents advertising or other notification of a proposed development statement by the decision-maker or local government or other relevant agency of a proposed development statement, for the purposes of public consultation prior to the formulation of advice to the decision-maker or exercise of the decision-maker's powers.	Advertising – public consultation.	New
12.	The decision-maker must have regard to relevant provisions of an operative planning scheme, advice of a referral authority and any relevant planning policy or consideration and may approve, conditionally approve, or refuse to approve a proposed development statement.	Powers of decision-maker.	New
13.	Conditions of approval of a proposed development statement may include insertion, amendment or deletion of provisions of a proposed development statement.	Scope of conditions of approval.	New
14.	When a decision-maker does not determine a proposed development statement within a period of 60 days of it being lodged with decision-maker, or such longer period as is agreed in writing between the parties, it may be deemed refused.	Deemed refusal.	Modelled on similar provisions used re proposed Local Structure Plans.
15.	Where the decision-maker exercises a discretionary power in making its decision concerning a proposed development statement, or it is deemed refused, a right of review of the decision by the State Administrative Tribunal arises.	Right of review – SAT.	PD Act s 236 & Pt 14 generally.

	Provision	Comment	Statutory Reference
16.	If reviewing the decision-maker's decision in relation to a proposed development statement, or amendment of a development statement, SAT must have regard to relevant provisions of an operative planning scheme, advice of a referral authority and any relevant planning policy or consideration and may approve, conditionally approve, or refuse to approve a proposed development statement	SAT powers.	New. (partly modelled on PD Act s 241)
17.	A person to whom approval of a development statement has been given may, within the period specified by the approval of no longer than 4 years after the approval is given, submit the development statement to the Registrar of Titles in the prescribed manner and form.	Maximum duration approval before registration.	New. (modelled on PD Act s 145)
18.	If at the expiry of the period specified by the approval of the development statement it has not been submitted for registration, the approval ceases to have effect and cannot be submitted for registration.	Lapsing of approval to a development statement.	New. (modelled on PD Act s 145)
19.	A development statement when approved obviates the need for a Local Structure Plan and/or Local Development Plan that might otherwise arise under the provisions of an operative Local Planning Scheme or gazetted State Planning Policy.	Relationship to Local Structure Plan and/or Local Development Plans.	Draft Model Scheme Text.
20.	When approved and registered, to the extent of any inconsistency, the content of a development statement prevails over the content of an adopted Local Structure Plan or Local Development Plan planning instrument, but a development statement cannot modify the content of an operative Local Planning Scheme.	Prior planning instrument.	New
21.	Where a development statement has been approved but not yet registered before plan/s of subdivision for a community title scheme, the decision-maker may, in exercising its powers in respect of an application for approval to subdivide, impose a condition requiring amendment or substitution of the development statement for the scheme.	Relationship to decision-making, where development statement has been prepared and considered before plan/s of subdivision for community title scheme.	New
22.	Where a development statement for a community title scheme has been registered, the decision-maker must, in exercising its powers in respect of an application for approval to subdivide land or undertake a development on a lot or proposed lot within the scheme, not make a decision inconsistent with the provisions of the development statement.	Binding effect of registered development statement – decision makers.	New (see also PD Act s 138).
23.	Where a development statement for a community title scheme has been registered, a landowner may not make an application for approval to subdivide land or undertake a development on a lot or proposed lot within the scheme, contrary to the provisions of the development statement.	Effect of registration of development statement – owners/ developers.	New
24.	Where a development statement for a community title scheme has been registered, a body corporate shall support an application for approval to subdivide land or undertake a development on a lot or proposed lot within the scheme, where consistent with the provisions of the development statement.	Effect of registration of development statement – bodies corporate.	New

	Provision	Comment	Statutory Reference
25.	Subject to the steps required for application and consideration, modified as appropriate, being undertaken, a development statement for a community title scheme may be amended or rescinded and replaced by a new development statement, subject to the approval of the decision-maker.	Amendment of development statement inc. rescission and replacement by a new development statement. (separate provisions will deal with adding land to or removing land from a community title scheme).	New
26.	Where a development statement for a community title scheme includes, modifies or omits content as a condition of approval by the decision-maker, amendment of the relevant provisions of the development statement shall not be initiated without the approval of the decision-maker.	Limitation on scope of proposed amendment of development statement.	New
27.	When it has been proposed that a development statement for a community title scheme may be amended or rescinded and replaced by a new development statement, the decision-maker has the same duties and powers as if it were a proposed development statement.	Amendment of development statement - decision-maker's duties and power.	New
28.	Any reasonable costs incurred by the decision-maker in considering, processing, registering or otherwise dealing with a proposed development statement, or amendment, are at the applicant's expense.	Costs/ fees and charges.	Consequential amendments of subsidiary legislation setting out fees and charges required.
29.	A development statement ceases to have effect upon termination of a community title scheme.	Termination. NB: separate provisions required, including consent of the WAPC, re termination of community title schemes.	Termination of strata schemes currently dealt with by ss 29C – 31 STA.