



Statutory Planning Committee

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

Tuesday 11 November 2014
9.00 am

Level 2, Room 2.39
One40 William Street
Perth



Tim Hillyard
WAPC Secretary

Please convey apologies to Luke Downes on 6551 9549 or email
luke.downes@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 HILLER	WAPC appointee Schedule 2 clause 4(2)(g)	23/09/2016

Quorum: 5

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
4. Disclosure of interests
5. Declaration of due consideration
6. Deputations and presentations
7. Announcements by the Chairperson of the board and communication from the WAPC
8. Confirmation of minutes
- Tuesday, 28 October 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
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
7509.14.3	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

15. Closure

- Next meetings will be held:

- A combined Policy and Ordinary meeting will be held at 9:00 am on 9 December 2014

Statutory Planning Committee

Minutes
of ordinary meeting 7512
held on Tuesday 28 October 2014

Attendance

Members

Mayor Russell Aubrey	Local government representative
Ms Megan Bartle	WAPC appointee
Ms Sue Burrows	WAPC appointee
Mr Stephen Hiller	WAPC appointee
Mr Ian Holloway	Professions representative
Ms Gail McGowan	Director General, Department of Planning
Ms Elizabeth Taylor	Community representative

Officers

Ms Gail Confait	Department of Planning Policy Officer; Infrastructure, Policy, Projects and Research
Mr Ben Harvey	Director, Policy and Research; Infrastructure, Projects, Policy and Research

Committee Support

Mr Luke Downes	Committee Support Officer - Department of Planning
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7512.1 Declaration of Opening

Due to the absence of the Presiding Member and in accordance with clause 3.6 of the Standing Orders 2009, a member was chosen to preside over the meeting.

**Ms McGowan nominated Ms Taylor.
Ms Taylor accepted the nomination.**

Resolved

Moved by Ms McGowan, seconded by Mr Hiller

That Ms Elizabeth Taylor preside over the meeting of the Statutory Planning Committee in the absence of the Presiding Member.

The motion was put and carried.

Statutory Planning Committee

Minutes
of ordinary meeting 7512
held on Tuesday 28 October 2014

The Presiding Member declared the meeting open at 9.00 am, acknowledged the traditional owners and custodians of the land on which the meeting is taking place and welcomed Members.

7512.2 Apologies

Mr Martin Clifford Regional Minister's nominee (Deputy)

7512.3 Members on Leave of Absence and Applications for Leave of Absence

Mr Glickman and Mr Lumsden have previously been granted leave of absence for the Statutory Planning Committee meeting on 28 October 2014.

7512.4 Disclosure of Interests

Nil.

7512.5 Declaration of Due Consideration

No declarations were made.

7512.6 Deputations and Presentations

Nil.

7512.7 Announcements by the Chairperson of the Board and communication from the WAPC

Ms Taylor advised members of a change in dates for the December meeting on 16 December which will now be combined with the meeting of 9 December and will take place from 9.00 am to 2.00 pm.

7512.8 Confirmation of Minutes

7512.8.1 **Minutes of the Statutory Planning Committee meeting held on Tuesday 14 October 2014**

Resolved

Moved by Mr Holloway, seconded by Mr Hiller

Statutory Planning Committee

Minutes
of ordinary meeting 7512
held on Tuesday 28 October 2014

- 1. To amend the minutes under item 7511.13.1 to change the word “before” to “after” and to also include the sentence “and other action as necessary.” to the end of the paragraph;*
- 2. That the minutes of the Statutory Planning Committee meeting held on Tuesday 14 October 2014 as amended, be confirmed as a true and correct record of the proceedings.*

The motion was put and carried.

7512.9 Statutory Items for Decision

Nil.

7512.10 Policy Items for Discussion/Decision

Nil.

7512.11 Confidential Reports

7512.11.1 Review of Planning Bulletins

Report Number SPC/730

Reporting Officer Director Policy and Research

THIS ITEM IS CONFIDENTIAL

7512.12 Stakeholder Engagement and Site Visits

Nil.

7512.13 General Business

Nil.

Statutory Planning Committee

Minutes
of ordinary meeting 7512
held on Tuesday 28 October 2014

7512.14 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.	14/10/14
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.	14/10/14

7512.15 Closure

The next ordinary meeting is scheduled for 9.00 am on 11 November 2014.

There being no further business before the Committee, the Presiding Member thanked members for their attendance and declared the meeting closed at 9.44 am.

PRESIDING MEMBER _____

DATE _____

INDEX OF REPORTS

Item	Description
9	STATUTORY ITEMS FOR DECISION
C	SUBDIVISIONAL / AMALGAMATIONS
9.1	Modification of Redgum Brook North Local Structure Plan
9.2	East Wanneroo Cell 9 Local Structure Plan No. 57 Amendment 1 - Additional Use 'Plant Nursery'
G	DEVELOPMENTS / SUBDIVISIONAL / SURVEY STRATA
9.3	Proposed Community Use Facility (Crisis Accommodation) - Lot 578 Jecks Street, Rockingham
10	POLICY ITEMS FOR DISCUSSION/DECISION
	Nil.
11	CONFIDENTIAL REPORTS
B	LOCAL OR REGIONAL PLANNING SCHEMES / AMENDMENTS
11.1	City of Cockburn Town Planning Scheme No. 3 – Consolidation
11.2	City of Bayswater Town Planning Scheme 24 Amendment No 55 - for Final Approval
11.3	City of Vincent - Town Planning Scheme No. 1 Amendment No. 36 - for Final Approval
11.4	Shire of Serpentine Jarrahdale Town Planning Scheme No. 2 - Local Planning Scheme Amendment 186 - for Final Approval
11.5	Shire of Denmark Local Planning Scheme No. 3 Amendment 131 – for Final Approval
C	SUBDIVISIONS / AMALGAMATIONS
11.6	Consideration of Approval To Advertise - Forrestfield/High Wycombe Industrial Area Stage 2 Local Structure Plan

E MINOR LOCAL OR REGIONAL PLANNING SCHEMES / LOCAL PLANNING SCHEME AMENDMENTS

11.7 City of Greater Geraldton Local Planning Strategy and Local Planning Scheme No.1 - Revised Scheme Map Area

11.8 Shire of Ravensthorpe - Local Planning Strategy - for Final Endorsement

11.9 Shire of Cranbrook Town Planning Scheme No. 4 Amendment No. 5 - for Final Approval

11.10 Shire of Wongan Ballidu - Consent to Advertise Local Planning Scheme No. 5 and Endorsement of the Local Planning Strategy

G DEVELOPMENTS / SUBDIVISIONAL / SURVEY STRATA

11.11 State Administrative Tribunal: Invitation to Reconsider WAPC Decision to Refuse Development

ITEM NO: 9.1

Modification of Redgum Brook North Local Structure Plan

WAPC OR COMMITTEE: Statutory Planning Committee

REPORTING AGENCY: Department of Planning
REPORTING OFFICER: Senior Planning Officer, Metropolitan South-East
AUTHORISING OFFICER: Planning Director, Metropolitan South
AGENDA PART: C
FILE NO: SPN/0224
DATE: 28 October 2014
REPORT CATEGORY: Statutory
RECOMMENDATION OUTCOME: 1. R
ATTACHMENT(S): 1. Location Plan
2. Byford (District) Structure Plan
3. Existing/Approved Local Structure Plan
4. Proposed Modified Local Structure Plan
REGION SCHEME ZONING: Urban
LOCAL GOVERNMENT: Shire of Serpentine Jarrahdale
LOCAL SCHEME ZONING: Urban Development
LGA RECOMMENDATION(S): Approval subject to modifications
REGION DESCRIPTOR: Metropolitan South-East
RECEIPT DATE: 15 July 2014
PROCESS DAYS: 133 days
APPLICATION TYPE: Final Approval of Modified Local Structure Plan
CADASTRAL REFERENCE: Multiple Lots bounded by Tonkin Highway, Thomas Road

RECOMMENDATION:

That the Western Australian Planning Commission resolves to:

- 1. refuse to approve the modifications to the Redgum Brook North Local Structure Plan in accordance with Clause 5.18.3.10 (b) of the Shire of Serpentine Jarrahdale Town Planning Scheme No. 2 for the following reasons:***
 - The proposal constitutes a major modification which is inconsistent with the material intent and design of the Byford District Structure Plan.***
 - The proposed development is contrary to and would undermine the effective implementation of the Western Australian Planning Commission's State Planning Policy No. 4.2 - Activity Centres for Perth and Peel, specifically:***

- ***does not encourage the establishment of a functional hierarchy for activity centres as part of a long-term and integrated approach to the development of economic and social infrastructure,***
- ***does not increase the density and diversity of housing in and around the centre above the planned location of the Neighbourhood Centre, and***
- ***is likely to undermine the established and planned activity centre hierarchy.***
- ***The proposal does not comply with State Planning Policy 5.4 - Road and Rail Transport Noise and Freight Considerations in Land Use Planning as it will affect the function and efficiency of Thomas Road as a primary freight route.***
- ***The proposal has not adequately addressed the potential impacts of the proposed development to the local road network including Kardan Boulevard.***
- ***The proposed development would prejudice the orderly and proper planning of the area.***
- ***The proposal does not comply with the Shire of Serpentine Jarrahdale Activity Centres Strategy.***

2. *advise the Shire of Serpentine Jarrahdale of its decision accordingly.*

SUMMARY:

The key points relating to the report are as follows:

- The Shire of Serpentine Jarrahdale (the Shire) approved the modified Redgum Brook North Local Structure Plan (LSP) on 23 June 2014 subject to further modifications.
- On the 15 July 2014, the LSP was referred to the Western Australian Planning Commission (WAPC) for final determination in accordance with Clause 5.18.3.9 of the Shire of Serpentine Jarrahdale Town Planning Scheme No. 2, at the applicant's request, without the Shire's approved modifications being undertaken.
- The major modification proposed by the LSP involves the 1.14 hectare portion of the neighbourhood centre at the corner of Thomas Road and San Simeon Boulevard (western side) being relocated to the corner of Thomas Road and Kardan Boulevard (east of Kardan Boulevard), and increased to 2.4 hectares in area (Attachment 1 - Location Plan).

- The proponent has undertaken and provided a Retail Sustainability Assessment to support the proposal, however, the site proposed to accommodate the relocated Neighbourhood Centre is inappropriate and not supported.
- It is recommended that the modification to the LSP be refused by the WAPC.

BACKGROUND:

The Byford District Structure Plan (Byford DSP) covers an urban cell expected to accommodate 30-40,000 people when fully developed (**Attachment 2 - Byford District Structure Plan**). The Byford DSP identifies a Neighbourhood Centre in the north-west of the urban cell which straddles Malarkey Road, with a portion of the centre on the Redgum Brook North LSP area, and a portion on the adjacent site to the east of Malarkey, being Lot 9500 Briggs Road.

The Byford urban cell is predominately zoned 'Urban Development' under the Shire's TPS No. 2, which requires local structure planning to be undertaken for sites prior to further subdivision and development. A LSP to guide the subdivision and development of Lots 9020 and 9029 Thomas Road, Byford, known as Redgum Brook North, was approved in January 2012 (**Attachment 3 - LSP (January 2012)**).

The original LSP proposed residential lots ranging between the densities of R20 and R30, 3.35 hectares of public open space/multiple use corridor, a portion of a local centre site of approximately 1.14 hectares on the western side of Malarkey Road, and two mixed sites of 5,000m² (restricted to 300m² retail) each side of Kardan Boulevard where it intersects with Thomas Road.

A modification to the LSP was lodged with the Shire on 27 September 2013 and generally proposes the following:

- The removal of the approved 1.14 hectare local centre site located in the eastern corner of the LSP area (corner of Thomas Road and Malarkey Road) and conversion of this site to Public Open Space.
- Removal of the 0.4983 hectare mixed use site, located at the corner of Thomas Road and Kardan Boulevard (east of Kardan Boulevard).
- Creation of a 2.4 hectare Neighbourhood Centre site on the corner of Thomas Road and Kardan Boulevard (east of Kardan Boulevard).
- Redesign of the medium density residential lots and road network surrounding the proposed Neighbourhood Centre site (**Attachment 4 - Modified LSP**).

A LSP for Lot 9500 Briggs Road, Byford was received by the Shire on 5 June 2013 which included provision of a 1.5 hectare portion of a Neighbourhood Centre on the eastern side of Malarkey Road at the intersection with Thomas Road (**see Attachment 1**).

In view of the subject application which proposed a modification to the approved LSP and the Lot 9500 Briggs Road LSP showing conflicting locations for the

Neighbourhood Centre, both LSP's were advertised concurrently by the Shire and were determined by the Shire on 23 June 2014.

Redgum Brook North LSP

The Shire approved the modified Redgum Brook North LSP subject to a number of further modifications, however, the determination endorsed, amongst other things, a 2.4 hectare Neighbourhood Centre site of 5,000m² commercial floorspace comprising 4,900m² retail floorspace on the eastern side of Kardan Boulevard at the intersection with Thomas Road.

Lot 9500 Briggs Road LSP

The Lot 9500 Briggs Road LSP was approved subject to the removal of the Neighbourhood Centre site from the LSP map/area.

Both the Redgum Brook North LSP modification and the Lot 9500 Briggs Road LSP have been referred to the WAPC for final approval pursuant to Clause 5.18.3.9 of the TPS No. 2.

LEGISLATION / STRATEGIC PLAN / POLICY:

Legislation Shire of Serpentine Jarrahdale Town Planning Scheme No. 2

Section: Clause 5.18.3.10

Strategic Plan

Strategic Goal: Planning

Outcomes: Planned local communities developing a sense of place.

Strategies: Develop connected and accessible communities.
Improve local planning service capability.

Policy

Number and / or Name: Directions 2031 and Beyond
SPP 3.0 - 'Urban Growth and Settlement'
SPP 4.2 - 'Activity Centres for Perth and Peel'
Liveable Neighbourhoods

GOVERNMENT AND CORPORATE IMPLICATIONS:

Nil.

CONSULTATION:

The modified Redgum Brook North LSP was advertised for a period of 51 days from 11 December 2013 to 31 January 2014. A total of 36 submissions were received, comprising of 15 non-objections/support, 10 submissions raising concerns or providing comment and 26 objections.

Issues raised primarily relate to:

- the proposal to relocate the Neighbourhood Centre wholly within the Redgum Brook North LSP area,
- regional and local traffic concerns pertaining to the proposed location of the Neighbourhood Centre site, and
- potential impacts of the modified LSP on the surrounding equine and residential areas such as interface and amenity concerns due to the relocation of the Neighbourhood Centre.

An assessment of the LSP has been undertaken by the Department of Planning. The primary aspects of the assessment are detailed below.

OFFICER'S COMMENTS:

It is noted that a number of elements are proposed to be modified from the approved Redgum Brook North LSP, however, the relocation of the Neighbourhood Centre to the corner of Kardan Boulevard and Thomas Road remains the main driver for submission of the modified LSP and is, therefore, the aspect of primary importance throughout this assessment.

Strategic Framework

Byford District Structure Plan

The Byford DSP was adopted in 2005 and depicts a Neighbourhood Centre largely within the Redgum Brook Estate adjacent to Malarkey Road but approximately 200 metres south of Thomas Road. The Byford DSP identifies a small portion of the Neighbourhood Centre as falling within the neighbouring Lot 9500 Briggs Road (Lot 9500) and highlights that this location is *"highly accessible from all areas within the northern section of the Structure Plan between Thomas Road and Abernethy Road...the centre is proposed at 5,000m² NLA"*.

There is inherent difficulty in trying to establish retail/commercial land use proportions or entitlements based on a DSP map given the document is intended to offer a degree of flexibility for minor variations. The Redgum Brook North LSP initiated the original proposal to reposition the Neighbourhood Centre from the location 200 metres south of Thomas Road under the Byford DSP, to a more northerly location at the intersection with Thomas Road via the LSP approved in 2012. The Commission supported this modification to the Neighbourhood Centre location on the basis that it met the material intent of the objectives of the Byford DSP, the shift was minor in distance, the centre remained on the same road alignment as predicated under the Byford DSP, and did not alter anticipated traffic volumes in the Byford DSP area in a substantial way.

Under the modified proposal for Redgum Brook North LSP, the Neighbourhood Centre is proposed to be relocated a distance of 700 metres west to an alternative intersection in close proximity of the Tonkin Highway/Thomas Road interchange, and will alter and/or redistribute traffic volumes in the Byford DSP area significantly.

These items are discussed further in the report. It is considered that the modification proposed under the subject LSP is a major variation which should have been considered as a variation to the Byford DSP ahead of being considered under an LSP.

Notwithstanding the above, the Department of Planning has assessed the LSP modification from a broad perspective, having regard to the regional and district-based merit of the proposal, and assessed the legitimacy of reasonableness of assumptions made in the context of the existing and approved Byford DSP.

It is not disputed that the 'straddling' of the Neighbourhood Centre across two independently owned land parcels under the Byford DSP has subsequently led to challenges with the progression of local structure planning for both Redgum Brook North and Lot 9500 Briggs Road. Specifically, this relates to planning for the activity centre/s, as each landowner has sought to include and maximise commercial land within their respective LSP's. However, in view of the existing and approved Byford DSP, it is considered reasonable that the landowners of Lot 9500 Briggs Road have an expectation that some portion of the Neighbourhood Centre would be located on their site. The proposal under the modified LSP to accommodate the entire Neighbourhood Centre is not consistent with the current planning framework which has guided other landowners.

Redgum Brook North LSP (approved January 2012)

The initial Redgum Brook North LSP was approved in January 2012. The LSP depicted a portion of the Neighbourhood Centre being located on the subject site at the corner of Malarkey Road and Thomas Road. Whilst the LSP map did not quantify the size of the Neighbourhood Centre site, Clause 5.2 of the Part 1 Statutory Provisions stated as follows:

"Subdivision and development shall be in accordance with a holistic detailed area plan (DAP), prepared and approved prior to the approval of subdivision or development applications, pursuant to the requirements of State Planning Policy 4.2 - Activity Centres for Perth and Peel. The DAP will be required to investigate and propose the establishment of a coordinated and integrated Local Centre to the east and/or west of Malarkey Road/San Simeon Boulevard. The DAP will be required to demonstrate how the centre satisfies Element 7 of Liveable Neighbourhoods and the following matters:

- *Floorspace;*
- *Land use;*
- *Development requirements;*
- *Traffic and access;*
- *Vegetation retention;*
- *Drainage and water management;*
- *Integration and coordination between different landholdings;*
- *Any other matters deemed relevant by the Shire to ensure an orderly and proper land use and development outcome for the site and surrounds".*

This provision acknowledged that some portion of the Neighbourhood Centre would be located on Lot 9500 Briggs Road, however, required the DAP to resolve the issue of floorspace allocation.

A subdivision application for the creation of the Neighbourhood Centre site/lot on the Redgum Brook North site was approved by the Commission on 30 March 2012 (WAPC Ref: 143077). The size of the Neighbourhood Centre under the approved subdivision was 1.14 hectares. Based on the Byford DSP and the Shire's draft Activity Centres Strategy, the total Neighbourhood Centre was anticipated to have a commercial floorspace of 5,000m². Utilising the standard industry assumption of a 1/5 ratio for total land area to commercial floorspace, the total area of land expected to be allocated across the Redgum Brook North and Lot 9500 Briggs Road sites was approximately 2.5 hectares.

Based on the approved LSP and conditional subdivision approval which allocated 1.14 hectares for the portion of Neighbourhood Centre on the Redgum Brook North site, there was a reasonable assumption made that approximately 1.36 hectares of commercial land was available on Lot 9500 Briggs Road to complete the Neighbourhood Centre node. It is maintained that by virtue of the Redgum Brook North LSP being approved with a subsequent subdivision approval (WAPC Ref 143077) the landowners of Lot 9500 Briggs Road were provided with a reasonable assurance of their approximate commercial land prospects based on these approvals and these estimations should be maintained despite the difficulties in progressing a DAP across the site.

Retail

State Planning Policy No. 4.2 - Activity Centres in Perth and Peel (SPP 4.2)

The purpose of SPP 4.2 is to provide an even distribution of jobs, services and amenities throughout Perth and Peel. The Byford District Activity Centre (Town Centre) is intended to be the highest order centre in the Byford locality in accordance with the hierarchy outlined within SPP 4.2. The Town Centre is existing but currently undersized and immature.

The Byford Town Centre Structure Plan was adopted in February 2014 and is intended to guide the expansion and growth of the Town Centre into a vibrant and sustainable District Centre which offers the level of service, goods and employment expected under SPP 4.2 for the entire Byford Urban Cell. Clause 5.1 of SPP 4.2 iterates this point with the following statement:

"The responsible authority should not support activity centre structure plans or development proposals that are likely to undermine the established and planned activity centre hierarchy".

The neighbourhood centre in northwest Byford is expected to be a 'smaller centre' which supports the Town Centre (District Centre), with a walkable catchment, and which services the convenience needs of the local community.

The applicant has submitted an updated Retail Sustainability Assessment (RSA) to support the proposed relocation of the Neighbourhood Centre with a commercial

(and retail) floorspace maximum of 4,700m², with a supermarket of 3,800m² in view of the objectives of SPP 4.2. The new proposed figure of 4,700m² floorspace reflects the proponents desire to maintain a 5,000m² mixed use site on the western side of Kardan Boulevard with up to 300m² of retail floorspace. The two sites combined would, therefore, form a Neighbourhood Centre of 5,000m² retail floorspace.

The supply and demand analysis within the RSA, which has been based on the Department's information regarding anticipated developments in the Shire over the coming five to ten years, identifies a significant undersupply of retail floorspace within the Shire of approximately 26,000m² as of 2016, with these figures appearing to worsen out to 2031. Conversely, the supermarket floorspace supply appears to meet the anticipated demand, to the extent that there is an oversupply of supermarket floorspace until to 2021 if all anticipated developments in the Shire come on-line as expected. An oversupply of supermarket floorspace, is likely to delay the timing and capability of the Town Centre in the short to medium term.

Whilst the planning framework enables the consideration of a supermarket at the Neighbourhood Centre in the north-west of Byford, the 'split' of the centre across two landholdings under both the Byford DSP and the approved Redgum Brook North LSP essentially prevented easy, viable construction of a single level full-line supermarket on either of the two lots, in this location. The cadastral layout of the Neighbourhood Centre and the need for a DAP across the landholdings to determine, amongst other things, the retail floorspace allocation, was likely to restrict any supermarket in the centre to a 'small format' layout, thereby enabling the Town Centre to be the more attractive and priority location for development.

The location and success of an anchor supermarket in the Town Centre in the short-term is expected to entice other retail and most importantly, non-retail and non-commercial services to locate in the Town Centre, thereby providing significant additional employment and service opportunities to the locality. The RSA states that the estimated impact of the relocated Neighbourhood Centre (with its proposed floorspace configuration) will impact the Byford Town Centre by in excess of 16% of sales. This level of impact is substantial and a significant cause for concern with regard to the protection of the activity centres hierarchy. If the growth and success of the Town Centre is delayed, the Shire is expected to experience a deterioration and diminishment of the role of the Town Centre, likely leading to a loss of service levels for a longer period of time.

Clause 5.2.2 (2) of SPP 4.2 states '*higher density housing should be incorporated within and adjacent to activity centres*', with the SPP promoting increased residential densities within a 200 metre walkable catchment around Neighbourhood Centres. *Liveable Neighbourhoods* (LN) advocates for a walkable catchment of 400 metres around Neighbourhood Centres. Contrary to the assertions made by the applicant, the existing Neighbourhood Centre at the corner of Thomas and Malarkey Roads location provides for the greater residential dwelling yields within the 200 and 400 metre walkable catchments as opposed to the new location. The existing location provides for 136 dwellings compared to 108 dwellings within a 200 metre walkable catchment and 450 dwellings compared to 305 dwellings within the 400m walkable catchment over the new location, being almost a 50% increase.

The Public Transport Authority (PTA) has advised that it prefers the Neighbourhood Centre to remain at the intersection of Thomas and Malarkey Roads given its proximity to the current and planned alignment of bus routes in the area. The Neighbourhood Centre straddling Redgum Brook North and Lot 9500 Briggs Road offered passengers a short walk of approximately 75 metres from planned stops to the centre, as opposed to the new location where the closest stops would be at least 500 metres away or more. The PTA has advised that it is not amenable to amending the route based on any changes to the location of the Neighbourhood Centre.

The proposed relocation of the Neighbourhood Centre is more likely to undermine the activity centre hierarchy, detrimentally affect service levels in the Shire, have a less effective walkable catchment and inferior proximity to the nearest public transport stops. For these reasons, the current planned location straddling the sites either side of Malarkey Road at the intersection at Thomas Road is preferred.

Shire of Serpentine Jarrahdale - Activity Centres Strategy

The Shire adopted its Activity Centres Strategy (the Strategy) in December 2012. The Strategy builds on the principles and objectives outlined in SPP 4.2 to provide a framework for a hierarchical network of centres in the Shire where commercial, retail and employment activities are to be distributed. The Strategy also provide specific role, function and design requirements for each centre. The Strategy identifies two Neighbourhood Centres to be located in Byford, including one within Northwest Byford straddling the sites of Redgum Brook North and Lot 9500 Briggs Road.

The Strategy advocates that neighbourhood and local centres be appropriately located to meet local demands. Whilst the relocated Neighbourhood Centre is 700 metres from the planned location, this increase in distance from the Byford Town Centre and a second planned Neighbourhood Centre in 'The Glades Estate' is negligible with regard to the principle of appropriate centre distribution.

Appendix 3 of the Strategy outlines that the (role and function of the) Northwest Byford Neighbourhood Centre is to be anchored by a small format supermarket of up to 3,000m², with a total floor space allocation of approximately 4,500m², and include medical rooms, commercial space and a provision of local shops and conveniences. The 4,700m² of floorspace located within the Neighbourhood Centre is proposed to be (entirely) capable of retail development. In reality, there may be an office or two provided (non-retail uses), however, it is clear that the Neighbourhood Centre is intended to be dominated by retail floorspace including a 3,800m² supermarket, thereby providing few other commercial or local, community needs.

The Strategy promotes strong bike and walking links between the Neighbourhood Centre and State Primary School and active open spaces. Whilst both proposed locations for the Neighbourhood Centre meet this criteria, the existing location is closer to the planned primary school by several hundred metres which is of consequence with regard to achieving increased biking and walking.

With regard to the District Centre, the Strategy seeks to ensure *"...that Byford is planned and developed to fulfill its future regional role"*, and states that *"Given the distance to larger centres it will be important to retain jobs and retail expenditure. This will be achieved through the delivery of district centres that can reach critical mass thresholds that attract customers, workers and residents and function as microcosms of activity."*

This suggests that any additional commercial and retail floorspace should be directed to the Byford Town Centre to promote the viability of the Shire's district centre. The retention of the Neighbourhood Centre at the Malarkey Road site may assist to manage the size of the Neighbourhood Centre and enable the gradual development of commercial and retail development of this site to guarantee the viability of the Byford Town Centre as per the objectives of the Strategy.

It is clear that the proposed new location of the Neighbourhood Centre does not provide a superior option with regard to meeting the principles and objectives outlined within the Shire's Activity Centres Strategy.

Traffic

Both the existing and planned Neighbourhood Centre locations are adjacent to Thomas Road, an 'Other Regional Road' (ORR) under the Metropolitan Region Scheme. Main Roads Western Australia (MRWA) and the Department of Planning (ILUC - traffic branch) have advised that Thomas Road is expected to be reclassified as a 'Primary Regional Road' (PRR) in the medium-term, which will increase the status and importance of the road.

The Department of Planning is the determining authority on matters pertaining to ORR's, however, it is acknowledged that care and management of the road is vested with the local government. Notwithstanding these arrangements, the Department of Planning (ILUC) was not previously consulted on the modified LSP which proposed the relocation of the Neighbourhood Centre.

Thomas Road is also a Primary Freight Route in accordance with *State Planning Policy 5.4 - Road and Rail Transport Noise and Freight Considerations in Land Use Planning* (SPP 5.4). Main Roads Western Australia (MRWA) provides advice regarding freight routes in the State. The proposed new location of the Neighbourhood Centre is also less than 300 metres from the Tonkin Highway (Primary Regional Road) and Thomas Road interchange under the control of MRWA.

MRWA and the ILUC have raised concerns relating to the Traffic Assessment provided with the modified LSP. Both agencies advise that the assessment does not appear robust for reasons relating to the lack of consistent utilisation of 2031 forecast volumes, failure to stipulate timeframes associated with anticipated traffic volumes, and lack of consideration for intersection treatments and distribution patterns of the ultimate road network within the greater Byford DSP area.

Notwithstanding the deficiencies with the Traffic Assessment provided, both agencies anticipate that traffic signals will be required at the intersection of Kardan Boulevard and Thomas Road to manage the increase in traffic if the Neighbourhood Centre is relocated. However, the Byford Development Contribution Plan (DCP) currently only provides for signalisation at the intersection of Thomas Road and Malarkey Road. It is noted that if the relocation was supported, traffic signals will still be required at the intersection of Malarkey Road and Thomas Road, therefore, the 'relocation' of the traffic signals to Kardan Boulevard will not be funded by the DCP, nor is it a solution supported by MRWA or ILUC.

Despite the ability to require the proponent to be responsible for the full costs associated with signalisation of this intersection, MRWA have advised that they do not support any additional traffic signals along Thomas Road beyond what is already proposed and planned for at the intersection with Malarkey Road. The construction of an additional set of traffic lights on Thomas Roads will compromise the primary function of the freight route which is non-compliant with the objective to "*facilitate the development and operation of an efficient freight network*" in accordance with SPP 5.4.

MRWA has indicated that if the relocation of the Neighbourhood Centre to Kardan Boulevard was supported, a roundabout could be given consideration. The placement of a dual-lane roundabout at this intersection, which meet *Austrroads Guide to Road Design 2011* standards and remains setback at least 5 metres from the bridle trails reserves to the north of Thomas Road, would severely encroach into the proposed Neighbourhood Centre site and mixed use site on the western side of Kardan Boulevard. The additional land requirement may render the site unviable or alternatively, encroach into the proposed residential development within the LSP area.

The Traffic Assessment states that traffic volumes on Kardan Boulevard will increase from 6,700 vehicles per day currently, to over 11,100 vehicles per day upon completion of development within the LSP area. This figure is in excess of the 11,000 vehicle per day maximum that Kardan Boulevard was expected to carry by 2031. By comparison, Malarkey Road/San Simeon Boulevard is expected to carry over 12,800 vehicles per day and is acknowledged as being the main thoroughfare intended to carry traffic from Thomas Road to the Byford Town Centre. If the Neighbourhood Centre is relocated to Kardan Boulevard, the roads will effectively carry similar levels of traffic despite their intended different roles and functions, with the potential for traffic on Malarkey Road/San Simeon to actually reduce below the levels anticipated on Kardan Boulevard. This outcome will negate the road network planning that has been undertaken within the Byford DSP to date.

In view of the anticipated traffic volumes that Kardan Boulevard is expected to carry and acknowledging the need for associated required infrastructure such as bike lanes, and on-street parking, a 30 metre wide road reserve is the preferred width in accordance with *Liveable Neighbourhoods*. Kardan Boulevard is currently 30 metres in width adjacent to the proposed Neighbourhood Centre however this reduces to 25 metres in width south of Fawcett Road. As the land adjacent to Kardan Boulevard south of the proposed Neighbourhood Centre site is completely developed, there is no opportunity to increase Kardan Boulevard beyond the existing 25 metre road reservation. Kardan Boulevard is inadequate to cater for the increased traffic volumes that will be experienced if the Neighbourhood Centre is relocated.

The implications of the proposed modified LSP on the broader road network, particularly the regional roads and district distributors, has not been afforded appropriate consideration by the proponent, who has demonstrated a desire to defer these considerations and resolutions to later planning stages, which is likely to prove problematic. The retention of the Neighbourhood Centre at the corner of Malarkey and Thomas Roads will take advantage of the planned traffic signals as per the planning framework including the DCP and will enable the intersection of the Kardan Boulevard and Thomas Road to remain a channelised intersection as planned for to date.

CONCLUSION:

It is considered that the modifications to the Redgum Brook North LSP are not consistent with the Strategic Planning Framework, State Planning Policy No. 4.2, State Planning Policy 5.4, the Shire's Activity Centre Framework and the Byford District Structure Plan.

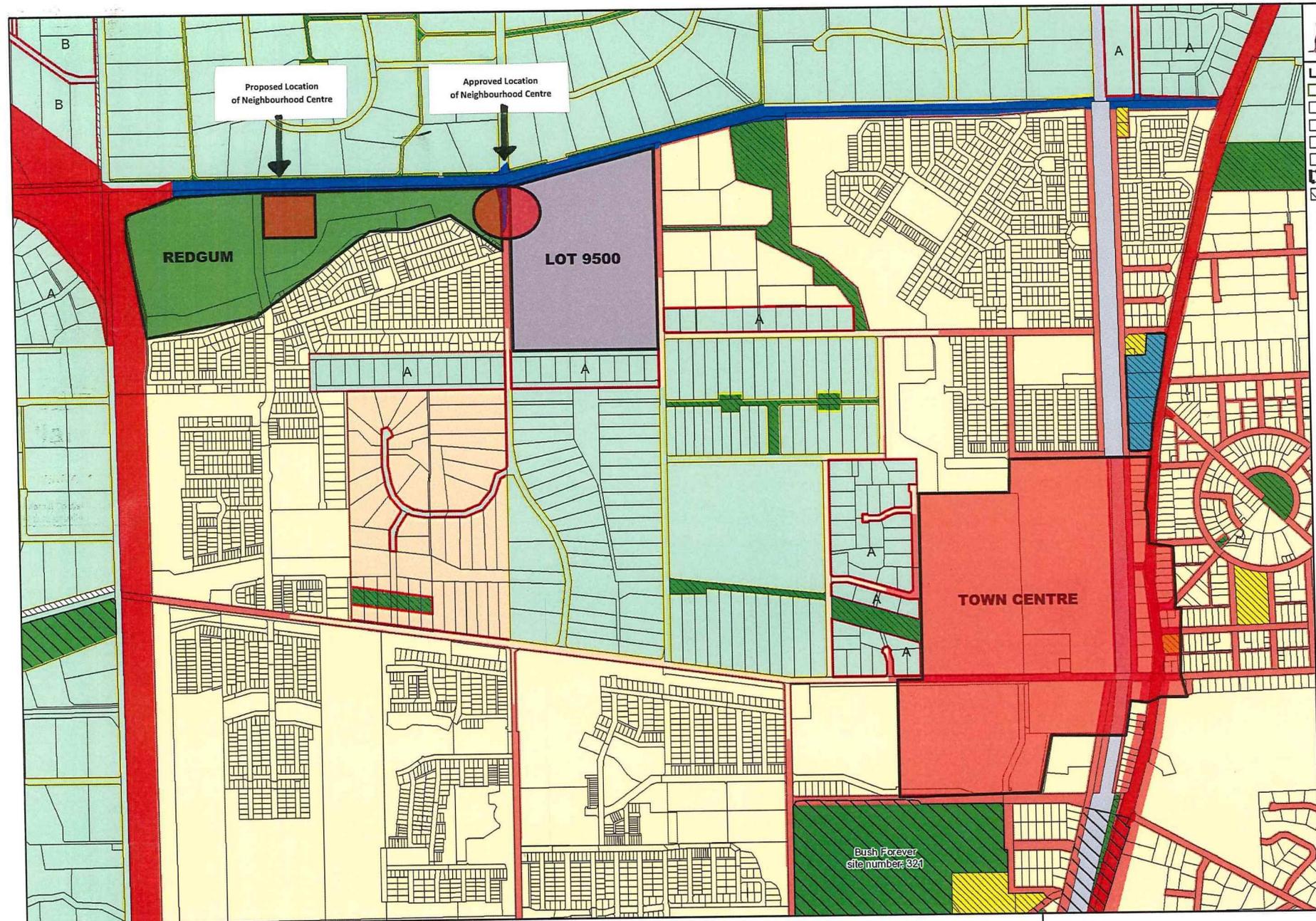
An assessment of the legitimacy of reasonableness of assumptions made in the context of the existing and approved DSP, and to some extent, the (existing) approved Redgum Brook North LSP and associated subdivisions, it is considered reasonable that the landowners of Lot 9500 Briggs Road have an expectation that some portion of the Neighbourhood Centre would be located on their site.

Notwithstanding this assumption, the locational merit of the Neighbourhood Centre at the intersection of Malarkey Road and Thomas Road is superior to that of the intersection of Kardan Boulevard and Thomas Road for reasons including traffic management, traffic dispersion, proximity to schools and public transport nodes, and increased walkable catchments.

The RSA provided by the applicant demonstrates an oversupply of supermarket floorspace in the Shire in the short to medium term and failed to demonstrate the protection of the hierarchy of activity centres as per SPP 4.2. The Byford Town Centre is likely to be significantly impacted by the proposal to relocate the Neighbourhood Centre and altar the intended configuration of the centre. The proposal is likely to result in a loss of employment, goods and services at the Byford Town Centre, diminishing the role of the District Centre for an uncertain period of time, which will be to the detriment of the locality.

For these reasons, it is recommended that the Modifications to the Redgum Brook North Local Structure Plan be refused in accordance with Clause 5.18.3.10 of the Shire of Serpentine Jarrahdale Town Planning Scheme No. 2, thereby reinstating the January 2012 version of the LSP.

- Legend**
- Local Government Area
 - Cadastre (view 1)
 - Cadastre (view 2)
 - Cadastre (view 3)
 - Cadastre (view 4)
 - MRS - Boundary
 - MRS - Bush Forever
 - MRS - Zones and Reserves
 - other regional roads
 - parks and recreation
 - primary regional roads
 - railways
 - rural
 - urban
 - urban deferred

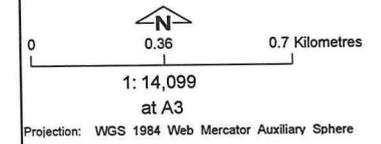


Notes:
The data that appears on the map is out of date, not intended to be at scale displayed, or subject to agreements. This information is the relevant layers metadata. If reasons the map should not be outside of the Department.
Map was produced using DoP's PlanViewWA.

PlanViewWA Map

INTERNAL USE ONLY

Internal Spatial Viewer
[Link to website](#)



Produced by: FUNCTIONALITY 1
Date produced: 29-Ju

ITEM NO: 9.2

East Wanneroo Cell 9 Local Structure Plan No. 57 Amendment 1 - Additional Use 'Plant Nursery'

COMMITTEE: Statutory Planning Committee

REPORTING AGENCY: Department of Planning
REPORTING OFFICER: Senior Planning Officer, Metro Planning North West
AUTHORISING OFFICER: Planning Manager, Metro Planning North West
AGENDA PART: C
FILE NO: SPN/0124M
DATE: 4 November 2014
REPORT CATEGORY: Statutory
RECOMMENDATION OUTCOME: 2. A
3. ADV
ATTACHMENT(S): 1. Proposed amendment
2. Aerial and site photography
3. Metropolitan Region Scheme
4. Local Structure Plan No. 57
5. WAPC Ref 149010
6. Schedule of Modifications
REGION SCHEME ZONING: Urban, Abuts Other Regional Road
LOCAL GOVERNMENT: City of Wanneroo
LOCAL SCHEME ZONING: Urban Development
LGA RECOMMENDATION(S): Adopt
REGION DESCRIPTOR: Metropolitan North West
RECEIPT DATE: 11 July 2014
APPLICATION TYPE: Structure plan amendment
CADASTRAL REFERENCE: Lot 601 Queensway and Lots 60 and 612 Alexander Drive, Landsdale.

RECOMMENDATION:

That the Western Australian Planning Commission resolves to:

- 1. adopt Amendment 1 to the East Wanneroo Cell 9 Local Structure Plan No. 57 subject to the modifications outlined in the Schedule of Modifications appended as Attachment 6;***
- 2. advise the City of Wanneroo of its decision accordingly.***

SUMMARY:

The Western Australian Planning Commission (WAPC) has received a structure plan amendment to include an 'Additional Use - Plant Nursery' for three lots in the East Wanneroo Cell 9 Local Structure Plan No. 57 area in East Landsdale (**Attachment 1 - Proposed Amendment**). The key issues are the impact that plant nursery operations may have on adjoining residential areas.

The proposal is supported for one of the three lots only on the basis that the site contains;

- i. substantial existing development;
- ii. the potential impacts on surrounding residential properties can be managed as acknowledged in an earlier State Administrative Tribunal mediation process;
- iii. the proposal would service surrounding residential areas; and
- iv. this approach is consistent with other similar uses within the locality.

A number of modifications to the proposed amendment are recommended to restrict the additional use to only one lot and to minimise impacts on adjoining residential areas and regional road network (**Attachment 6 - Schedule of Modifications**).

As the proposal is contrary to WAPC policy, the proposal is submitted to the Statutory Planning Committee for determination.

BACKGROUND:

Amendment 1 to the East Wanneroo Cell 9 Local Structure Plan No. 57 (LSP 57) proposes to add 'Additional Use - Plant Nursery' to Lots 601 Queensway and Lots 60 and 61 Alexander Drive, East Landsdale:

- Lot 60 Alexander Drive contains 3 sheds and minor plant propagation infrastructure and Lot 61 Alexander Drive is currently vacant.
- Lot 601 Queensway is currently developed in 3 portions - approximately 1.9ha is developed as a retail nursery, which includes an internal and external display, car parking and an ancillary cafe. 2.9ha is used for propagation purposes and includes 21 greenhouses, sheds, water tanks and open storage areas. The site also contains a single dwelling with about 2000m² curtilage. All development on the site has been approved by the City of Wanneroo (City) (**Attachment 2 - Aerial and site photography**).

The main retail component on Lot 601 Queensway was approved in 1997, when the site was zoned Rural under the Metropolitan Region Scheme (MRS). In 2006, the land was rezoned to Urban in the MRS (**Attachment 3 - Metropolitan Region Scheme**). The landowner made a submission to the MRS amendment at the time, advising of his support to the amendment, subject to the plant nursery use not being compromised by the amendment, which was noted by the Report on Submissions but no further action was taken in this regard. Subsequent to the rezoning, the City commenced the preparation of LSP 57 (**Attachment 4 - LSP 57**). During the advertising of the structure plan, the landowner again made a submission requesting

that the additional use provision be reflected in the structure plan, but this was dismissed on the basis that the use was of a rural nature and not appropriate in an urban setting. LSP 57 was adopted by the WAPC in August 2010.

Aggrieved by the adoption of LSP 57 without an additional use provision for all three sites, the proponent lodged Amendment 1 with the City, and the City resolved not to proceed on the basis that the existing lawful operations on the site were protected by the non-conforming use rights of the City's District Planning Scheme No. 2 (DPS 2), and that permitting an additional use for a Plant Nursery would create a de facto rural zone. The applicant then lodged an application for review with the State Administrative Tribunal (SAT), and following mediation, the City reconsidered its decision and in September 2010 resolved to advertise the proposal. The amendment was subsequently held pending certification of the substantive structure plan.

As the LSP 57 has not been certified since its adoption in 2010 due to a protracted impasse relating to the road network and commercial zoning provisions, the City has resolved to progress the amendment and forward the proposal to the WAPC for assessment. DPS 2 allows the WAPC to adopt the proposed amendment, however the amendment may not be certified until such time as the substantive structure plan has been certified.

LEGISLATION / STRATEGIC PLAN / POLICY:

Legislation	Planning and Development Act 2005
Strategic Plan	
Strategic Goal:	Strategic Goal 2: Planning
Outcomes:	Effective Delivery of Integrated Plans
Strategies:	Implement State and Regional Planning priorities
Policy	
Compliance:	State Planning Policy 3 <i>Urban Growth and Settlement</i>

GOVERNMENT AND CORPORATE IMPLICATIONS:

The proposed amendment does not raise any government or corporate implications.

DETAILS:

Amendment 1 proposes the introduction of a Plant Nursery as an 'Additional Use' on Lot 601 Queensway and Lots 60 and 61 Alexander Drive. Plant Nursery uses are limited to plant propagation and wholesale operations on Lots 60 and 61 Alexander Drive. A number of text provisions to limit the potential impact on the surrounding area are proposed for both sites, including:

- i. a 3m perimeter firebreak,
- ii. a 3m wide vegetated buffer,
- iii. a 7.5m boundary setback for all future development,
- iv. a 50% contribution to boundary fencing,
- v. access restrictions from local residential streets, and
- vi. a sunset clause that would cease the additional use if the land is developed for residential purposes.

CONSULTATION:

The City advertised the proposal for 42 days from 1 March - 12 April 2011. Four submissions were received, all objecting to the proposal. The key issues raised in the submissions relate to the appropriateness of an agricultural type use within the Urban zone and the potential impacts on surrounding properties associated with noise, dust and spray drift and traffic implications including parking and heavy vehicle traffic through residential areas.

OFFICER'S COMMENTS:

Lots 60 and 61 Alexander Drive

Lot 60 contains minor irrigation infrastructure and sheds but is otherwise vacant; while Lot 61 is subject to an approved residential subdivision (WAPC Ref 149010 **Attachment 5**) and is vacant. Both sites are surrounded by residential development, are in a good position to be subdivided and developed for residential purposes and it is therefore not appropriate to be retained for plant nursery purposes. Following discussion with the Department of Planning and the City, the applicant has agreed that the introduction of Plant Nursery on Lots 60 and 61 Alexander Drive should be deleted and will no longer form part of the amendment. A modification to the amendment would be required to give effect to this.

Lot 601 Queensway

Non - Conforming Use

Pursuant to Clause 7.1a of DPS 2, the existing development on Lot 601 enjoys non-conforming use rights. When a non-conforming use building is destroyed or damaged to the extent of at least 75% of its value or has been discontinued for six consecutive months, the non-conforming rights cease. If this were to occur on Lot 601, the plant nursery use on the site would have to cease operations, which the applicant has advised is problematic in terms of insuring the development, notwithstanding the substantial financial investment made on the property. However, consideration of the proposed amendment needs to address the appropriateness of the use continuing over time.

Land Use and Zoning

Throughout the Perth metropolitan area, plant nurseries can be found within established residential areas, generally supported by a 'Special Use' zoning or an 'Additional Use' provision in local planning schemes. Retail plant nurseries such as these support residential populations and are considered appropriate uses in proximity to residential areas, particularly in areas that are experiencing strong growth such as East Landsdale. In this regard, it is noted that Lot 57 Queensway (situated to the north of the subject site) is a fully operational plant nursery with an existing 'Additional Use' right in DPS 2. Lot 601 and Lot 57 are very similar in terms of their proximity to residential areas and together would provide a focal point on the periphery of the urban area providing for gardening and related services.

The existing use on Lot 601 is consistent with the definition of 'Plant Nursery' under DPS2, which is defined as:

"land and/or buildings used for the propagation, nurturing and growing of plants, and where that is the predominant use may include as an incidental use the retail sale of seeds, bulbs, seedlings, shrubs, trees and other nursery stock and additionally plant containers, fertilisers, soil conditioners, weedicides, pesticides sold in bags or other containers, garden implements, sprinklers and home reticulation equipment".

This definition would prevent the introduction of additional retail components to the existing operations and avoid a situation where the plant nursery would become a de facto activity centre.

Given that the location of the plant nursery is complementary to an existing plant nursery and would service surrounding residential areas specifically for this purpose, the proposed use is supported in principle.

Potential impact on surrounding areas

Lot 601 abuts residential lots to the west and the south. The 2.9ha plant propagation component abuts residential properties to the west and south and the 1.9ha retail nursery component abuts residential property to the south. The most common conflicts between market gardens and residential land uses are spray drift, noise, dust and odours, which were the issues raised in submissions to the proposed amendment, with spray drift and dust highlighted as potential impacts on residential uses. Noise and odour are considered to be minimal. In order to mitigate the impact of dust and spray drift, provisions are proposed to ensure a 3m wide vegetated buffer and a 3m firebreak where the property abuts residential development. These measures consistent with mitigation measures considered as part of the review process at the SAT. In addition, shade cloth fence is effective as a barrier to spray drift and the nursery already has a fence constructed for this purpose. A modification is recommended to maintain this fence.

Portions of Lot 601 currently used for plant propagation are setback a minimum of 16m from existing residential areas. It is also noted that City has received no complaints from residents directly abutting the site in relation to the nursery operations.

Sunset Clause

Although the landowner has no intention to develop the site for residential purposes, the proposed amendment includes a sunset clause which allows the Additional Use 'Plant Nursery' to become obsolete if the site is developed for residential purposes. A modification to the existing clause is recommended to ensure that the sunset clause is limited to any part of the site developed for residential purposes. This would allow the partial redevelopment of parts of the site, particularly unused plant propagation areas.

Dividing Fences Act

The proposed amendment includes a provision for a 50% contribution to dividing fencing in accordance with the *Dividing Fences Act 1961*. As this is covered by existing legislation, it is not required as a provision of the structure plan and it is recommended that this provision be deleted.

Traffic and Access

The WAPC's Development Control Policy 5.1 *Regional Roads (Vehicular Access)* (DC5.1) requires that access be minimised onto Other Regional Roads. The proposed amendment includes a provision preventing connection of the plant nursery to the local road network serving residential areas to the west and south, which is supported. However, as this also implies that Alexander Drive and Queensway would be available for access, it is recommended that the proposed access restriction be extended to include the Alexander Drive frontage in accordance with DC5.1.

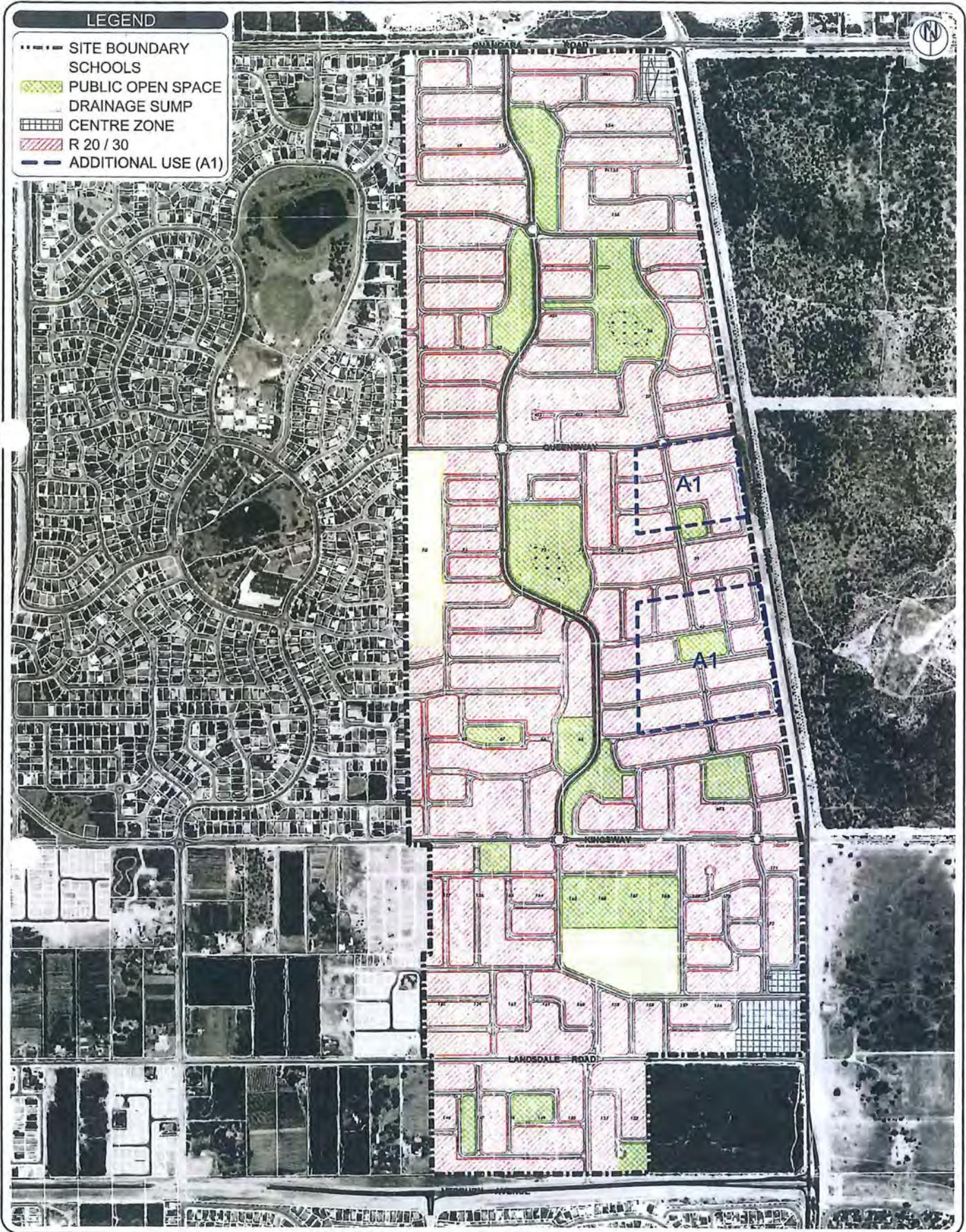
CONCLUSION:

Due to the particular circumstances relating to Lot 601, it is recommended that the proposed Amendment 1 to LSP 57 to allow Plant Nursery as 'Additional Use' be supported due to the following reasons:

- the site contains substantial existing development;
- potential impacts on surrounding residential properties can be effectively managed and this was acknowledged through an earlier SAT mediation process;
- the retail component of the proposal would service surrounding residential areas; and
- this approach is consistent with other similar uses within the locality

Modifications are recommended to align the proposal with relevant legislation and WAPC policy.

The inclusion of lots 60 and 61 Alexander Drive in the amendment is not supported as these sites are more suitable for residential development. Modifications are recommended to exclude these from the amendment.



PROPOSED AMENDMENT TO LOCAL STRUCTURE PLAN
FIGURE 3

ITEM NO: 9.3

Proposed Community Use Facility (Crisis Accommodation) - Lot 578 Jecks Street, Rockingham

WAPC OR COMMITTEE: Statutory Planning Committee

REPORTING AGENCY: Department of Planning
REPORTING OFFICER: Planning Manager, Metropolitan South West
AUTHORISING OFFICER: Director, Metropolitan South West
AGENDA PART: G
FILE NO: 28-50171-1
DATE: October 2014
REPORT CATEGORY: Statutory
RECOMMENDATION OUTCOME: APPROVE

ATTACHMENT(S): 1. Location Plan
2. Development Plans
3. Site and Locality Photographs

REGION SCHEME ZONING: Urban
LOCAL GOVERNMENT: City of Rockingham
LOCAL SCHEME ZONING: Primary Centre Living Zone
LGA RECOMMENDATION(S): Refusal
REGION DESCRIPTOR: Metropolitan South West
RECEIPT DATE: 6 June 2014
PROCESS DAYS: 60
APPLICATION TYPE: Development
CADASTRAL REFERENCE: Lot 578 Jecks Street Rockingham

RECOMMENDATION:

That the Western Australian Planning Commission resolves to approve the development application for a community use facility (crisis accommodation) at Lot 578 Jecks Street Rockingham subject to the following conditions:

- 1. This approval relates to the proposed community use facility (crisis accommodation) as shown on plan numbers SK01, 02 and 03 of 3 Rev C date stamped 6 June 2014 by the Department of Planning.***
- 2. All stormwater being contained on site.***
- 3. The vehicle parking areas, driveway and point of ingress and egress are to be designed, constructed, drained and marked in accordance with AS2890.1.***

SUMMARY:

- The Department of Housing (DoH) is seeking approval for a community use facility (crisis accommodation) comprising of a seven bedroom single-storey unit and two, one bedroom single-storey units (three units in total) at Lot 578 Jecks Street, Rockingham. The facility will be purpose built for, and managed by, Anglicare WA.
- The City of Rockingham (the City) recommends refusal as in its view the proposal constitutes 'Residential' development and does not comply with the residential density provisions of the City's Town Planning Scheme No.2 (TPS2) and the City's Local Planning Policy 3.2.6 – Northern Waterfront Sector.
- The applicant contends that the development can be classified as a 'Community Use' under TPS2 and, therefore, the 'Residential' provisions and local planning policy are not applicable.
- The Western Australian Planning Commission (WAPC) determination is required under the provisions of the Metropolitan Region Scheme (MRS) as the proposal is development that constitutes a public work undertaken by a public authority on zoned land.
- The application has been referred to the WAPC (Statutory Planning Committee) for determination as it is recommended that the application be approved, subject to conditions, this being at variance to the recommendation of the City.

LEGISLATION / STRATEGIC PLAN / POLICY:

Legislation

Section:

Planning and Development Act 2005

Part 10

Strategic Plan

Strategic Goal:

Planning

Outcomes:

Planned Local Communities developing a sense of place
Effective Delivery of Integrated Plans

Strategies:

Develop connected and accessible communities
Implement State and Regional Planning priorities

Policy

Number and / or Name:

State Planning Policy 3 Urban Growth and Settlement
2006

INTRODUCTION:

The DoH is seeking approval to construct a community use facility (crisis accommodation) at Lot 578 Jecks Street, Rockingham, at an estimated cost of \$800,000. The land is currently vacant and has an area of 1012m². **Attachment 1** depicts the location of the development site, **Attachment 2** depicts the proposed

development as a residential design and **Attachment 3** depicts the development site and surroundings.

The facility will provide medium-term (up to three months) housing for up to six teenagers at any one time from the Rockingham area. It will provide a safe refuge to support teenagers experiencing domestic or family violence and other social and health issues. Admissions to the facility will occur twenty four hours, seven days a week. The development is to be managed by the not-for-profit organisation Anglicare WA with staff providing on site supervision twenty four hours a day.

CONSULTATION:

The City advertised the application for a period of 15 days and received one submission of support, stating there is a great need for services to the youth of Rockingham, and fourteen submissions of objection which are summarised as follows:

- Adverse amenity impacts for adjacent residences (noise, safety, commercial use);
- Inconsistent with local planning policy which is advocating higher density development;
- Lack of private open space due to development coverage of site;
- Increased traffic and car parking on street; and
- Loss of property values.

The above matters are discussed under the comments section.

Council at its meeting on the 22 July 2014 resolved to recommend that the WAPC refuse the proposal for the following reasons:

1. The proposed development fails to comply with the minimum density requirement of one dwelling per 180m² of land area required by Town Planning Scheme No.2 in the 'Primary Centre City Living Zone'.
2. The development does not comply with Local Planning Policy 3.2.6 - Northern Waterfront Sector in respect of the following:-
 - (i) Residential Density;
 - (ii) Building Height;
 - (iii) Frontage Types;
 - (iv) Car Parking;
 - (v) Desired Future Character;
 - (vi) Preferred Uses; and
 - (vii) Required Elements (Alexandra Precinct).
3. The applicant has failed to comply with the requirements of Section 6 of the *Planning and Development Act 2005*. (The City contends that the applicant has failed to liaise with the City and the proposal does not have regard to the purpose and intent of TPS2).

COMMENTS:

Clause 30 (1) of the MRS requires the WAPC to have regard to the following factors when determining a development application:

- (i) the purpose for which the land is zoned or reserved under the MRS;
- (ii) the orderly and proper planning of the locality; and
- (iii) the preservation of the amenities of the locality.

The above is informed by the following:

Planning and Development Act 2005

Sections 5 and 6 of the *Planning and Development Act 2005* exempts public authorities of the need to obtain the (separate) approval of the local government under the local planning scheme for a public work. Nevertheless Section 6 requires the applicant to consult with the local government to ensure that the proposal has regard to the purpose and intent of the local planning scheme and orderly and proper planning. On this matter the applicant had advised that consultation was undertaken and subsequently the City advertised the application and has provided its recommendation.

Classification of the Proposed Development under the City of Rockingham Town Planning Scheme No.2

The City is of the view that the development proposal is for 'Residential Building'. Under the Residential Design Codes 2013 (R Codes), the definition of 'Residential Building' is:

'A building or portion of a building, together with rooms and outbuildings separate from such building but incidental thereto; such building being used or intended, adapted or designed to be used for the purpose of human habitation:

- temporarily by two or more persons; or
- permanently by seven or more persons, who do not comprise a single family, but does not include a hospital or sanatorium, a prison, a hotel, a motel or a residential school. '

However the applicant asserts that the development proposal is more appropriately described as a 'Community Use'. Under TPS2 the definition of a 'Community Use' is:

'.....the use of premises designed or adapted primarily for the provision of educational, social or recreational facilities and services by organisations involved in activities for community benefit.' (emphasis added)

The proposal is more akin to a community use to provide emergency, medium term supervised accommodation and services for vulnerable teenagers from the local community. The unit complex is of a residential design and character as evidenced by the development plans.

On this basis, the residential development provisions of the R Codes and the City's local planning policy do not apply to the proposal. The grounds of the City's refusal are therefore not sustained. There are no specific development provisions for a 'Community Use' under the City's TPS2.

Purpose for which the land is zoned under the MRS

The subject land and surrounding area is zoned 'Urban' under the MRS. The proposed community use facility (crisis accommodation) is consistent with the 'Urban' zoning of the MRS.

Orderly and Proper Planning

The City of Rockingham has included Jecks Street in the Primary Centre City Living Zone, which is one of a number of local zones that underpin the planning proposals for the Rockingham Strategic Metropolitan Centre. The Primary Centre City Living Zone is situated adjacent to the Rockingham foreshore and for which a mix of land uses (housing, shopping, employment, community and public uses) can be approved. The Rockingham Council has adopted a local planning policy for the Primary Centre City Living Zone ("North Waterfront Sector"), that recommends a "preference" for medium density multiple dwellings and short stay accommodation in accordance with built form guidelines. The policy is aspirational seeking transformation in the longer term for higher residential densities, with the area at this time consisting mainly of privately owned quarter acre sized lots containing older single dwelling housing stock.

The proposed development is a land use provided for by the Primary City Centre Living Zone and does not prejudice or impair the effective achievement of the local planning policy. In this regard the proposed built form (and the intended community use) remains compatible in the Jecks Street single storey residential environs and would remain so in the event that multiple dwellings and short stay accommodation is developed in the future on adjoining and nearby land.

Preservation of the Amenities of the Locality

Jecks Street is a typical residential street, populated by largely 1950's/1960's single-storey housing stock (refer to Attachment 3). The proposed buildings are single storey residential design and character with sufficient outdoor living space for the intended use of the teenage residents.

Staff will be rostered in shifts so that for the vast majority of the time no more than two staff will be on the site. Once or twice per week there will be up to two additional staff. The facility has been designed to accommodate 5 cars (2 within the double carport, 2 cars behind these in tandem within the setback area plus the additional vehicle parking area/reversing area).

The minimal traffic generated by the proposal will not adversely impact local vehicular traffic and pedestrian movement.

Anglicare WA operates a similar facility in the residential area of Spearwood which was approved by the WAPC in 2012. The facility became operational in 2013 and

has operated with no complaints recorded to date. The proposed facility will be managed in the same manner.

The impact the proposal has on property values is not a valid planning consideration.

CONCLUSION:

The development provides an important community facility to support teenagers in crisis. The development is consistent with the zoning of the land, orderly and proper planning and, subject to an adequate management regime the facility will not adversely affect the amenity of the locality. Accordingly approval, subject to conditions, is recommended.



Legend

- Local Government Area
- Cadastre (view 2)
- Cadastre (view 3)
- Cadastre (view 4)
- W.A. Coastline
- Road Names**
- Road Centrelines**
- State Highway
- Main
- Minor
- Laneway
- Not Applicable
- MRS - Boundary
- MRS - Bush Forever
- MRS - Zones and Reserves**
- central city area
- industrial
- other regional roads
- parks and recreation
- pp - high school
- pp - special uses
- pp - Water Authority of WA
- primary regional roads
- railways
- urban
- waterways



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Kilometres

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at A4

Projection:
WGS 1984 Web Mercator Auxiliary Sphe

Notes:
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Location Plan
Lot 578 Jecks Street

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