



Statutory Planning Committee

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

**Tuesday 24 February 2015
9.00 am**

**Level 2, Room 2.40
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)	31/12/2015
Mr Ian HOLLOWAY	Professions representative Schedule 2 clause 4(2)(e)	31/12/2015
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)	04/12/2016
Ms Sue BURROWS	WAPC appointee Schedule 2 clause 4(2)(g)	31/12/2015
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**
- 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**
- 15. Closure**

INDEX OF REPORTS

Item	Description
9	STATUTORY ITEMS FOR DECISION
<i>G</i>	<i>DEVELOPMENTS / SUBDIVISIONAL / SURVEY STRATA</i>
9.1	Request for Clearance of Condition 12 and Endorsement of Deposited Plan 69273, Lot 9067 The Broadway, Aveley
10	POLICY ITEMS FOR DISCUSSION/DECISION
	Nil.
11	CONFIDENTIAL REPORTS
<i>A</i>	<i>POLICY</i>
11.1	Residential Design Codes Standards for Medium Density Single House Development in Structure Plan Areas
11.2	Amendment to State Planning Policy 3.1 Residential Design Codes – Multiple Dwellings, Parking and other Incidental Changes
<i>B</i>	<i>LOCAL OR REGIONAL PLANNING SCHEMES / AMENDMENTS</i>
11.3	MRS Amendment 1266/57 – Rosehill Golf Course Redevelopment, Report On Submissions
11.4	Proposed MRS (Minor) Amendment - Lot 821 Armadale Road, Banjup and Surrounds (City of Cockburn) Rural - Groundwater Protection Zone to Urban Zone and Primary Regional Roads Reservation (and Water Catchments Reservation)

ITEM NO: 9.1

Request for Clearance of Condition 12 and Endorsement of Deposited Plan 69273, Lot 9067 The Broadway, Aveley

WAPC OR COMMITTEE:	Statutory Planning Committee
REPORTING AGENCY:	Department of Planning
REPORTING OFFICER:	Planning Manager: Metropolitan Planning North East
AUTHORISING OFFICER:	A/Director: Metropolitan Planning North East
AGENDA PART:	G
FILE NO:	142459
DATE:	6 February 2015
REPORT CATEGORY:	Statutory
RECOMMENDATION OUTCOME:	1. Endorse 2. Advise
ATTACHMENT(S):	1. Approved Subdivision Plan 2. Deposited Plan 69273 3. Modified Vale Development Plan 2 4. Aerial Photo 5. Current Vale Development Plan 2
REGION SCHEME ZONING:	Urban
LOCAL GOVERNMENT:	City of Swan
LOCAL SCHEME ZONING:	Special Use - Ellenbrook
LGA RECOMMENDATION(S):	Refusal
REGION DESCRIPTOR:	Aveley
RECEIPT DATE:	16 January 2015
PROCESS DAYS:	21
APPLICATION TYPE:	Deposited Plan
CADASTRAL REFERENCE:	Lot 9067 The Broadway, Aveley

RECOMMENDATION:

That the Western Australian Planning Commission resolves to:

- 1. clear Condition 12, endorse Deposited Plan 69273 for Lot 9067 The Broadway, Aveley and return it to Landgate;*
- 2. advise the City of Swan to initiate a modification to Vale Development Plan 2 to identify Lot 8020 'Reserve for Drainage' on Deposited Plan 69273 as a 'Drainage' reserve as opposed to a 'Local Open Space' reserve.*

SUMMARY:

- Deposited Plan 69273 identifies the approved 7670m² POS reserve as a drainage reserve. The current Vale Development Plan 2 identifies the drainage reserve as 'Local Open Space', specifically 'Neighbourhood Park 3' with an area of approximately 0.77 hectares.
- The City of Swan issued engineering approval for four drainage basins on 22 November 2012. These drainage basins have now been constructed.
- The identification of the approved POS reserve as a drainage reserve will not adversely impact the provision of POS which is in accordance with WAPC policy.
- No objection is raised and it is recommended that the WAPC resolve to clear Condition 12 and endorse Deposited Plan 69273. It is also recommended that the City be advised to initiate a modification to Vale Development Plan 2.

LEGISLATION / STRATEGIC PLAN / POLICY:

Legislation *Planning and Development Act 2005*
Section: Section 145

Strategic Plan
Strategic Goal: Strategic Goal 2: Planning
Outcomes: Effective Delivery of Integrated Plans
Strategies: Implement State and Regional Planning Priorities

Policy
Number and / or Name: Liveable Neighbourhoods
Development Control Policy 2.3 'Public Open Space in Residential Areas'.

INTRODUCTION & BACKGROUND:

On 1 December 2010, the Western Australian Planning Commission (WAPC) conditionally approved an application to subdivide Lot 9029 The Broadway, Aveley into:

- 134 single residential lots ranging in area from 307m² to 593m²;
- a grouped dwelling lot of 5008m²;
- a mixed use lot of 3693m²;
- a public open space (POS) reserve of 7670m²;
- and subdivision roads (**Attachment 1: Approved Subdivision Plan**).

Condition 12 of the WAPC's decision letter dated 2 December 2010 states:

"The proposed reserve(s) shown on the approved plan of subdivision being shown on the Deposited Plan as a "Reserve 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)"

The City of Swan has not cleared Condition 12 and advises that Deposited Plan 69273 is inconsistent with the Structure Plan relating to the subject land. Deposited

Plan 69273 identifies the approved 7670m² POS reserve as a drainage reserve (**Attachment 2: Deposited Plan 69273**). The applicant has requested that the WAPC clear Condition 12 and endorse Deposited Plan 69273 on the basis that it is consistent with the revised Vale Development Plan 2 relating to the subject land.

The Statutory Planning Committee is required to determine the matter as there is no delegation to endorse a deposited plan where it is inconsistent with the approved plan of subdivision.

CONSULTATION:

It is acknowledged that nearby landowners bought into this area expecting POS in this location. These landowners have expressed their concerns about the land being used solely for drainage purposes.

COMMENTS:

Vale Development Plan 2

The Vale Development Plan 2 was originally adopted by the WAPC (subject to modifications) on 6 November 2007 and has since been subject to several modifications which have been adopted by the WAPC.

On 12 November 2012, the WAPC received a modification to Vale Development Plan 2 from the City which proposed to reclassify the approved POS reserve as a drainage reserve and amend the POS schedule accordingly. This modification was required to accommodate overflow stormwater basins which were not permitted within the adjoining Bush Forever Site 22. The modification was advertised by the City for a period of 21 days with no submissions received at the close of advertising. The modification was adopted by the City on 6 November 2012 (**Attachment 3: Modified Vale Development Plan 2**). The City subsequently issued engineering approval for four drainage basins on 22 November 2012 which have now been constructed (**Attachment 4: Aerial Photo**).

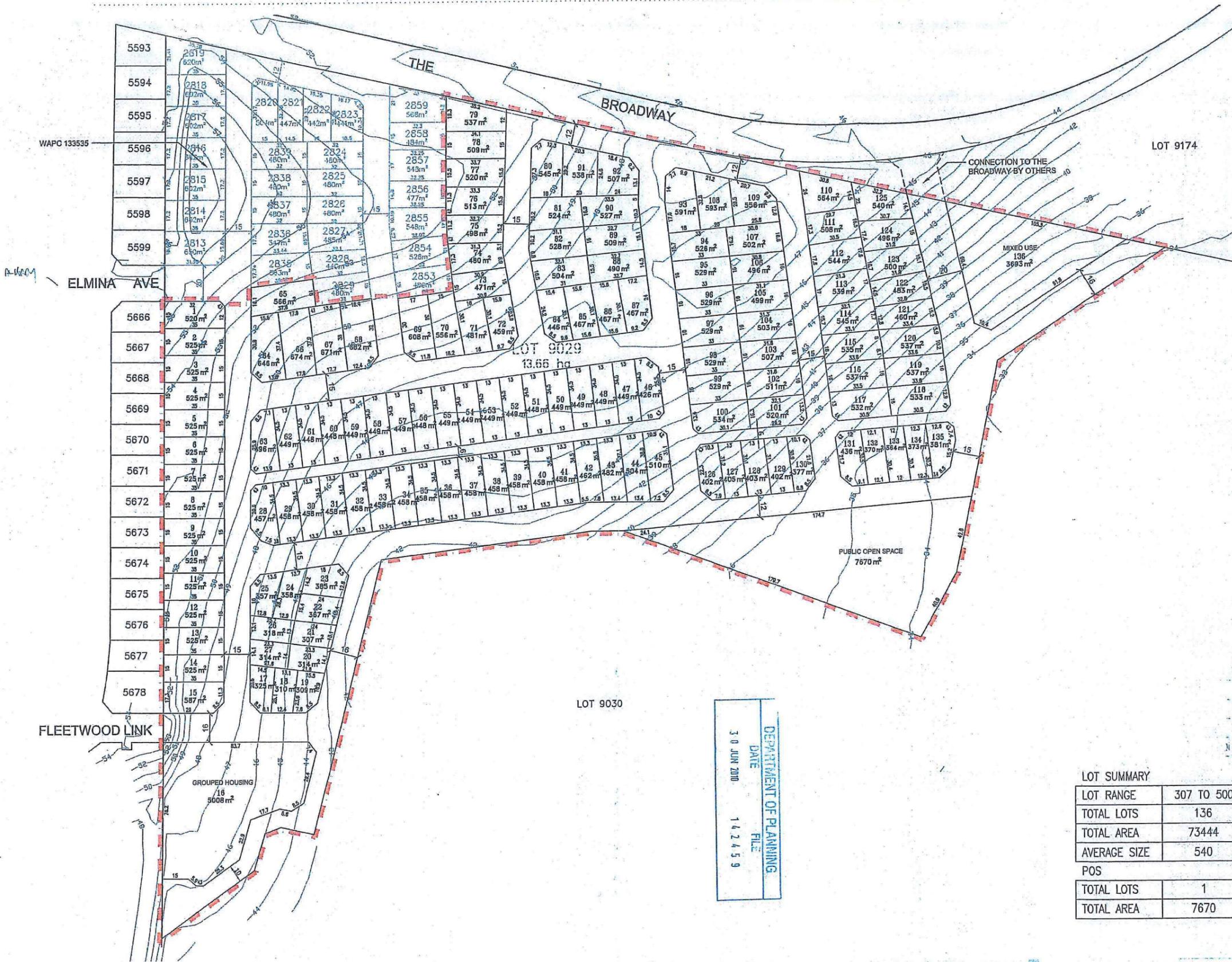
Due to an administrative error, subsequent modifications to Vale Development Plan 2 by the City did not include the reclassified drainage reserve and amended POS schedule. Subsequent advertised and adopted modifications, including the current Vale Development Plan 2 (endorsed by the WAPC on 13 February 2014), depicted the drainage reserve as 'Local Open Space', specifically 'Neighbourhood Park 3' with an area of approximately 0.77 hectares (**Attachment 5: Current Vale Development Plan 2**).

POS Provision

The Vale Development Plan 2 area provides approximately 14.5% of the gross subdivisible area as POS which exceeds the 10% POS requirement of the WAPC's *Liveable Neighbourhoods* policy. The identification of the approved POS reserve as a drainage reserve by Deposited Plan 69273 reduces the provision of POS in the Vale 2 Development Area from 14.5% to approximately 14.0%.

CONCLUSION:

Deposited Plan 69273 is inconsistent with the approved subdivision plan and the current Vale Development Plan 2 both of which identify a POS reserve and not a drainage reserve. It is noted, however, that the City has issued engineering approval for four drainage basins which have now been constructed. Furthermore, the identification of the approved POS reserve as a drainage reserve will not adversely impact the provision of POS which is in accordance with WAPC policy. With this in mind, no objection is raised and it is recommended that the WAPC resolve to clear Condition 12 and endorse Deposited Plan 69273. It is also recommended that the City be advised to initiate an appropriate modification to Vale Development Plan 2.



LOT SUMMARY

LOT RANGE	307 TO 5008
TOTAL LOTS	136
TOTAL AREA	73444
AVERAGE SIZE	540
POS	
TOTAL LOTS	1
TOTAL AREA	7670

DEPARTMENT OF PLANNING
 DATE 30 JUN 2010
 FILE 142459

TOWN PLANNING MASTER PLANNING URBAN DESIGN PROJECT MANAGEMENT

Legend
 SUBJECT SITE
 CONTOURS

date 29/06/2010 job no. 5871 scale 1:1500
 designer D Evans prepared by S Jelicic e-ref 061002
 client

Level 3, 369 Newcastle Street, Northbridge, Western Australia, 6003
 email greg@greg-rowe.com web greg-rowe.com tel +618 9221 1941 fax +618 9221 1919

title proposed subdivision
 address lot 9029 the broadway, avelley
 peel / south west tel +618 9582 0289 email n.andriani@greg-rowe.com
 mid west tel +618 9956 0633 email geraldo@greg-rowe.com
 pilbara tel +618 9173 4333 email porthedland@greg-rowe.com

GREG ROWE & associates
 FOCUSED ON ACHIEVEMENT



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