



Statutory Planning Committee

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

Tuesday 14 April 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**

Statutory Planning Committee

Minutes
of ordinary meeting 7519
held on Tuesday, 24 March 2015

Attendance

Members

Mayor Russell Aubrey	Local government representative
Ms Megan Bartle	WAPC appointee
Ms Sue Burrows	WAPC appointee
Mr Martin Clifford	Regional Minister's nominee (Deputy)
Mr Ray Glickman	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 (Presiding Member)

Officers

Mr Ben Harvey	Director; Infrastructure, Projects, Policy and Research
Mr Emille van Heyningen	Planning Manager; Perth and Peel Planning
Ms Sally Grebe	Manager; Planning Appeals

Presenters

Mr Joe Gangemi	G&G Corporation (Item 6.1 for item 9.1)
Mr George Hajigabriel	Rowe Group (Item 6.1 for item 9.1 and 6.5 for Item 11.2)
Mr Paul McQueen	Lavan Legal (Item 6.2 for Item 9.1 and Item 6.4 for Item 11.2)
Mr Keith Ellis	Darling Downs Residents Association (Item 6.3 for Item 9.1)
Ms Sandra Hawkins	Darling Downs Residents Association (Item 6.3 for Item 9.1)
Mr Ray Jackson	Goldrange Pty Ltd and Green Park Asset Pty Ltd (Item 6.4 for Item 11.2)
Mr Brian McCubbing	BMC Properties (Australia) Pty Ltd (Item 6.5 for Item 11.2)

Committee Support

Mr Luke Downes	Committee Support Officer - Department of Planning
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7519.1 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.**

Statutory Planning Committee

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of ordinary meeting 7519
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7519.4 Disclosure of Interests

Member/Officer	Minute No.	Page No.	Nature of Interest
Ms Burrows	7519.11.2	7	Impartiality

Resolved

Moved by Ms Bartle, seconded by Mr Hiller

In accordance with clause 6.10(7) of the Standing Orders 2009, members of the Statutory Planning Committee agreed that Ms Burrows, who has disclosed an impartiality interest, is permitted to participate in discussion but not vote on item 7519.11.2, Proposed Amendments 3, 4 and 5 to the Drovers Place Precinct Structure Plan No. 80.

The motion was put and carried.

7519.5 Declaration of Due Consideration

No declarations were made.

7519.6 Deputations and Presentations

7519.6.1 In Principle Support to Lot 9500 Briggs Road Local Structure Plan

Presenter Mr George Hajigabriel, Rowe Group

Mr Hajigabriel made a presentation to the Committee and answered questions from members.

7519.6.2 In Principle Support to Lot 9500 Briggs Road Local Structure Plan

Presenter Mr Paul McQueen, Lavan Legal

Mr McQueen made a presentation to the Committee and answered questions from members. Mr McQueen tabled an item titled "Paul McQueen (Lavan Legal) Thomas Road map". A copy has been placed on file.

7519.6.3 In Principle Support to Lot 9500 Briggs Road Local Structure Plan

Presenter Mr Keith Ellis, Darling Downs Residents Association

Statutory Planning Committee

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Mr Ellis made a presentation to the Committee and answered questions from members. Mr Ellis tabled an item titled "Trails at Byford Sunday, 22 March, 2015", "Malarkey" and "Malarkey Looking Back to Thomas". Copies have been placed on file.

7519.6.4 **Proposed Amendments 3, 4 and 5 to the Drovers Place Precinct Structure Plan No. 80**

Presenter Mr Paul McQueen, Lavan Legal

Mr McQueen made a presentation to the Committee and answered questions from members.

7519.6.5 **Proposed Amendments 3, 4 and 5 to the Drovers Place Precinct Structure Plan No. 80**

Presenter Mr George Hajigabriel, Rowe Group; Mr Brian McCubbing, BMC Properties (Australia) Pty Ltd

Mr Hajigabriel and Mr McCubbing made a presentation to the Committee and answered questions from members. Mr McCubbing tabled an item titled "Deputation to 24 March 2015 Meeting of SPC Proposed Amendment to Drover's Place LSP". A copy has been placed on file.

Ms Bartle left the room at 10.25 am and returned at 10.27 am.

7519.7 **Announcements by the Chairperson of the Board and communication from the WAPC**

Nil.

7519.8 **Confirmation of Minutes**

7519.8.1 **Minutes of the Statutory Planning Committee meeting held on Tuesday, 10 March 2015**

Resolved

Moved by Mayor Aubrey, seconded by Mr Hiller

That the minutes of the Statutory Planning Committee meeting held on Tuesday, 10 March 2015, be confirmed as a true and correct record of the proceedings.

The motion was put and carried.

Statutory Planning Committee

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of ordinary meeting 7519
held on Tuesday, 24 March 2015

7519.8.2 Ratification of Minutes of the Statutory Planning Committee meeting held on Tuesday, 10 February 2015

Resolved

Moved by Ms McGowan, seconded by Mayor Aubrey

That the minutes of the Statutory Planning Committee meeting held on Tuesday, 10 February 2015, be confirmed as a true and correct record of the proceedings.

The motion was put and carried.

7519.9 Statutory Items for Decision

7519.9.1 In Principle Support to Lot 9500 Briggs Road Local Structure Plan

File SPN/0329
Report Number SPC/800
Agenda Part C
Reporting Officer Senior Project Planner

Members agreed to remove recommendation 2 and to amend recommendation 1 with reference to determining the matter after advertising.

Officer's Recommendation

That the Western Australian Planning Commission resolves to:

1. provide in principle support to the Lot 9500 Briggs Road Local Structure Plan subject to the schedule of modifications as outlined in Attachment 2 - Schedule of Modifications;
2. provide delegation to the Planning Director - Metropolitan South to determine the Local Structure Plan in accordance with the position of the Statutory Planning Committee providing no substantial new issues are raised during the re-advertising of the Local Structure Plan;
3. advise the State Administrative Tribunal and Shire of Serpentine Jarrahdale of its position accordingly.

Statutory Planning Committee

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Resolved

Moved by Mr Glickman, seconded by Ms McGowan

That the Western Australian Planning Commission resolves to:

- 1. advise the State Administrative Tribunal of its support for Lot 9500 Briggs Road Local Structure Plan as outlined in Attachment 4 plan 7769-L – subject to the Schedule of Modifications as outlined in Attachment 2 however, will formally determine the matter after advertising;*
- 2. advise the State Administrative Tribunal and Shire of Serpentine Jarrahdale of its position accordingly.*

The motion was put and carried.

7519.9.2

City of Greater Geraldton Public Open Space Strategy - Certification

File DP/12/00269
Report Number SPC/801
Agenda Part E
Reporting Officer Planning Manager, Central Regions

Resolved

Moved by Ms Bartle seconded by Mr Holloway

That the Western Australian Planning Commission resolves to endorse the City of Greater Geraldton Public Open Space Strategy (date stamped 11 December 2014) as being consistent with Regulation 12A(3) of the Town Planning Regulations 1967 (as amended) subject to the modifications outlined in the attached schedule (Attachment 3) being carried out.

The motion was put and carried.

7519.10 Policy Items for Discussion/Decision

Nil.

Statutory Planning Committee

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of ordinary meeting 7519
held on Tuesday, 24 March 2015

7519.11 Confidential Reports

7519.11.1 Residential Design Codes Standards For Medium Density Single House Development In Structure Plan Areas

File N/A
Report Number SPC/802
Agenda Part A
Reporting Officer Planning Manager, Urban Policy & Urban Development Coordinator, OL&HS

THIS ITEM IS CONFIDENTIAL

7519.11.2 Proposed Amendments 3, 4 and 5 to the Drovers Place Precinct Structure Plan No. 80

File SPN/0125M-3
SPN/0125M-4
SPN/0125M-5
Report Number SPC/803
Agenda Part C
Reporting Officer Planning Manager - Metropolitan Planning North West

Ms Burrows disclosed an interest.

Member	Nature of Interest
Ms Burrows	Impartiality

THIS ITEM IS CONFIDENTIAL

Ms Burrows disclosed an interest, took part in discussion but did not vote on this item.

7519.12 Stakeholder Engagement & Site Visits

Members agreed at an earlier meeting that a site visit to the Swan Valley policy area has been scheduled.

A site visit to Madora Bay has also been scheduled.

7519.13 Urgent Business

Nil.

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7519.14 Items for Consideration at a Future Meeting

Item No	Report	Request	Report Required
7510.7	Legal Services' review of delegations	Report to be presented to the Committee	TBA
7515.14.1	DAP report	Establishment report to be presented to the Committee	TBA
7517.14.1	Building Codes	To be discussed at a future meeting of the Committee	TBA
7517.14.2	Sub-Regional Planning Frameworks	A presentation to be made to the Committee at a future meeting	TBA
7519.14.1	Housing Choice by Construction	Member Ian Holloway to present (20 minutes) to the next SPC meeting "Housing Choice by Construction"	14/04/2015

7519.15 Closure

The next ordinary meeting is scheduled for 9.00 am on 14 April 2015.

There being no further business before the Committee, the Presiding Member thanked members for their attendance and declared the meeting closed at 11.22 am.

PRESIDING MEMBER _____

DATE _____

INDEX OF REPORTS

Item	Description
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<i>C</i>	<i>SUBDIVISIONAL / AMALGAMATIONS</i>
9.1	Subdivision to Create Two Rural Lots at Lot 29 Blair Road, Oakford
9.2	Subdivision to Create Two Rural Lots at Lot 85 South Western Highway, Serpentine
9.3	Endorsement of Bentley Regeneration Local Structure Plan
<i>F</i>	<i>MINOR LOCAL OR REGIONAL PLANNING SCHEMES / LOCAL OR REGIONAL PLANNING SCHEME AMENDMENTS</i>
9.4	Management Plan - Perth Rectangular Stadium (Formerly Perth Oval)
<i>G</i>	<i>DEVELOPMENTS / SUBDIVISIONAL / SURVEY STRATA</i>
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9.6	Five Three-Bedroom Dwellings and Two Two-Bedroom Dwellings for the Department of Housing at Lot 2 Kirkus Road Medina
9.7	Application to Construct Two (2) Single Storey Grouped Dwellings at Lot 33 (407) Orrong Road, Kewdale
9.8	Application to Construct Three (3) Two Storey Grouped Dwellings at Lot 32 (No. 409) Orrong Road, Kewdale
9.9	Subdivision: to Create 5 Lots and Common Property for Residential Purpose - Lot 44 Salisbury Road, Midvale
9.10	Subdivision of One (1) Lot to Create Two Residential Lots in a Dual Coded Area (R10/20) - Lot 236 Rochdale Road, Mount Claremont
9.11	Subdivision of One Lot to Create Two Residential Lots in Dual Coded Area - Lot 206 Mayfair Street, Mount Claremont
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10 POLICY ITEMS FOR DISCUSSION/DECISION

A POLICY

- 10.1 City of Fremantle Residential Design Local Planning Policy to Vary State Planning Policy 3.1 Residential Design Codes

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A POLICY

- 11.1 Improvement Scheme - Ashburton North Strategic Industrial Area - Initiation

B LOCAL OR REGIONAL PLANNING SCHEMES / AMENDMENTS

- 11.2 City of Stirling Local Planning Scheme No. 3 Amendment 43 - for Final Approval

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

- 11.3 Shire of Murray - Local Planning Scheme No. 4 Amendment 274 - for Final Approval

- 11.4 Shire of Halls Creek - Consent to Advertise Local Planning Strategy

- 11.5 Shire of Irwin Local Planning Scheme No. 5 - Omnibus Amendment 16 (Omnibus) - for Final Approval

G DEVELOPMENTS / SUBDIVISIONAL / SURVEY STRATA

- 11.6 State Administrative Tribunal Review: Invitation to Reconsider Decision for Commercial Vehicle Parking and Outbuilding at Lot 20 Padbury Avenue, Herne Hill

ITEM NO: 9.1

Subdivision to Create Two Rural Lots at Lot 29 Blair Road, Oakford

WAPC OR COMMITTEE:	Statutory Planning Committee
REPORTING AGENCY:	Department of Planning
REPORTING OFFICER:	A/Manager Metropolitan South East
AUTHORISING OFFICER:	Planning Director, Metropolitan South
AGENDA PART:	C
FILE NO:	151197
DATE:	27 March 2015
REPORT CATEGORY:	Statutory
RECOMMENDATION OUTCOME:	1. Approve, subject to Conditions
ATTACHMENT(S):	Attachment 1: Location Plan and LGA Zoning Attachment 2: Subdivision Plan Attachment 3: Rural Strategy Review 2013 Attachment 4: Rural Strategy (1994) - As Amended 2003
REGION SCHEME ZONING:	Rural
LOCAL GOVERNMENT:	Shire of Serpentine Jarrahdale
LOCAL SCHEME ZONING:	Rural
LGA RECOMMENDATION(S):	Refusal
REGION DESCRIPTOR:	Metropolitan South East
RECEIPT DATE:	18 December 2014
PROCESS DAYS:	99 days
APPLICATION TYPE:	Subdivision
CADASTRAL REFERENCE:	Lot 29 Blair Road, Oakford

RECOMMENDATION:

That the Western Australian Planning Commission resolves to approve the application for subdivision of Lot 29 Blair Road, Oakford subject to the following conditions:

Road and Movement Network

- 1. Suitable arrangements being made with the local government for the provision of vehicular crossover(s) to service the lot(s) shown on the approved plan of subdivision. (Local Government)***
- 2. The proposed access way being constructed and drained at the landowner/applicant's cost to the specifications of the local government. (Local Government)***

Drainage

- 3. Prior to the commencement of subdivisional works, the landowner/applicant is to provide a pre-works geotechnical report certifying that the land is physically capable of development or advising how the land is to be remediated and compacted to ensure it is capable of development; and**

In the event that remediation works are required, the landowner/applicant is to provide a post geotechnical report certifying that all subdivisional works have been carried out in accordance with the pre-works geotechnical report. (Local Government).

Subdivision Works

- 4. All buildings and effluent disposal systems having the necessary clearance from the new boundaries as required under the relevant legislation including the Local Planning Scheme and Building Regulations of Australia. (Local Government)**
- 5. Prior to commencement of subdivisional works, a detailed plan identifying building envelope(s) on all lots on the approved plan of subdivision is to be prepared in consultation with the local government to ensure the appropriate siting of development, to the satisfaction of the Western Australian Planning Commission. (Local Government)**

Servicing

- 6. A fire management plan being prepared, approved and relevant provisions implemented during subdivisional works, in accordance with the WAPC's Guideline Planning for Bushfire Protection Edition 2, May 2010 (in particular Appendix 3) to the specifications of the local government and/or the Department of Fire and Emergency Services. (Local Government)**

- 7. A notification, pursuant to section 70A of the Transfer of Land Act 1893 is to be placed on the certificate(s) of title of the proposed lot(s). Notice of this notification is to be included on the diagram or plan of survey (deposited plan). The notification is to state as follows:**

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

- 8. A notification, pursuant to Section 70A of the Transfer of Land Act 1893 is to be placed on the certificate(s) of title of the proposed lot(s). Notice of this notification is to be included on the diagram or plan of survey (deposited plan). The notification is to state as follows:**

'A reticulated sewerage service is not available to the lot/s.' (Local Government)

9. ***A notification, pursuant to Section 70A of the Transfer of Land Act 1893 is to be placed on the certificate(s) of title of the proposed lot(s). Notice of this notification is to be included on the diagram or plan of survey (deposited plan). The notification is to state as follows:***

'A mains potable water supply is not available to the lot/s.' (Local Government)

10. ***Arrangements being made to the satisfaction of the Western Australian Planning Commission and to the specification of Western Power for the provision of an underground electricity supply to the lot(s) shown on the approved plan of subdivision. (Western Power)***
11. ***Suitable arrangements being made with the Water Corporation for the drainage of the land either directly or indirectly into a drain under the control of that body. (Water Corporation)***

Miscellaneous

12. ***The landowner/applicant shall provide a written undertaking to the satisfaction of the Western Australian Planning Commission to advise prospective purchasers of the provisions of the local government's local planning scheme that relate to the use and management of the land. (Local Government)***
- 13 ***Measures being taken to ensure the identification and protection of any vegetation on the site worthy of retention that is not impacted by subdivisional works, prior to commencement of subdivision works. (Local Government)***

ADVICE:

1. ***In regard to Condition 4 the Western Australian Planning Commission will accept building clearance requirements as specified in the relevant local planning scheme operative at the time the subdivision approval was granted by the Western Australian Planning Commission.***
2. ***In regard to Condition 10, Western Power provides only one underground point of electricity supply per freehold lot.***
3. ***In regard to Condition 11, the landowner/applicant shall make arrangements with the Water Corporation for the provision of the necessary services. On receipt of a request from the landowner/applicant, a Land Development Agreement under Section 83 of the Water Services Act 2012 will be prepared by the Water Corporation to document the specific requirements for the proposed subdivision.***
4. ***The Shire of Serpentine Jarrahdale advises that a rain water tank of 120,000 litres should be provided.***

ADVICE TO LOCAL GOVERNMENT

- 1. The Shire's reasons for refusal and the existing zoning of the subject lot are acknowledged. However, the Shire is advised that this application has been approved given the designation of the land as Rural Living B in the Shire's Rural Strategy (1994) - As Amended 2003.***

SUMMARY:

An application has been received for the subdivision of Lot 29 Blair Road, Oakford into two lots of approximately 2 hectares. The lots are zoned Rural under the Shire of Serpentine Jarrahdale Town Planning Scheme No.2 (TPS 2).

Although the subdivision is inconsistent with the 40 hectare minimum lot size specified under TPS 2, the WAPC has previously approved similar subdivisions where they are otherwise consistent with the land use designation under the Shire's adopted Rural Strategy (1994) - As Amended 2003 and the draft Rural Strategy Review 2013.

The current application is forwarded to the SPC for a directive as to whether the continued approval of such applications under delegated authority is acceptable. This is in light of work currently being undertaken as part of the Strategic Assessment of the Perth and Peel Regions (SAPPR) and the Western Australian Planning Commission's (WAPC) resolution on 25 March 2014 to "*not support local planning strategies/ rural strategies and planning scheme amendments involving proposals for additional rural residential development until such time as the SAPPR and sub-regional structure plans have been finalised*". Correspondence to affected local governments also advised that "*there may be a need to review some areas of proposed rural residential development identified in endorsed local planning strategies/ rural strategies*".

LEGISLATION / STRATEGIC PLAN / POLICY:

Legislation

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

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: State Planning Policy 2.5 - Land Use Planning in Rural Areas
Development Control Policy 1.1 Subdivision of Land - General Principles
Development Control Policy 3.4 Subdivision of Rural Land

INTRODUCTION:

The subject land is zoned 'Rural' under the Metropolitan Region Scheme (MRS) and 'Rural' under the Shire of Serpentine Jarrahdale Town Planning Scheme No. 2 (TPS 2) (**Attachment 1 - Location and Zoning Map**).

The application proposes the freehold subdivision of a 4.63 hectare lot into two lots of 2 hectares and 2.63 hectares (**Attachment 2 - Plan of Subdivision**).

The site is identified as 'Rural Living B' in the Shire's endorsed Rural Strategy (1994) - As Amended 2003 and the draft Rural Strategy Review 2013 . The Rural Living B zone provides for lots of between 2 hectares and 4 hectares.

CONSULTATION:

The Shire of Serpentine Jarrahdale recommends that the application be refused for the following reasons (*in summary*):

- The proposed subdivision is not consistent with the Rural zoning under the Shire's Town Planning Scheme.
- The subject site is within the 'Rural Living B' policy area in the Shire's Rural Strategy Review 2013 which is yet to be endorsed by WAPC. Officers have considered not to support the proposal given the current 'Rural' zoning and the WAPC's current position on rural strategies and scheme amendments, which states the following:

"WAPC will not support local planning strategies/rural strategies and planning scheme amendments involving proposals for additional rural residential development until such time as the SAPRP and sub-regional structure plans have been finalised to provide the strategic framework to consider the proposals within."

Western Power and Water Corporation have no objection, subject to standard servicing conditions. In this regard it is noted that a connection to electricity services is required, however, connection to a potable water supply and reticulated sewerage service is not available in this area at this time.

Department of Parks and Wildlife has no objection.

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

COMMENTS:

Town Planning Scheme No.2

The proposed lots do not comply with Clause 5.10.4 of TPS 2 which specifies a minimum lot size of 40 hectares. TPS 2 was adopted in 1989 and has not been subject to significant review or consolidation since that time.

While the subject lot is zoned 'Rural' it has been identified as 'Rural Living B' in the Shire's adopted Rural Strategy (1994) - As Amended 2003. The Rural Living B

allocation allows for lot sizes of between 2 hectares to 4 hectares, consistent with the equivalent zoning under the Scheme.

The Shire has previously advised that such areas should be rezoned under TPS 2 to a 'Rural Living B' classification ahead of any subdivision or development reflecting the minimum requirements of this zoning. Notwithstanding, the Shire has not pursued any action to ratify the Rural Strategy either through a scheme review or amendment.

The Shire's most recent Rural Strategy Review 2013, has been endorsed by the Shire, but not by the Commission, pending the outcomes of the SAPPR process. The draft Rural Strategy Review 2013 maintains a Rural Living B designation over the subject site.

Reticulated Water Supply

State Planning Policy 2.5 - Land Use Planning in Rural Areas (SPP 2.5) aims to support both rural and rural living land uses to cater for the existing and future needs, minimising any potential for land use conflict. Section 5.6 of SPP 2.5 provides policy measures to be applied to decision making for rural living proposals, which includes the provision of a reticulated (water) supply to lots below 4 hectares.

The Water Corporation have advised that a reticulated water supply is not available in the area; however, existing land uses in the vicinity have demonstrated that a sufficient, sustainable, fit for purpose water source is available to new lots through rainwater capture.

A condition of subdivision will include a requirement for a notification to be placed on the certificate of titles advising prospective purchasers that no reticulated water supply is available. Furthermore, the Shire's TPS 2 requires provision of a minimum capacity rain water tank which will be applied as part of the building permit process for new lots.

History of Similar Subdivisions

The Commission has approved numerous applications to create 2 hectare lots within the Rural zone where the lots are identified within the 'Rural Living B' area in the Rural Strategy (1994) - As Amended 2003, contrary to the Shire's recommendation.

In the period 1997 to 2000, three applications (WAPC Reference: 104397, 110616 and 113700) located in the Blair Road 'precinct', Oakford were refused by the Commission, but subsequently upheld on appeal to the Minister. A further application (WAPC Reference: 115523) was refused in 2001, and was subject to a State Administrative Tribunal review. As part of this process it was deemed that the Minister's prior determinations had the effect of establishing a precedent for 2 hectare lots and that there may be a need to reassess the zoning and objectives of the area. On this basis the Commission subsequently resolved to support the application under appeal and since that time all further applications within the Blair Road 'precinct' have been approved. In total 25 lots have been subdivided, not including this proposed lot.

Similar circumstances have occurred within the Master's Road 'precinct' in Darling Downs which is currently zoned Rural but nominated for Residential and Stable

(minimum 2 hectares) in the Rural Strategy. In this area the Commission has supported the subdivision of 13 lots to create lots of approximately 2 hectares each based upon the prevailing lot size and the precedent set in Blair Road.

Strategic Assessment of Perth and Peel Regions (SAPPR) Process and Rural Residential Lots

As part of the SAPPR a report was presented to the WAPC in March 2014 regarding the number of existing lots zoned or identified as 'Rural Residential' (between one and four hectares) within the Perth Metropolitan Region.

An outcome of the WAPC's consideration of this report was correspondence to local government authorities stating:

"the WAPC will not support local planning strategies/rural strategies and planning scheme amendments involving proposals for additional rural residential development until such time as the SAPPR and sub-regional structure plans have been finalised to provide the strategic framework to consider the proposals within."

Given this outcome, the Department has been unable to provide 'in-principle' support for the Shire's draft Rural Strategy Review 2013, pending the outcomes of the SAPPR.

CONCLUSION:

The Shire of Serpentine Jarrahdale Town Planning Scheme No. 2 identifies the subject lot as 'Rural'. Notwithstanding, the site has been identified as 'Rural Living B' in both the adopted Rural Strategy and the draft Rural Strategy Review 2013, which provides for lots of between 2 hectares to 4 hectares.

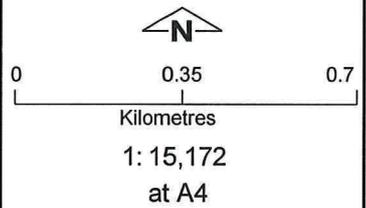
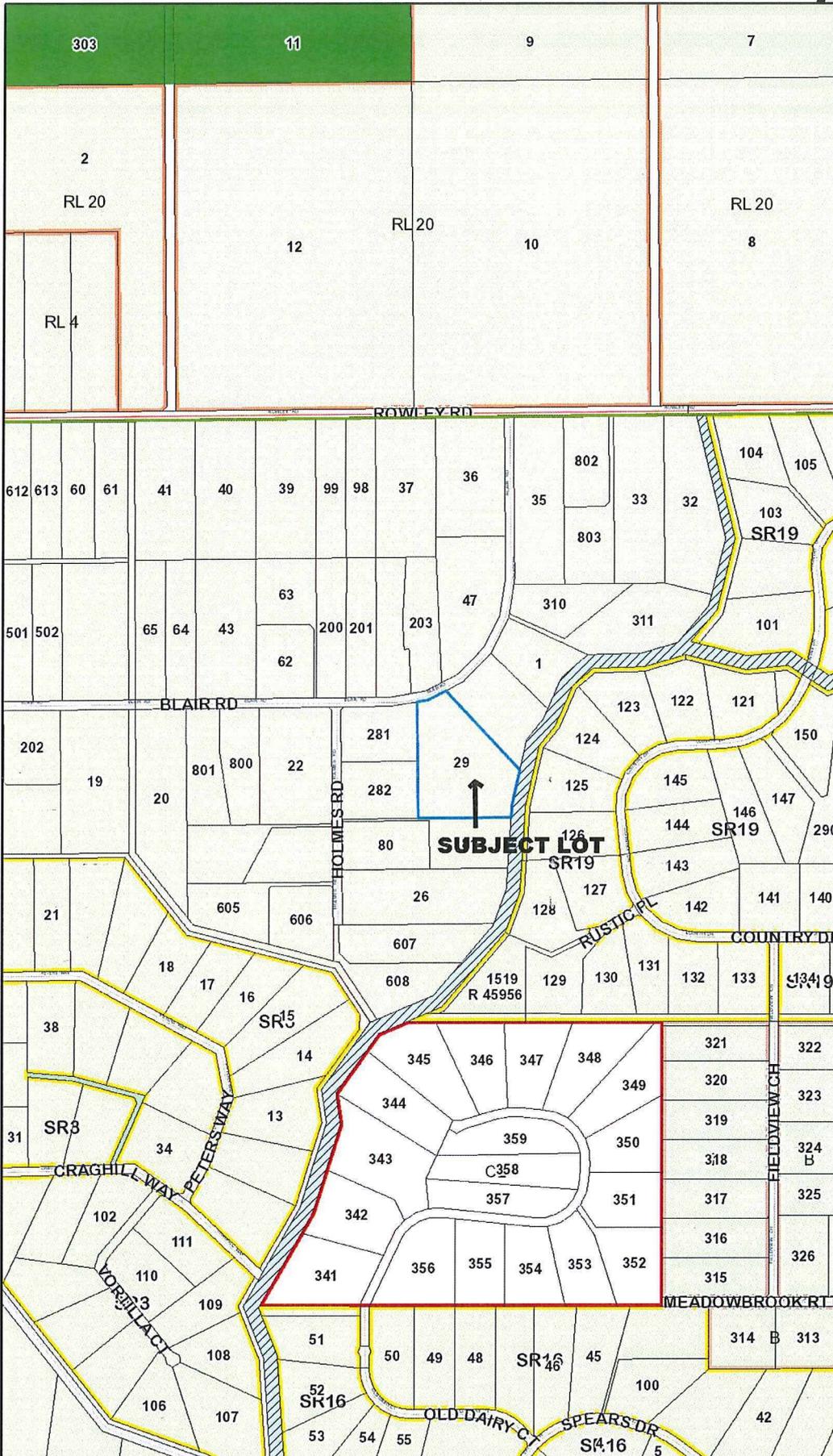
Having regard to compliance with the adopted Rural Strategy and the precedent set for support of similar applications in the Blair Road 'precinct' it is recommended that the application be approved.



Government of Western Australia
Department of Planning

Legend

- Local Government Area
- Cadastre (View 1)
- Road Names**
- LP Scheme Zones and Reserve**
- Drainage purposes
- Rural
- Rural living
- Rural living B
- Special rural
- Special use
- MRS - Reserves**
- civic and cultural
- parks and recreation
- parks and recreation - restricted



Projection:
WGS 1984 Web Mercator Auxiliary Sphe

Notes:

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

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Produced by:FUNCTIONALITY TO COME

Date produced: 27-Mar-2015

PlanViewWA Map

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ITEM NO: 9.2

Subdivision to Create Two Rural Lots at Lot 85 South Western Highway, Serpentine

WAPC OR COMMITTEE:	Statutory Planning Committee
REPORTING AGENCY:	Department of Planning
REPORTING OFFICER:	A/Manager Metropolitan South East
AUTHORISING OFFICER:	Planning Director, Metropolitan South
AGENDA PART:	C
FILE NO:	151228
DATE:	27 March 2015
REPORT CATEGORY:	Statutory
RECOMMENDATION OUTCOME:	1. Approve, subject to Conditions
ATTACHMENT(S):	1: Location Plan and LGA Zoning 2: Subdivision Plan 3: Rural Strategy Review 2013 4: Rural Strategy (1994) - As Amended 2003 5: Proposed Land Requirements MRWA
REGION SCHEME ZONING:	Rural
LOCAL GOVERNMENT:	Shire of Serpentine Jarrahdale
LOCAL SCHEME ZONING:	Rural
LGA RECOMMENDATION(S):	Refusal
REGION DESCRIPTOR:	Metropolitan South East
RECEIPT DATE:	22 December 2014
PROCESS DAYS:	95 days
APPLICATION TYPE:	Subdivision
CADASTRAL REFERENCE:	Lot 85 (No 2399) South Western Highway, Serpentine

RECOMMENDATION:

That the Western Australian Planning Commission resolves to approve the application for subdivision of Lot 85 South Western Highway, Serpentine subject to the following conditions:

Road and Movement Network

- 1. Pursuant to Section 150 of the Planning and Development Act 2005 and Division 3 of the Planning and Development Regulations 2009 a covenant preventing vehicular access onto South Western Highway except at the identified crossover points, being lodged on the certificate(s) of title of the proposed lot(s) at the full expense of the landowner/applicant. The covenant is to prevent access, to the benefit of***

Main Roads WA, in accordance with the plan dated 22 December 2014 (attached) and the covenant is to specify:

"No vehicular access is permitted from South Western Highway." (Main Roads WA)

- 2. Suitable arrangements being made with the local government for the provision of vehicular crossover(s) to service the lot(s) shown on the approved plan of subdivision. (Local Government)**

Drainage

- 3. The land being filled, stabilised, drained and/or graded as required to ensure that:
 - a) lots can accommodate their intended development; and**
 - b) finished ground levels at the boundaries of the lot(s) the subject of this approval match or otherwise coordinate with the existing and/or proposed finished ground levels of the land abutting; and**
 - c) stormwater is contained on-site, or appropriately treated and connected to the local drainage system. (Local Government)****
- 4. Prior to the commencement of subdivisional works, the landowner/applicant is to provide a pre-works geotechnical report certifying that the land is physically capable of development or advising how the land is to be remediated and compacted to ensure it is capable of development; and**

In the event that remediation works are required, the landowner/applicant is to provide a post geotechnical report certifying that all subdivisional works have been carried out in accordance with the pre-works geotechnical report. (Local Government).

Subdivision Works

- 5. All buildings and effluent disposal systems having the necessary clearance from the new boundaries as required under the relevant legislation including the Local Planning Scheme and Building Regulations of Australia. (Local Government)**
- 6. Prior to commencement of subdivisional works, a detailed plan identifying building envelope(s) on all lots on the approved plan of subdivision is to be prepared in consultation with the local government to ensure the appropriate siting of development, to the satisfaction of the Western Australian Planning Commission. (Local Government)**

Servicing

- 7. A fire management plan being prepared, approved and relevant provisions implemented during subdivisional works, in accordance with the WAPC's Guideline Planning for Bushfire Protection Edition 2, May**

2010 (in particular Appendix 3) to the specifications of the local government and/or the Department of Fire and Emergency Services. (Local Government)

- 8. A notification, pursuant to section 70A of the Transfer of Land Act 1893 is to be placed on the certificate(s) of title of the proposed lot(s). Notice of this notification is to be included on the diagram or plan of survey (deposited plan). The notification is to state as follows:**

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

- 9. A notification, pursuant to Section 70A of the Transfer of Land Act 1893 is to be placed on the certificate(s) of title of the proposed lot(s). Notice of this notification is to be included on the diagram or plan of survey (deposited plan). The notification is to state as follows:**

'A reticulated sewerage service is not available to the lot/s.' (Local Government)

- 10. Arrangements being made to the satisfaction of the Western Australian Planning Commission and to the specification of Western Power for the provision of an underground electricity supply to the lot(s) shown on the approved plan of subdivision. (Western Power)**

- 11. Arrangements being made with the Water Corporation so that provision of a suitable water supply service will be available to the lots shown on the approved plan of subdivision. (Water Corporation)**

ADVICE:

- 1. This property is partially affected by land reserved in the Metropolitan Region Scheme and will be required for road purposes at some time in the future. Main Roads Western Australia advises that the upgrade/widening of South Western Highway is not in Main Roads current 4-year forward estimated construction program, however, this could be subject to change.**
- 2. With regard to Condition 2, this approval should not be interpreted as approval to the crossover arrangements for proposed Lot 1 as shown on the plan of subdivision. The final crossover design and/or upgrade to facilitate shared use with Lot 13 is subject to the agreement of the Local Government and Main Roads Western Australia.**
- 3. In regard to Condition 5 the Western Australian Planning Commission will accept building clearance requirements as specified in the relevant local planning scheme operative at the time the subdivision approval was granted by the Western Australian Planning Commission.**
- 4. In regard to Condition 10, Western Power provides only one underground point of electricity supply per freehold lot.**

5. ***In regard to Condition 11, the landowner/applicant shall make arrangements with the Water Corporation for the provision of the necessary services. On receipt of a request from the landowner/applicant, a Land Development Agreement under Section 83 of the Water Services Act 2012 will be prepared by the Water Corporation to document the specific requirements for the proposed subdivision.***
6. ***The Shire of Serpentine Jarrahdale advises that in regard to Condition 7, access gates between the proposed lots may be required as part of an approved Fire Management Plan, to enable emergency access.***

ADVICE TO LOCAL GOVERNMENT

1. ***The Shire's reasons for refusal and the existing zoning of the subject lot are acknowledged. However, the Shire is advised that this application has been approved given the designation of the land as Rural Living B in the Shire's Rural Strategy (1994) - As Amended 2003.***

SUMMARY:

An application has been received for the subdivision of Lot 85 South Western Highway, Serpentine into two lots of approximately 2 hectares. The lots are zoned Rural under the Shire of Serpentine Jarrahdale Town Planning Scheme No.2 (TPS 2).

Although the subdivision is inconsistent with the 40 hectare minimum lot size specified under TPS 2, the WAPC has previously approved similar subdivisions where they are otherwise consistent with the land use designation under the Shire's adopted Rural Strategy (1994) - As Amended 2003 and the draft Rural Strategy Review 2013.

The current application is forwarded to the SPC for a directive as to whether the continued approval of such applications under delegated authority is acceptable. This is in light of work currently being undertaken as part of the Strategic Assessment of the Perth and Peel Regions (SAPPR) and the Western Australian Planning Commission's (WAPC) resolution on 25 March 2014 to "*not support local planning strategies/ rural strategies and planning scheme amendments involving proposals for additional rural residential development until such time as the SAPPR and sub-regional structure plans have been finalised*". Correspondence to affected local governments also advised that "*there may be a need to review some areas of proposed rural residential development identified in endorsed local planning strategies/ rural strategies*".

LEGISLATION / STRATEGIC PLAN / POLICY:

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

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: State Planning Policy 2.5 - Land Use Planning in Rural Areas
Development Control Policy 1.1 Subdivision of Land - General Principles
Development Control Policy 3.4 Subdivision of Rural Land

INTRODUCTION:

The subject land is zoned 'Rural' under the Metropolitan Region Scheme (MRS) and 'Rural' under the Shire of Serpentine Jarrahdale Town Planning Scheme No. 2 (TPS 2) (**Attachment 1 - Location and Zoning Map**).

The application proposes the freehold subdivision of a 4.03 hectare lot into two lots of 2.01 hectares and 2.02 hectares (**Attachment 2 - Plan of Subdivision**).

The site is identified as 'Rural Living B' in the Shire's endorsed Rural Strategy (1994) - As Amended 2003 and the draft Rural Strategy Review 2013 . The Rural Living B zone provides for lots of between 2 hectares and 4 hectares.

CONSULTATION:

The Shire of Serpentine Jarrahdale recommends that the application be refused for the following reasons (*in summary*):

- The proposed subdivision is not consistent with the Rural zoning under the Shire's Town Planning Scheme.
- The proposed subdivision is not consistent with Clause 5.12.3 of the Shire's Town Planning Scheme No. 2 which requires Rural Living B lots to have a minimum size of two (2) to four (4) hectares. The plan of subdivision does not account for future widening associated with South Western Highway.

Western Power and Water Corporation have no objection, subject to standard servicing conditions. In this regard it is noted that the lots will require connection to a reticulated water supply and electricity services.

Department of Water, Department of Health and Department of Parks and Wildlife have no objection.

Main Roads WA has no objection subject to no additional access points being provided onto South Western Highway and noting that a portion of the property is affected by an MRS reservation (Primary Regional Roads) and land will be required for widening at some time in the future.

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

COMMENTS:

Town Planning Scheme No.2

The proposed lots do not comply with Clause 5.10.4 of TPS 2 which specifies a minimum lot size of 40 hectares. TPS 2 was adopted in 1989 and has not been subject to significant review or consolidation since that time.

While the subject lot is zoned 'Rural' it has been identified as 'Rural Living B' in the Shire's adopted Rural Strategy (1994) - As Amended 2003. The Rural Living B allocation allows for lot sizes of between 2 hectares to 4 hectares, consistent with the equivalent zoning under the Scheme.

The Shire has previously advised that such areas should be rezoned under TPS 2 to a 'Rural Living B' classification ahead of any subdivision or development reflecting the minimum requirements of this zoning. Notwithstanding, the Shire has not pursued any action to ratify the Rural Strategy either through a scheme review or amendment.

The Shire's most recent Rural Strategy Review 2013, has been endorsed by the Shire, but not by the Commission, pending the outcomes of the SAPPR process. The draft Rural Strategy Review 2013 maintains a Rural Living B designation over the subject site.

South Western Highway

Approximately 3400m² of the subject land, abutting South Western Highway, is reserved as 'Primary Regional Road' under the MRS and will be required for road purposes at some time in the future. The future excision of this land would reduce the proposed lots to approximately 1.8 hectares in area.

MRWA has advised that upgrading/widening of South Western Highway is not within the current 4 year forward estimated construction program. Accordingly any land required for future road widening will remain in private ownership and the proposed lots will comply with the minimum 2 hectare requirement. Despite the potential that such lots may, in the future be affected, the extent of such widening is unlikely to affect the viability of rural living uses within the site. It is also noted that lots immediately north of the site already fall below the minimum 2 hectare site area requirement.

History of Similar Subdivisions

The Commission has approved numerous applications to create 2 hectare lots within the Rural zone where the lots are identified within the 'Rural Living B' area in the Rural Strategy (1994) - As Amended 2003, contrary to the Shire's recommendation.

In the period 1997 to 2000, three applications (WAPC Reference: 104397, 110616 and 113700) located in the Blair Road 'precinct', Oakford (in the north of the Shire) were refused by the Commission, but subsequently upheld on appeal to the Minister. A further application (WAPC Reference: 115523) was refused in 2001, and was subject to a State Administrative Tribunal review. As part of this process it was deemed that the Minister's prior determinations had the effect of establishing a

precedent for 2 hectare lots and that there may be a need to reassess the zoning and objectives of the area. On this basis the Commission subsequently resolved to support the application under appeal and since that time all further applications within the Blair Road 'precinct' have been approved. In total 25 lots have been subdivided.

Similar circumstances have occurred within the Master's Road 'precinct' in Darling Downs which is currently zoned Rural but nominated for Residential and Stable (minimum 2 hectares) in the Rural Strategy. In this area the Commission has supported the subdivision of 13 lots to create lots of approximately 2 hectares each based upon the prevailing lot size and the precedent set in Blair Road.

While the subject land does not form part of the Blair Road or Masters Road precincts, similar circumstances apply in terms of the Rural Living B land use designation under the Rural Strategy and the prevailing lot sizes.

A previous application for subdivision of this site in 2004 was refused, however given the precedent set by both the Blair Road and Masters Road precincts, approval for this application is recommended.

Strategic Assessment of Perth and Peel Regions (SAPPR) Process and Rural Residential Lots

As part of the SAPPR a report was presented to the WAPC in March 2014 regarding the number of existing lots zoned or identified as 'Rural Residential' (between one and four hectares) within the Perth Metropolitan Region.

An outcome of the WAPC's consideration of this report was correspondence to local government authorities stating:

"the WAPC will not support local planning strategies/rural strategies and planning scheme amendments involving proposals for additional rural residential development until such time as the SAPPR and sub-regional structure plans have been finalised to provide the strategic framework to consider the proposals within."

Given this outcome, the Department has been unable to provide 'in-principle' support for the Shire's draft Rural Strategy Review 2013, pending the outcomes of the SAPPR.

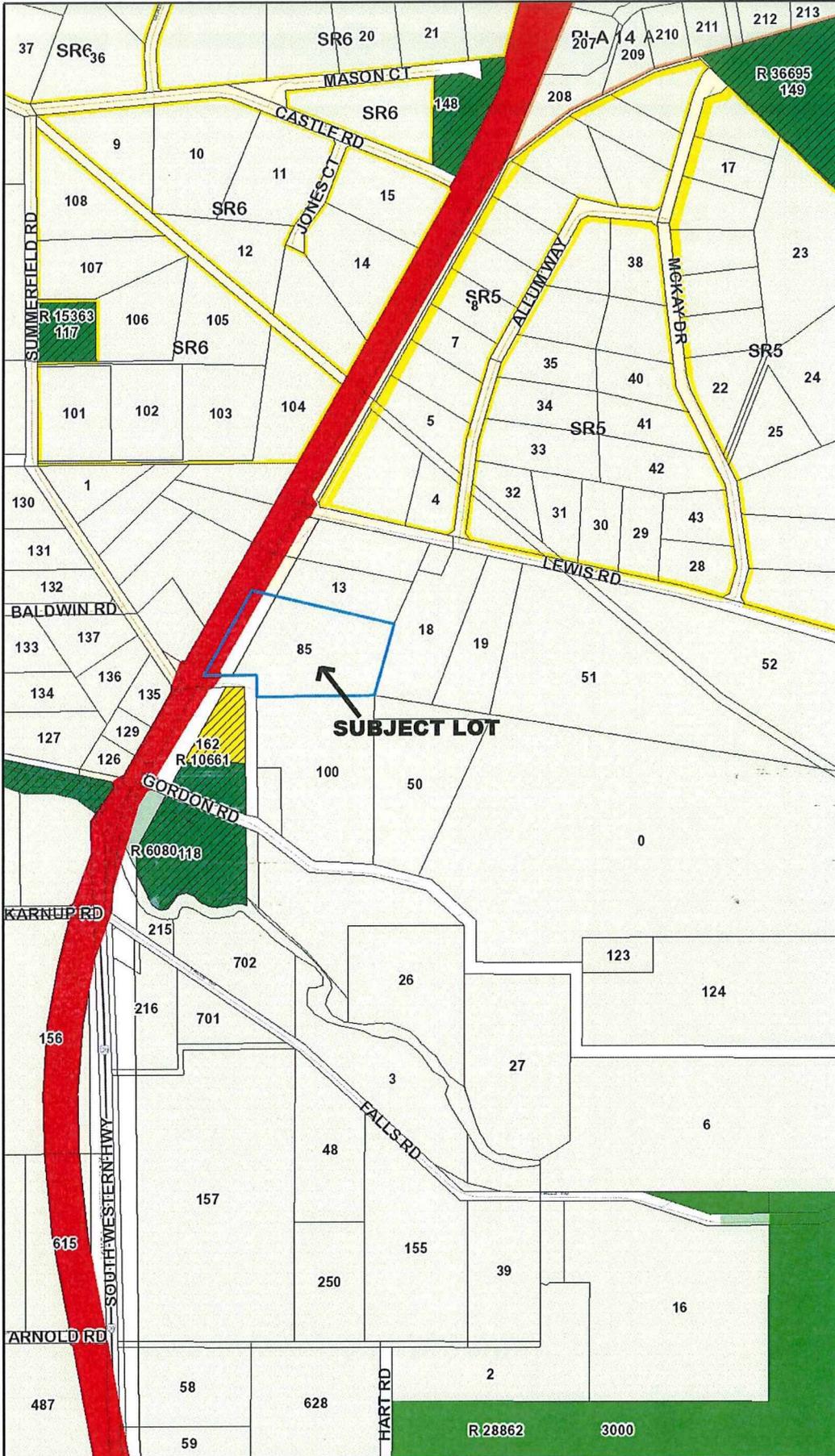
CONCLUSION:

The Shire of Serpentine Jarrahdale Town Planning Scheme No. 2 identifies the subject lot as 'Rural'. Notwithstanding, the site has been identified as 'Rural Living B' in both the adopted Rural Strategy and the draft Rural Strategy Review 2013, which provides for lots of between 2 hectares to 4 hectares.

Having regard to compliance with the adopted Rural Strategy, the established lot sizes in the locality, which are in the vicinity of 1.7ha to 24 hectares (substantially less than the 40 hectare minimum) and the precedent set for support of similar applications it is recommended that the application be approved.

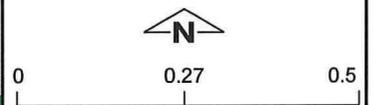


Government of Western Australia
Department of Planning



Legend

- Local Government Area
- Cadastre (View 1)
- Road Names**
- LP Scheme Zones and Reserve**
- Public and community purposes
- Public open space
- Rural
- Rural living A
- Special rural
- MRS - Reserves**
- civic and cultural
- parks and recreation
- parks and recreation - restricted
- primary regional roads



1: 11,823
at A4

Projection:
WGS 1984 Web Mercator Auxiliary Spheroid

Notes:

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Map was produced using DoP's PlanViewWA.

Produced by: FUNCTIONALITY TO COME

Date produced: 27-Mar-2015

PlanViewWA Map

INTERNAL USE ONLY

Internal Spatial Viewer
[Link to viewer](#)

ITEM NO: 9.3

Endorsement of Bentley Regeneration Local Structure Plan

WAPC OR COMMITTEE: Statutory Planning Committee

REPORTING AGENCY: Department of Planning
REPORTING OFFICER: Senior Planning Officer Metropolitan Planning Central
AUTHORISING OFFICER: Director Metropolitan Planning Central
AGENDA PART: C
FILE NO: SPN/0623
DATE: 27 February 2015
REPORT CATEGORY: Statutory
RECOMMENDATION OUTCOME: 1. Endorse
2. Recommend
ATTACHMENT(S): 1. Location Plan
2. TPS Zoning Map
3. MRS Zoning Map
4. Aerial Photography
5. Bentley Regeneration Local Structure Plan
6. Public Open Space Plan and Schedule
7. Town Square Concept
8. Neighbourhood Park Concept
9. Illustrative Master Plan
10. Schedule of Submissions
11. Schedule of Modifications
REGION SCHEME ZONING: Urban
LOCAL GOVERNMENT: City of Canning
LOCAL SCHEME ZONING: Development
LGA RECOMMENDATION(S): Endorsement Subject to Modifications
REGION DESCRIPTOR: Metropolitan Central
RECEIPT DATE: 15 January 2014 (deferred pending gazettal of Amendment 184 for Final Approval on 9 May 2014)
PROCESS DAYS: 321
APPLICATION TYPE: Structure Plan
CADASTRAL REFERENCE: Land bounded by Dumond Street, Manning Road, Nyamup Way, Queen Street, Pollock Street, Pitt Street and Walpole Street

RECOMMENDATION:

That the Statutory Planning Committee resolves to:

- 1. endorse the Bentley Regeneration Project Local Structure Plan that provides a future plan for the redevelopment of land predominantly owned***

by the Department of Housing, located in Bentley and comprising the 'Brownlie Towers', subject to the schedule of modifications (Attachment 12)

2. *endorse the principles of the Community Facilities and Public Open Space Strategy in terms of:*
 - *the re-allocation of Public Open Space Reserves by the City of Canning across the Local Structure Plan Area;*
 - *the replacement of community facilities by the City of Canning within the Local Structure Plan Area and the establishment of a central Community Hub facility within the neighbourhood centre and at a location that will be determined at the development stage;*
3. *endorse the request by the City of Canning to purchase the following reserves at 5% of the market valuation subject to the approval of the Minister for Lands:*
 - *Reserve 32095;*
 - *Reserve 35021;*
 - *Reserve 27065; and*
 - *Reserve 27540.*
4. *endorse the disposal and sale of surplus reserves (or portions of) within the Local Structure Plan area and the conversion of these reserves to freehold land and the utilisation of funds from the sale of these reserves being utilised to realise the proposed revitalisation of community facilities for the areas of the Bentley suburb;*
5. *advise the City of Canning and the Department of Lands of its decision accordingly.*

SUMMARY:

The key points of this report are:

- The City of Canning has forwarded a local structure plan known as the 'Bentley Regeneration Local Structure Plan' (the Structure Plan) to the Western Australian Planning Commission's (WAPC) for endorsement in accordance with Clause 11.10 of the City of Canning Town Planning Scheme No. 40.
- The Structure Plan proposes the redevelopment of the area bound by Dumond Street, Manning Road, Nyamup Way, Queen Street, Pollock Street, Pitt Street and Walpole Street in Bentley and covers a total area of 27.66 hectares (ha) into a vibrant high/medium density residential precinct well serviced by community, commercial and recreational facilities (**Attachment 1 Location and Context Plan**).
- The Structure Plan seeks to facilitate redevelopment of the site in accordance with current local planning scheme provisions which provide for the coordinated planning of the site to guide future subdivision and development in order to maximise the development potential of the site, to preserve and enhance the

amenity of the area and to transform an underutilised area into an innovative infill redevelopment.

- The land within the Structure Plan is predominantly owned by the Department of Housing (DoH) or is reserved land which falls under the control of the City of Canning (the City). The DoH and the City entered into a Heads of Agreement to deliver this comprehensive infill development of the Structure Plan area.
- The Structure Plan proposes to provide a minimum yield of 1500 dwellings in a variety of building forms and tenure arrangements, including the provision of affordable housing by the DoH in existing and new building stock.
- The Structure Plan outlines principles and objectives for the redevelopment of the structure plan area. The outcomes proposed by the structure plan are generally consistent with those contemplated by WAPC policy and practice and in particular, Directions 2031 and Beyond and the Central Metropolitan Sub Regional Strategy.

BACKGROUND:

The land that comprises the Structure Plan, being the land bound by Dumond Street, Manning Road, Nyamup Way, Queen Street, Pollock Street, Pitt Street and Walpole Street in Bentley, is in fragmented ownership. The northern landholding is owned by the DoH and has been developed and utilised for public housing since the 1960's. With the exception of the Brownlie Towers, which are located in the western and central area of the Structure Plan area, the DoH has been progressing the demolition of the remaining dwellings within the area to make way for the regeneration project.

The southern portion of the Structure Plan area includes Crown land vested in the City of Canning, containing a range of community facilities which have, and in some cases remain under the control of the City. The retention and re-activation of these community facilities to create a vibrant and functional new community hub that remains central to the precinct has been a key driver of the structure plan. In the centre of the site is the former Canning Aquatic Centre landholding, owned in freehold by the City of Canning and soon to be sold.

The City has previously initiated amendments to its Town Planning Scheme No. 40 (TPS 40) to facilitate structure planning for the site, being Amendment 184 and Amendment 195 that have been gazetted and ultimately zoned the Bentley Regeneration Project Local Structure Plan area as a 'Development' zone (**Attachment 2 - TPS Zoning Map**). The subject site is considered to be a well located site to accommodate infill development. Structure planning is considered the best mechanism to plan for the redevelopment of the site, as it provides a degree of flexibility which will facilitate its redevelopment. The land is zoned 'Urban' under the Metropolitan Region Scheme and there is no restriction under the MRS to the proposed redevelopment (**Attachment 3 MRS Zoning Map**).

A key outcome of Amendment 184 and 195 has been the rezoning of a significant number of Public Open Space (POS) Reserves to 'Development' zone and the need to ensure that structure planning for the site restores an appropriate return in the quantity and quality of POS in the redevelopment of the Structure Plan area. The

The Structure Plan area comprises:

- 79 lots owned primarily by the DoH and some in freehold;
- Brownlie Towers that contain 299 DoH dwelling units;
- 8 Reserves owned by the Crown vested in the City of Canning; and
- a range of different residential, community and recreational uses including the Canning Tennis Club and netball courts, Community Centre, Pendana Respite Centre, Scout Hall, Bentley Library, Salvation Army, youth and community group facilities and the Aquatic Centre.

The Aquatic Centre and shops that are within the Structure Plan area have recently been decommissioned and these facilities relocated to the new Cannington Leisureplex. The City has informed the Department of Planning (DoP) that a sale process is underway for the aquatic centre site, inviting requests for proposals as part of a tendering process. When sold, the site will no longer be under the control or management of the City.

Immediately to the east, and adjoining the Structure Plan area, are the Bentley Primary School, Al-Hidayah Islamic school and the Santa Clara Primary School. The site is also serviced by Bentley Hospital, located to the east of Albany Highway and the Perth to Armadale railway line, which is located east of Albany Highway.

The site has excellent physical attributes including it being a flat and predominantly cleared site, with the exception of remnant vegetation that is currently located within some of the Reserves and which will be retained where possible.

Components of the Structure Plan

The Structure Plan has been prepared in accordance with the DoP's Structure Plan Guidelines 2012 and incorporates the following key components:

- A summary table listing the core elements of the Structure Plan including estimated dwelling yield and estimated area of public open space etc;
- A statutory section which incorporates the statutory planning provisions and requirements, including uniform variations to the Residential Design Codes (R-Codes) and supplementary development requirements, such as preparation of design guidelines and development plans to mention a few;
- An explanatory section which examines the site's context in terms of its historical background, site conditions and constraints, the vision for redevelopment, assessment of the Structure Plan against the state planning framework and provides the background and justification for the statutory provisions.
- The Structure Plan is also accompanied by a number of appendices including the following:
 - Engineering Servicing and Earthworks Report;
 - Geotechnical Report;
 - Landscape Master Plan;
 - Transport Assessment;
 - Activity Centre Analysis;
 - Community Facilities and Open Space Strategy; and
 - Local Water Management Strategy.

The Structure Plan is illustrated in **Attachment 5 Bentley Regeneration Project Local Structure Plan**. There are some aspects of the Structure Plan that are recommended for modification and will be discussed in later sections of this report.

Precinct Planning

The Structure Plan area has been divided into three distinct built form precincts comprising the Core, Frame and Edge Precincts. The proposed statutory requirements within these precincts are described below:

The **Core Precinct** is to be the central focus of the development and will accommodate the following:

- high density residential with a base density coding of R160;
- plot ratio range from 1:6 to 2:2;
- a range of building heights from four to ten storeys and guided by the existing height of the Brownlie Towers that are being retained;
- a multi-purpose community facility, retail/commercial facilities and a central area of open space; and
- a wide range of community, retail and commercial uses such as community buildings, educational establishments, community purposes, offices, shops, hotels etc.

The **Frame Precinct** comprises a mix of commercial and residential uses with:

- high density residential at a base coding of R100 predominantly multiple dwellings;
- a plot ratio between 1:1 and 1:6;
- a range of permitted building heights from two to five storeys; and
- some commercial uses but less intensive than those allowed in the Core Precinct and generally only permitting the development of ground floor offices or shops.

The **Edge Precinct** is primarily residential in nature with:

- a medium density of R60 predominantly in a narrow lot, townhouse design;
- a plot ratio between 0:6 to 0:9;
- a height range of 1 to 3 storeys;
- restricted office uses however no retail uses could occur in this precinct; and
- a transition in built form to integrate with the existing privately owned single dwelling lots within the Structure Plan area and the existing residential areas on its periphery.

Student Accommodation

The Structure Plan proposes to provide for 'Student Accommodation' and defines this use class in the statutory section of the document. The provision for student accommodation in the Structure Plan area is well justified by the proximity of the area to Curtin University and Bentley TAFE. This approach is supported.

Design Guidelines

With regard to the built form, the Structure Plan requires the preparation of detailed design guidelines prior to the subdivision stage to provide further detail on built form and the design of the public realm. This requirement is included in the statutory section of the Structure Plan and is supported by the City and the DoP.

Commercial Land Uses

The Structure Plan has identified a future commercial centre within the core precinct, fronting the neighbourhood square. The square and commercial centre will be the most visible, prominent and busiest area within the redevelopment.

The commercial centre proposes a maximum retail floor space of 4000m² (Net Lettable Area). It is understood that the primary constraint to achieving this amount of retail floor space will be the availability of parking and the availability of land to provide for the required parking. The Structure Plan has been accompanied by an Activity Centre Analysis Report which identifies:

- A preference to locate the commercial uses central to the Structure Plan area in lieu of the centre fronting Manning Road, which may reduce the attractiveness of the site to commercial operators.
- The importance of an effective layout and configuration for the centre, underpinned by strong urban design principles, to ensure it is socially and economically functional.
- Retail floor space up to 4000m² can be justified, with a full line supermarket up to 3000m² NLA and up to 15 speciality stores creating a main street configuration.
- The introduction of a new centre in the Structure Plan area is unlikely to impact similar sized centres in the vicinity. It is anticipated that the new centre will draw 15% of retail expenditure within 1.5 kilometres of the centre, leaving the remaining 85% for existing centres.
- The new local centre would expect to have an impact on the trading performance of the smaller established centres in the vicinity of the Structure Plan area (within 650 metres from the centre of the precinct), such as those on Hillview Terrace, Chapman Road, Manning Road and Bungaree Road however, the location of a centre within the structure plan area is considered to be a key component in delivering a successful commercial and community hub and to replace the commercial facilities that have since been decommissioned.

Whilst it is not ideal for the proposed commercial centre to have an impact on nearby local centres, the proposed centre has been located central to the structure plan area as opposed to being located on Manning Road, where its impact would be greater given the high level of accessibility for passing trade, thereby not utilising local centres within the urban area. As detailed above the inclusion of a commercial and community centre within the structure plan area is a core element of the structure plan.

In response to the Activity Centre Analysis Report consideration has been given to the location of the commercial centre and whether it is more appropriately positioned along Manning Road or central to the Structure Plan area. The position of the

commercial centre central to the Structure Plan area is accepted as being more valuable in encouraging and integrating higher density residential development with the commercial and the community facilities and will facilitate a high level of intensity, which will assist in the creation of an activated community hub and public spaces (the neighbourhood square and adjacent streets). The performance of the centre in this location is dependent on an initial concentration of retail around the village square, and limiting any long term expansion to the adjacent Neighbourhood Connector frontages.

The proponents have been in liaison with the Department of Planning at the time of preparing this report to raise concerns about the future success of the proposed commercial and neighbourhood centre. The proponents are concerned that the pending sale of the former Aquatic Centre site, by the City to a private entity, could result in differing and/or competing design objectives and outcomes for the commercial centre and that this could compromise the delivery of the structure plan. The view of the Department is that the structure plan promotes the central square (which is intended to be developed between the school and the existing towers and partly on the land that currently contains the Aquatic Centre and that will be on-sold to a private landowner) as being the heart of the Core Precinct. The structure plan indicates that this will be a centre of activity and will include a variety of uses including commercial, retail and community uses. The structure plan also indicates that the commercial centre shall be located with the proposed community hub in order to focus activity on the centre of the site and to reinforce the role of the central node as being the Core precinct which caters for a variety of activities.

Modifications, including a requirement to prepare a Local Development Plan for the Core precinct, are recommended to ensure the commercial centre is designed and staged in accordance with the retail design objectives of the structure plan. This is considered particularly important in light of the potential private sale of the aquatic centre site and fragmentation of ownership of the commercial centre.

The structure plan identifies that any major increase in floor space (resulting in an increase of more than 20% above 4000m² NLA) can only be considered where a Retail Sustainability Assessment is lodged. This is specified in the statutory section of the Structure Plan and is supported.

Transport (Movement Network)

The Structure Plan is based on providing a permeable road network through the Structure Plan area and improving accessibility to the site from the north and the south. The Structure Plan proposes to extend Taree Street southwards through the Structure Plan area and to extend and intersect this with Manning Road. This north-south road link will be the primary access through the site and will provide for other road connections to the east and the west. The proposed road network will improve accessibility to the site and from the site to Manning Road, in particular.

The proposed works will require the provision of two signalised intersections at Manning Road and Chapman/Ashburton Street, which are located outside of the Structure Plan area. A transport assessment has accompanied the Structure Plan and supports the proposed road network, recommending a number of intersection improvements. Further, the Structure Plan movement network has been designed to

ensure all roads can accommodate pedestrian and cyclist facilities and public transport on the main neighbourhood connector road, which traverses the entire Structure Plan area and connects with Manning Road.

The Structure Plan has been referred to the Department of Planning Infrastructure and Land Use Co-ordination who have provided support for the Structure Plan and made the following general comments:

- The southernmost portion of Dumond Street is to be decommissioned to be replaced with the new north-south road. Liveable Neighbourhoods requires a spacing of 130m between signalized intersections and a modifications is recommended to include this requirement.
- No SIDRA analysis has been undertaken for the Manning Road / Hedley Place intersection and such an analysis could result in this intersection being terminated;
- There currently exists a solid median in the subject location along Manning Road which prevents right turns from the proposed north-south road; however SIDRA analysis shows that upgrading of this intersection will result in a full movement, 4 lane plus turning lane configuration along Manning Road;
- It is noted that the Manning Road/Bungaree Road intersection will operate above capacity in the 2012 scenario and that signalisation would significantly improve its operation as per Figure 5.17; and
- ILUC recommend that the local authority examines and provides comment on the proposed internal road arrangement.

As detailed above, ILUC have not raised any objections to the structure plan and recommended modifications will address the requirements for future road planning.

Parking

The Transport Assessment Plan has identified a parking need of over 900 car bays within the Core Precinct once fully developed. The fulfilment of the proposed commercial and retail activities within the Structure Plan are dependent on the ability to provide the required number of parking bays. The main north-south connector road will accommodate on-street parking to assist with parking availability, with the balance being provided on individual development sites. It is also envisaged that basement or decked parking will be required adjacent to the main shopping facility, community facilities and for the higher density developments within the Core Precinct.

The Structure Plan establishes car parking rates for multiple dwellings which are similar to parking provisions contained within Part 6 of the Residential Design Codes and has introduced a similar parking rate for student accommodation. The parking rates are as follows:

- 0.25 per student accommodation dwelling;
- 0.75 per one bedroom dwelling;
- 1 per two bedroom dwelling;
- 1.25 per three bedroom dwelling; and
- to be determined on an individual basis for multiple dwellings with greater than three bedrooms.

The parking requirements have been included within the statutory section of the Structure Plan which specifies the preparation of a local development plans and a Parking Strategy prior to the commercial development being approved and this approach is highly supported and covered in the statutory section of the Structure Plan. Parking requirements for non-residential land uses will be governed by TPS 40.

Public Open Space and Drainage

The Structure Plan proposes two new main areas of POS, comprising the central town square and a neighbourhood park (**Attachment 7 Town Square Concept and Attachment 8 Neighbourhood Park Concept**). Concept plans for both open space areas have been prepared as part of the Landscape Master Plan which proposes high quality, functional open spaces that will meet the recreational needs of existing and future residents.

The Structure Plan includes a POS Schedule and a POS plan which demonstrates that a minimum of 10% of the Structure Plan area will be ceded and developed for POS (**Attachment 6 Public Open Space Plan and Schedule**). The Structure Plan has also acknowledged that Warwick and Holder Parks at the north western and north eastern corners of the Structure Plan, service the Structure Plan area also. These areas have not however been included as part of the 'Development' zone and therefore do not form part of the Structure Plan area and should not form part of the POS calculations as it has been demonstrated by the proponents that Warwick and Holder Parks were given up free of cost when land in the northern half of the Structure Plan area was originally created in addition to other land outside of the Structure Plan area. Deposited Plans have demonstrated this and the proponents, on behalf of DoH, request that these be included within the Structure Plan POS calculations based on them having previously being given up by DoH and remaining as POS, albeit outside of the Structure Plan area.

This request is supported in principle and acknowledgement of these parks contributing to POS in the Structure Plan area is supported subject to their inclusion within the Community Facilities and Open Space Strategy and funds from the redevelopment being utilised to enhance these parks. However, the parks cannot form part of the POS calculations in the statutory section of the Structure Plan, because they are not within the structure plan area. This will be discussed further in the Modifications Section of this report.

The Structure Plan also identifies indicative locations for four additional local parks which are to be spread evenly throughout the area. The two existing parks on Walpole and Holder Street (Warwick and Holder Park referred to above) are to be increased in size to improve their functionality and integration with the existing residential areas.

A report justifying this approach has been prepared for the reallocation of the POS areas and use of underground drainage cells in lieu of surface drainage catchment. The result is that the excluded areas of POS have been minimised so that there is no un-restricted POS. A modification is, however, recommended to ensure that sufficient drainage cells are provided to store the five year flood event on-site and to require the recommendations of the POS assessment be implemented as part of the

redevelopment. This level of detail will occur at the subdivision stage but currently justifies and supports the proposed POS calculations.

In summary the public open space proposed will provide for at least 10% of land within the structure plan area being retained, expanded or redeveloped for POS. This meets the requirements of the WAPC's Liveable Neighbourhoods and is supported.

Community Facilities and Open Space Strategy

The City has previously endorsed the *Community Facilities and Open Space Strategy* at its meeting dated 18 June 2013 and again on the 18 November 2014. The preparation of this strategy is a core component of the proposed land transfer agreement being created for this project with the Department of Regional Development and Lands, the City and DoH. The agreement will allow the City to purchase reserved land under its care and control at 5% of the market value to facilitate future development proposed in the Structure Plan. This agreement will require all funds derived from the subsequent sale of the existing reserved land to be reinvested to establish community facilities and open space outcomes. The approach is supported.

The *Community Facilities and Open Space Strategy* contain the following key recommendations:

- Retain approximately 10% POS within the total Precinct area to match existing provision.
- Enhance quality and function of POS in the surrounding area.
- Establish Community "Hub" facilities into a single multi-use facility within the new neighbourhood centre and as part of the design and development process engage with stakeholders.
- Evaluate demand for redevelopment of recreation facilities at Wyong Oval.
- Work with the tennis club to evaluate how to ensure viable and sustainable tennis club facilities are retained in the general area around the existing location.

It is considered that the structure plan is consistent with the recommendations of the strategy and will provide for a minimum supply of 10% of the Structure Plan area for POS. It is important to note that development of the existing reserved land under the control of the City cannot be considered until agreement on the provision of replacement community facilities is finalised. Should the structure plan be endorsed the City will need to finalise arrangements with the state government to create the existing reserved land as freehold titles in order to realise the future development opportunities identified in the structure plan.

Environment

A key component of the Landscape Master Plan is the retention of significant trees. A site survey has identified 111 trees of significance, with 61 of these being native Australian and 31 being native to Western Australian. To preserve these, the Structure Plan has deliberately aligned streets, public open space and promenade areas to preserve a significant number of native tree species, focussing on those of identified high value. A focus of the Structure Plan has been to preserve as many of

the existing trees on site as practically possible, other mitigation actions also include the transplanting of trees where possible (**Attachment 10 Illustrative Master Plan**).

Crime Prevention Through Environmental Design (CPTED)

The issue of security and community safety was a significant issue raised as part of the community consultation. The Structure Plan has been designed using the Crime Prevention Through Environmental Design (CPTED) principles which will be applied at the Detailed Design Guidelines stage.

PLANNING FRAMEWORK

Analysis of proposal against policy framework

The proposal is consistent with the Commission's policy framework, is considered to have merit and reflects orderly, proper planning as it:

- Will increase residential development on the site and allow for a small scale range of other compatible uses (State Planning Policy 1 - State Planning Framework and State Planning Policy 3 - Urban Growth and Settlement);
- The proposal will improve an underutilised site and will facilitate efficient and optimal use of land (State Planning Policy 3 - Urban Growth and Settlement);
- The site is in close proximity to compatible recreational, retail, employment and educational land uses (Liveable Neighbourhoods, Directions 2031);
- The proposal will be within a walkable distance to local amenities and public transport (State Planning Policy 4.2 - Activity Centres);
- The structure plan will assist in the achievement of optimal dwelling numbers for the locality, in accordance with draft central sub-regional strategy and Directions 2031 (Central Metropolitan Perth Sub-Regional Strategy); and
- It will produce a more sustainable development outcome that previously existed on the site and optimises the number of dwellings in close proximity to public transport and local facilities (Central Metropolitan Perth Sub-Regional Strategy and State Planning Policy 4.2).

GOVERNMENT AND CORPORATE IMPLICATIONS:

This proposal will assist in the provision of a key infill development and the provision of a variety of housing stock at a range of densities to compliment targets identified in Directions 2031 and Beyond.

There will be no financial or expenditure implications for the Western Australian Planning Commission or the Department of Planning in the implementation of the structure plan.

CONSULTATION:

The Structure Plan was adopted for advertising at the City of Canning Council meeting dated 10 September 2013, subject to some minor amendments. The Structure Plan has since been advertised from the first to the 29 October 2013. At the close of the advertising period 11 submissions were received and are

summarised in the Schedule of Submissions (**Attachment 11 Schedule of Submissions**)

Additionally a public meeting, in the form of a drop in session, was held at the City's offices on 17 October 2013, where participants could ask questions of City and DoH staff, a Designing Out Crime expert and the proponents.

Submissions were received from six government and servicing agencies in support of the Structure Plan which raised servicing issues where necessary. The other submissions (five) were received from local residents with concerns about proposed heights and potential loss of views to the parks and back alleys that are proposed within the edge precinct and the potential for anti-social behaviour occurring in these spaces, loss of community and recreational facilities including the tennis club and swimming pool (which is currently for sale through a tendering process). There were no issues of significant concern raised in the submissions that warrant any changes to the Structure Plan. The DoP and the City are comfortable that the development will be well integrated to ensure the amenity of existing residents is maintained and improved.

Western Power

Western Power raised no objections to the Structure Plan and acknowledge the redevelopment as a future forecast service demand.

Water Corporation

The Water Corporation support the Structure Plan and advise that due to the increase of between 1500 and 1800 dwelling units, additional upgrading of the current system is required and will be determined at the subdivision stage.

Department of Education

The Department of Education has made comment that the increased residential yield will mean that Bentley Primary School will accommodate the increase in student yield and therefore has no objection to the proposed structure plan.

OFFICER'S COMMENTS:

Heads of Agreement Termination

In March of 2013, the HOA was terminated by the DOH. Given the considerable amount of resources both the DoH and the City have invested in the project, the City is still keen to work towards an outcome that will enhance the Bentley community. The City remains committed to working towards achieving the urban development objectives aspired to in the Heads of Agreement, and which have been translated into the Structure Plan.

In terminating the HOA the DoH has offered to cover the cost of the relocation of the tennis court and this is supported by the City. The City is willing to continue to explore alternative governance arrangements to advance the project but this is a separate process to the endorsement of the subject Structure Plan.

Acquisition of Reserved Land

Since the endorsement of the Scheme Amendment 184, which created the 'Development' zone for the Structure Plan area and rezoned a number of POS areas to 'Development', the City has requested the DoP support and advise of its support to the Department of Lands, the sale of the reserves to the City of Canning for the purposes of achieving the agreed outcomes of the Bentley Regeneration project as articulated in the structure plan. The reserves in question are:

- Reserve 32095
- Reserve 35021
- Reserve 27065
- Reserve 27540

The Department of Planning supports the purchase of these reserves by the City from State Land Services at 5% the market valuation rate. This will require the City of Canning to prepare a business case to put forward to the Minister for Lands and to determine if the requested purchase is appropriate. In accordance with the Department of Regional Development and Lands (RDL), Section 20A disposal guidelines, formal approval to dispose of the land from the Western Australian Planning Commission (WAPC) will need to be sought to demonstrate that it has met the RDL's reserve disposal criteria. This is a separate process that will run parallel to the implementation of the Structure Plan.

Neighbourhood Commercial Centre and Requirement for Local Development Plans

The Statutory Section contains provisions for the preparation of Local Development Plans (LDP) and specifies areas where a LDP may be required. The Department supports the preparation of LDP's and therefore recommends a modification be required to state that LDP's 'shall' be required rather than 'may' be required to ensure they are prepared for the identified areas.

To address the warranted concerns and importance about the future success of the proposed commercial and neighbourhood centre, the Department considers that a modification should be included in the Statutory Section to guide the future preparation of a LDP for the local activity centre and recommends a new clause 11.1 as follows:

“Within the Core precinct, an area shall be developed as a local activity centre comprising an approximate retail floorspace (net lettable area) of up to 4000sqm, with all retail frontages externalised to:

- the neighbourhood square as a priority for initial stages of development, and then
- adjacent the Neighbourhood Connector street frontages if the centre is to expand further”

The proposed modification, including the requirement to prepare a Local Development Plan for the Core precinct, are recommended to ensure the commercial

centre is designed and staged in accordance with the retail design objectives of the structure plan. This is considered particularly important in light of the potential private sale of the aquatic centre site and fragmentation of ownership of the commercial centre.

MODIFICATIONS

The modifications are contained in the Schedule of Modifications (**Attachment 12 Schedule of Modifications**). A comment has been included to outline why the modification is required.

The majority of modifications relate the provision and calculation of POS and the need to exclude Holder and Warwick Park because they do not form part of the 'Development' zone and are not therefore within the Structure Plan area.

CONCLUSION:

The Structure Plan could provide for the State's most significant and innovative infill development opportunity whilst still providing for affordable housing and improving recreational, community, transport, employment and retail opportunities.

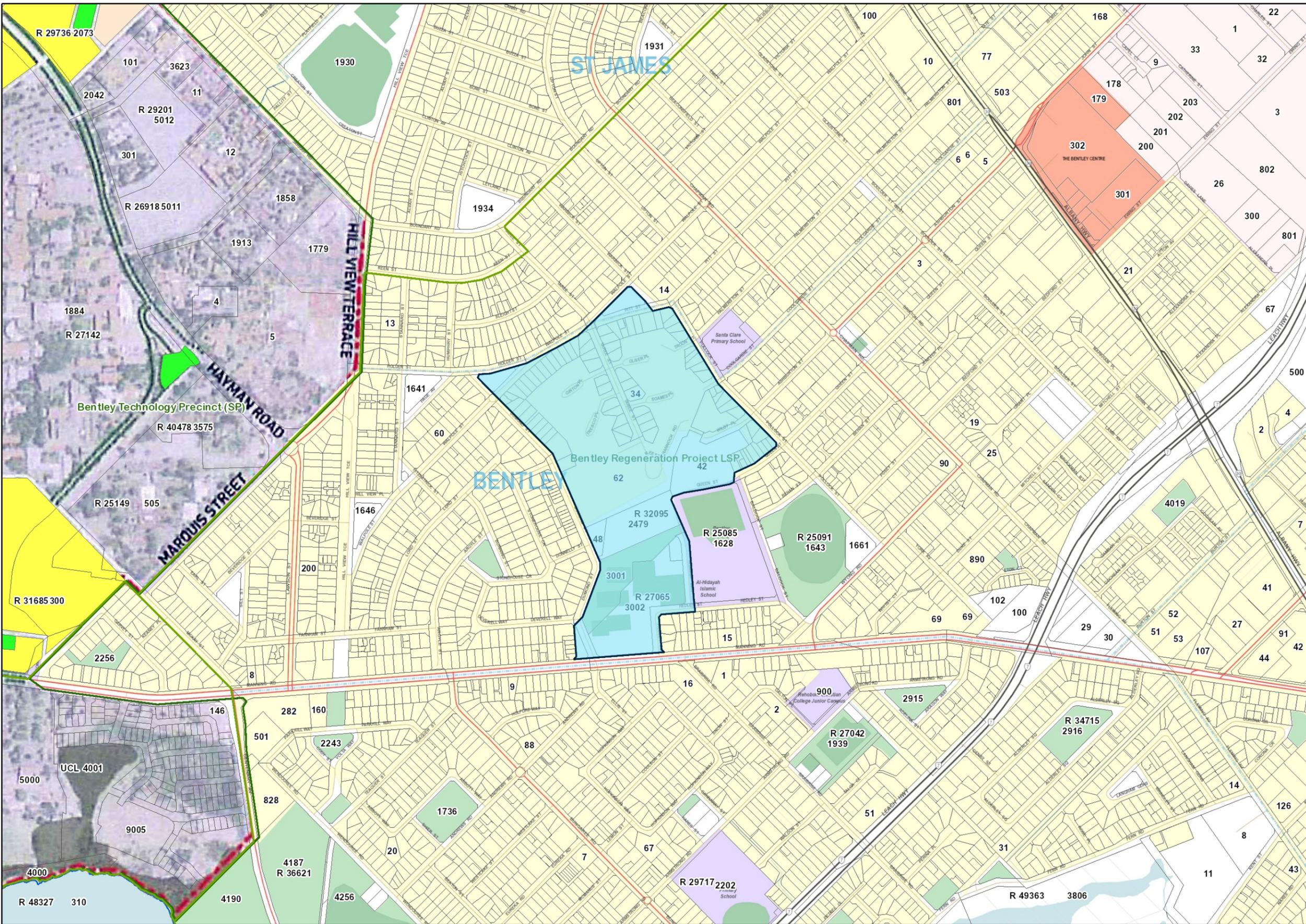
As part of the Directions 2031 process, the Department of Housing provided a submission requesting an identified yield of 1300 dwellings for this project (a gross density of approximately 50 dwelling per hectare). This yield was identified in the Directions 2031 sub-regional strategy reflecting the importance of the site as an opportunity to demonstrate an alternative approach to development in inner and middle suburbs, and achieving WAPC's identified infill development targets for the metropolitan area.

The Structure Plan generally provides the adequate regulatory controls within the statutory section and will ensure that the Structure Plan delivers the POS and community facilities that are being removed as a part of the redevelopment. Endorsement of the Structure Plan will facilitate the preparation of Design Guidelines and Local Development Plans for individual stages of development and all future development will be controlled by the statutory provisions of this Structure Plan as if they formed part of the Town Planning Scheme.

The Structure Plan has been designed and progressed in a sensitive and highly consultative manner to meet the Department of Housings affordable Housing Strategy, whilst still maximising the redevelopment and infill opportunities for market driven housing because of the sites excellent location in proximity to Technology Park, Curtin University, Bentley Hospital and other employment and education centres.

The proposal has been found to be consistent with State government policy direction, constituting an efficient use of appropriately located urban land and is recommended for endorsement subject to modifications.

- Legend**
- Local Government Area
 - Cadastre
 - W.A. Coastline
 - Erodibility**
 - Unclassified
 - Local Structure Plans (LSP)
 - Local Structure Plan Land Uses**
 - Park, recreation and conservation
 - Public purpose
 - Residential



Notes:

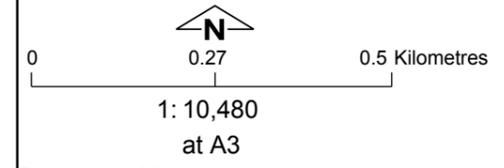
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Map was produced using DoP's PlanViewWA.

Attachment 1 Location Context Plan

INTERNAL USE ONLY

Internal Spatial Viewer
[Link to website](#)



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12-Mar-2015

ITEM NO: 9.4

Management Plan - Perth Rectangular Stadium (Formerly Perth Oval)

WAPC OR COMMITTEE:	Statutory Planning Committee
REPORTING AGENCY:	Department of Planning
REPORTING OFFICER:	Senior Planning Officer - Metropolitan Planning Central
AUTHORISING OFFICER:	Planning Director - Metropolitan Planning Central
AGENDA PART:	E
FILE NO:	DP/09/00279
DATE:	30 March 2015
REPORT CATEGORY:	Statutory
RECOMMENDATION OUTCOME:	1. Endorse
ATTACHMENT(S):	1 - Management Plan; 2 - PRS Master Plan 2010; 3 - Location & MRS Plan; 4(a) - Indicative Footprint; 4(b) - Elevations; 5 - Indicative spectator numbers; and 6 - Indicative completed stadium.

RECOMMENDATION:

That the Western Australian Planning Commission resolves to endorse the Perth Rectangular Stadium Management Plan date stamped 02 September 2015 without modification.

SUMMARY:

- The Perth Rectangular Stadium (PRS), formerly Perth Oval, has been home to the Perth Glory A-League franchise and currently has a spectator capacity of 20,299;
- The PRS is located within the jurisdiction of City of Vincent (CoV) and the land is owned by the CoV;
- The site is reserved for Parks and Recreation under the Metropolitan Region Scheme (MRS);
- The Department of Sport and Recreation (DSR) is responsible for the future development of the PRS;
- The PRS will be managed by the State through VenuesWest;

- Permitted development rights exist for works on the Parks and Recreation reserve where such works are in accordance with a Management Plan endorsed by the Western Australian Planning Commission (WAPC); and
- The Management Plan has been prepared to meet the requirements of the WAPC with respect to Clause 16(3)(e) of the MRS. **(Attachment 1 - Management Plan)**

BACKGROUND:

The subject land has a long history of use as a sporting oval accommodating football, cricket, soccer and more recently, rugby sporting codes. Recreational use of the land commenced at the turn of the 20th century and from 1910 to 2002 the oval was home to the East Perth Football Club. In 1996 it became the home of Perth Glory Soccer Club and in 2010 also became the home for Western Force Rugby Union team.

Originally identified for development in 2001, the initial work to convert Perth Oval to a rectangular stadium for 18,156 spectators was completed in 2004. Prior to this development, Perth Oval was considered appropriate for sports requiring a rectangular playing field in the short to medium term. The success of the conversion resulted in the development of a master plan for the site. The Master plan was endorsed by Cabinet Nov 2010 and resulted in additional investment being made available by the State Government to commence stage 1 of the master plan. **(Attachment 2 - PRS Master Plan 2010)**

Stage 1 of the PRS redevelopment, which is now complete, received development approval by the City of Perth Local Development Assessment Panel on the 08 February 2012 and took the spectator capacity to the current 20,299 spectators, and included a covered eastern grandstand complete with food, beverage and toilet facilities, a 250 seat BBQ terrace and open corporate boxes. An unroofed southern stand, two (2) large video play replay boards, a PA system, CCTV surveillance system, pitch lighting and new playing pitch were also completed under stage one of the sites redevelopment.

LEGISLATION / STRATEGIC PLAN / POLICY:

Legislation

Section:

Planning and Development Act 2005

Section 14/Clause 16 MRS Text

Strategic Plan

Strategic Goal:

Strategic Goal 2. Planning

Outcomes:

Effective Delivery of Integrated Plans

Strategies:

Implement State and Regional Planning Priorities

Policy

WAPC Policy No. DC1.2 Development Control General Principles;

WAPC Policy No. DC 5.3 Use of Land Reserved for Parks and Recreation and Regional Open Space

INTRODUCTION:

The subject land comprises a parcel of land made up of Lots 350, 103, 351 and 352 and is bounded by Bulwer Street, Pier Street, Brewer Street and Lord Street, Perth. The site is located approximately 1.5km to the north-east of the Perth CBD. It is in close proximity to the Graham Farmer Freeway and Lord Street. Three (3) railway stations are within a comfortable walking distance to the subject site, these being Perth Station, Claisebrook and East Perth.

The site is held in freehold ownership by the City of Vincent and is developed with a multi-purpose sports stadium formerly known as Perth Oval. The land also includes a public park known as Loton Park and Loton Park Tennis Club. The site has a total area of 76,757m², although the portion of the site relevant to this Management plan comprises an area of 43,445m²

Land surrounding the site to the south, west and north is zoned Residential R80 under the CoV Town Planning Scheme No. 1 and is developed presently with low rise offices and residential dwellings. (**Attachment 3 - Location & MRS Plan**).

Provisions within the MRS, provides for permitted development rights for works on land reserved for Parks and Recreation where such works are in accordance with a Management Plan endorsed by the WAPC. The PRS Management Plan has been prepared to meet the requirements of the MRS with respect to Clause 16(3)(e)

Clause 16(1)(a) of the MRS provides an exemption from the need to obtain development approval from the WAPC for development on reserved land owned by or vested in a public authority if it is 'permitted development'.

Clause 16(3)(e) identifies permitted development as including:

- (e) works on land reserved for Parks and Recreation where the works are in accordance with a management plan endorsed by the WAPC.

Once endorsed by the WAPC, the proposed future redevelopment identified by the Management Plan will be 'permitted development' as per Clause 16(3)(e) of the MRS enabling the Department of Sport and Recreation (DSR) to commence development at a time of its choosing.

DETAILS:

West Stand		South Stand		North Stand	
	100% roof coverage		80% roof coverage		80% roof coverage
	Suites/Corporate terraces		Wheelchair/carer seating		Wheelchair/carer seating
	Function rooms		All seating accessed from one concourse		All seating accessed from one concourse
	Over lower bowl seating		Covered concourse		Existing toilet block retained and refurbished
	Wheelchair/carer seating		Existing toilet block retained and refurbished		New cafe structure
	Coaches Boxes		Temporary merchandising vending cart area		Permanent and temporary food stations
	Citing Commission		Permanent and temporary food and beverage stations		New toilet facilities
	Television match official area				
	Timekeeper area				
	Media suite/conference				
	Television studios				
	Public Concourse				
	Vertical transportation				
	New entry plaza/new gates				
	Ticket offices				
	Stadium retail outlet				
	Radio studio				
	Changing rooms				
	Warm up area				
	Main Kitchen				
	Venue administration				
	Medical Facilities				
	WADA standard drug facilities				
	Players benches				
	Food and beverage concessions				
	Toilet amenities				
	Open corporate reserves				

The City of Vincent considered the Management plan at its Council meeting on the 22 July 2014, where it resolved to support it.

The Council resolution required community consultation with properties within 100m of the subject site. The Management Plan was advertised between 31 July 2014 and 15 August 2014 and no objections were received during this time.

OFFICER'S COMMENTS:

In regard to the assessment of the Management plan, it is noted that there is no statutory planning process in legislation which sets out the procedure for the preparation, assessment and endorsement of management plans referred to in the MRS. With that said, there is a general presumption that Management Plans should generally contain the same level of information of that required to assess a hypothetical development application. Management Plans should also be subject to

consultation with the public and employ a methodology which provides an analysis of regional and local planning issues.

The Management Plan, which has been prepared by the DSR has been reviewed and supported by the CoV. It has been prepared in collaboration with major stakeholders, including the CoV, the Public Transport Authority, VenuesWest and the State Heritage Office. There has also been consultation with residents. It is considered to be a robust and comprehensive document which adequately addresses the following issues:

- Regional Planning Context;
- Local Planning Context;
- Overall vision;
- Urban design;
- Transport assessment;
- Cultural Heritage;
- Servicing; and
- Venue Management.Role of the City of Vincent in the redevelopment of the PRS

It is important to note the role the CoV has in the proposed redevelopment of the PRS site. While the land in which the PRS sits is land reserved under the MRS, (whereby the WAPC is generally the sole determining authority for the redevelopment of the site), the site is held in freehold ownership by the CoV and the land is leased to the DSR by the City. As the Lessor, the CoV retains its position as the Lessor and can exert its influence as part of this role.

Clause 22(b)(v) of the lease between the CoV (the Lessor) and the DSR (the Lessee) arrangement states that the

"Lessee must fully inform the Lessor of any proposed redevelopment and receive express permission from the Lessor to undertake any redevelopment".

Despite not being the determining authority for future development, the City remains the Lessor of the site, is a member of the Stadium Advisory Committee, and Project Control Group, and under the terms of the lease it must provide ultimate approval for development of the site.

Assessment of the Management Plan under the Metropolitan Region Scheme

The purpose for which the land is zoned or reserved under the Scheme

As stated, all development on this site would ordinarily require the sole determination of the WAPC under the MRS, given that the subject land is currently reserved for 'Parks and Recreation'. However, since the redevelopment of the PRS will occur on an incremental basis, involving potentially many development applications over a period of time, it is deemed appropriate to have a Management Plan in place. An endorsed Management Plan will negate the need for separate planning applications to be submitted as and when future stages of the sites redevelopment are proposed.

Notwithstanding, the Management Plan still requires assessment under Clause 30 (1) of the MRS.

Clause 30 (1) of the MRS sets out the following factors when determining a development application:

1. The purpose for which the land is zoned or reserved under the Scheme;
2. The orderly and proper planning of the locality; and
3. The preservation of the amenities of the locality.

The Management Plan seeks to improve the existing facilities on site to enable the PRS to evolve into the stadium envisaged under the adopted Master Plan.

The redevelopment will maintain the current use of the land in compliance with the purpose for which the land is reserved under the MRS (being Parks and Recreation) is acceptable in land use terms. Further, future development identified under the Management Plan is consistent with the intent of WAPC Policy No. DC 5.3 which requires that the use and development of reserved land be restricted to development which is consistent with enhancing the reserve and facilitating its use for recreational or conservation purposes.

The preservation of the amenities of the locality

The subject land has been used as a sporting venue for over 100 years. The future development identified in the Management Plan will continue to, and improve a long established sporting use.

The land surrounding is zoned for residential purposes and has been used and developed with low density residential and commercial uses for many years. It is possible that through careful planning and design integration, stadiums such as PRS, can co-exist without unacceptable impacts on neighbouring land uses. By their very nature, stadiums such as PRS, have generally a weekend night time focus of activity. This pattern of use will continue to be maintained as facilities improve over time.

The Management Plan states that residents and businesses within a 100m radius will be consulted about future stages of the sites redevelopment.

The orderly and proper planning of the locality

The site is well located in a prominent position at the corner of Lord and Bulwer Streets and sits on the periphery of the Perth CBD. The stadium is a historic and significant landmark within the locality and is now home to two major sporting clubs.

The Management Plan, under the direction of the adopted Master Plan, seeks to achieve a more modern and user friendly sporting venue with proper integration with its surroundings. Stage one, which has been completed and operational for 2 years now, so gives a good point of reference in terms of visualising future stages of the PRS's redevelopment.

Further, to ensure the stadium is capable of hosting national and international events all redevelopment is required to meet a specific standards by a number of governing bodies.

The Management Plan has provided an indicative footprint and indicative cross section of a completed stadium. The DSR has confirmed that future stands will be confined to the indicative footprint area, and the height of the new stands will not exceed the height of the stand constructed under Stage 1 (23.5m from concourse side and 27m from pitch side). **(Attachment 4(a)(b) - Indicative Footprint and Elevations) & (Attachment 5 Indicative spectator numbers)**

The architectural language of the PRS has been established under stage one of the sites redevelopment. This is proposed to translate through to future stages of the stadiums redevelopment and will extend to materials, finishes and landscaping. To maintain the same, or superior standard established under Stage 1 (as technology evolves though time), the Management Plan states that future proposals will be presented to the CoV Design Committee for its endorsement and the Management Plan is to be reviewed every five (5) years to ensure that it remains relevant. Once a management Plan is endorsed by the WAPC, should developments be contemplated that are not identified in the Management Plan, separate applications for planning approval will be required in the future on a case by case basis. **(Attachment 6 - Indicative completed stadium)**

Further, a Transport Assessment has been prepared by an expert traffic consultant. The main objectives of the transport assessment were to assess the existing transport situation, assess the future transport situation, develop strategies to increase demand of public and active transport modes, and compliance with the WAPC's Transport Assessment Guidelines for Developments.

CONCLUSION:

It is considered that the Management Plan is supported for the following reasons:

- i. The land use will remains consistent with the purposes of the reserve; The PRS is well connected to the Perth CBD and the pedestrian path network;
- ii. The Management Plan is consistent with the cabinet approved Master Plan;
- iii. Future Stands are to be designed in a manner which is consistent with the a previously constructed stand which was completed under stage 1 of the stadiums redevelopment;
- iv. Under the terms of the current lease, the City of Vincent will retain control over future proposals;
- v. The Management Plan will ensure superior safety, convenience and functionality by virtue of improved circulation and offer better connectivity through Loton Park and to nearby railway stations; and
- vi. Best practice in operational systems will be realised under the Management Plan.

ITEM NO: 9.5

Two Three-Bedroom Dwellings and One Four-Bedroom Dwelling for the Department of Housing at Lot 356 Blay Place Calista

WAPC OR COMMITTEE: Statutory Planning Committee

REPORTING AGENCY: Department of Planning
REPORTING OFFICER: Senior Planning Officer
AUTHORISING OFFICER: Director Metropolitan South
AGENDA PART: G
FILE NO: 26-50200-1
DATE: 31 March 2015
REPORT CATEGORY: Statutory
RECOMMENDATION OUTCOME: 1. Approve
ATTACHMENT(S): 1 - Location Plan
2 - Development Plan
REGION SCHEME ZONING: Urban
LOCAL GOVERNMENT: City of Kwinana
LOCAL SCHEME ZONING: Residential with split density of R12.5/20
LGA RECOMMENDATION(S): Not support
REGION DESCRIPTOR: Metropolitan South West
RECEIPT DATE: 11 September 2014
PROCESS DAYS: 187
APPLICATION TYPE: Development
CADASTRAL REFERENCE: Lot 356 Blay Place Calista

RECOMMENDATION:

That the Western Australian Planning Commission resolves to approve the proposed development of three dwellings at Lot 356 Blay Place Calista in accordance with development plans date stamped 9 February 2015 subject to the following conditions:

- 1. The car parking spaces , driveways and point of egress and ingress are to be designed, constructed, drained and marked in accordance with AS2890.1 to the satisfaction of the Western Australian Planning Commission.***
- 2. All stormwater drainage from roofed and paved areas shall be contained and disposed of on site to the satisfaction of the Western Australian Planning Commission.***

3. The landowner/applicant contributing towards development infrastructure provisions pursuant to the City of Kwinana Town Planning Scheme No.2.

SUMMARY:

The Department of Housing (DoH) proposes to construct three dwellings on Lot 356 Blay Place Calista.

The subject land is afforded a split residential density of R12.5/20 under the City of Kwinana Town Planning Scheme No.2. A maximum of 2 dwellings could be constructed on this site under the R20 density provisions.

The development application is consistent with the R25 density provisions of the Residential Design Codes 2013.

The development application is recommended for conditional approval.

LEGISLATION / STRATEGIC PLAN / POLICY:

Legislation *Planning and Development Act 2005*
Section: Part 10,Section 162

Strategic Plan
Strategic Goal: Planning
Outcomes: Effective delivery of integrated plans
Strategies: Implement State and Regional Planning Priorities

Policy
Number and / or Name: State Planning Policy No.3.1 - Residential Design Codes (2013)

INTRODUCTION:

The development application, submitted by the DoH, is for the construction of two single storey 3 bedroom dwellings and one single storey 4 bedroom dwelling (three dwellings in total) at Lot 356 Blay Place, Calista (**Attachment A** - Location Plan) (**Attachment B** - Development Plan). The subject land has an area of 1137m² and is vacant.

The development application has been forwarded to the Western Australian Planning Commission (WAPC) for sole determination in accordance with the WAPC's Instrument of Delegation dated 24 July 2009 with regard to public works by a public authority on land zoned under the Metropolitan Region Scheme (MRS).

The DoH is a public authority and Section 6 of the *Planning and Development Act 2005* provides that planning approval for public works is not required under the local planning scheme. As the development application is not in compliance with the local planning scheme with regard to density, DoH is unable to exercise the delegation that has been afforded to it, by the WAPC, to determine this proposal.

The locality consists of a mix of "older" single and grouped dwellings on properties coded variously R12.5/20 and R40. The Kwinana Town Centre is 500 metres to the east.

CONSULTATION:

The City of Kwinana (the City) does not support the development application as the proposal does not comply with the Residential Design Codes in relation to the minimum site area requirements for land coded R20 as follows.

Density Code Site Area 1137m ²	Min. Site Area per dwelling Required (m ²)	Min. Site Area per dwelling Provided (m ²)	Average Site Area Required (m ²)	Average Site Area Provided (m ²)	Max. Number of Dwellings based on Average Site Area
R20	350		450		2*
R25	300	302.57	350	397	3*

* Number has been rounded down.

The City recommends that the development application be modified to comply with the R20 density site area requirements. The City also takes issue with some design components of a minor nature having regard to local planning policies.

The City has provided recommended conditions should the WAPC be minded to approve the proposal. These have been reviewed and those that are relevant, necessary and serve a planning purpose have been recommended for imposition.

The DoH has provided the following planning justification (summarised) in support of the proposal:

- The development will respond to affordable housing demands for the area;
- The development will increase housing diversity and sustainability in an area that has good access to retail, employment, education centres and public transport;
- The City has indicated that there is potential in the future for this site to receive a higher density coding;
- The proposal is consistent with the established streetscape of single storey dwellings;
- The proposal is of a high quality design and will result in improved site amenity;and
- Other developments have been approved at a higher density close to this site (Lots 1 and 202 Kenton Way Calista WAPC 26- 50187-1).

The planning justification is supported.

PLANNING ASSESSMENT

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.

City of Kwinana Draft Local Planning Strategy

The City is preparing its draft Local Planning Strategy (Draft Strategy). This will incorporate the principles of the WAPC's strategic planning document 'Directions 2031' promotes infill development. The Draft Strategy includes overarching strategies and actions, one of which provides for a variety of housing types, densities and styles. The City's existing housing stock comprises 95 per cent single dwelling. To facilitate achieving more diversity in housing, the City proposes that areas within a 400 metre catchment of an Activity Centre or Local Centre be afforded a higher density coding, typically at R40 and above.

The subject land is within 200 metres from the Calista Local Centre. The development application does provide an opportunity to increase the housing types and number of dwellings within walking distance to the centres. Development at the higher density coding of R25 is appropriate.

Orderly and Proper Planning of the Locality

'Directions 2031' promotes efficient and effective use of residential land through appropriate infill development. This form of infill development for public housing constitutes housing in a density and form compatible to surrounding single residential developments. The development application is consistent with orderly and proper planning.

Preservation of the Amenities of the Locality

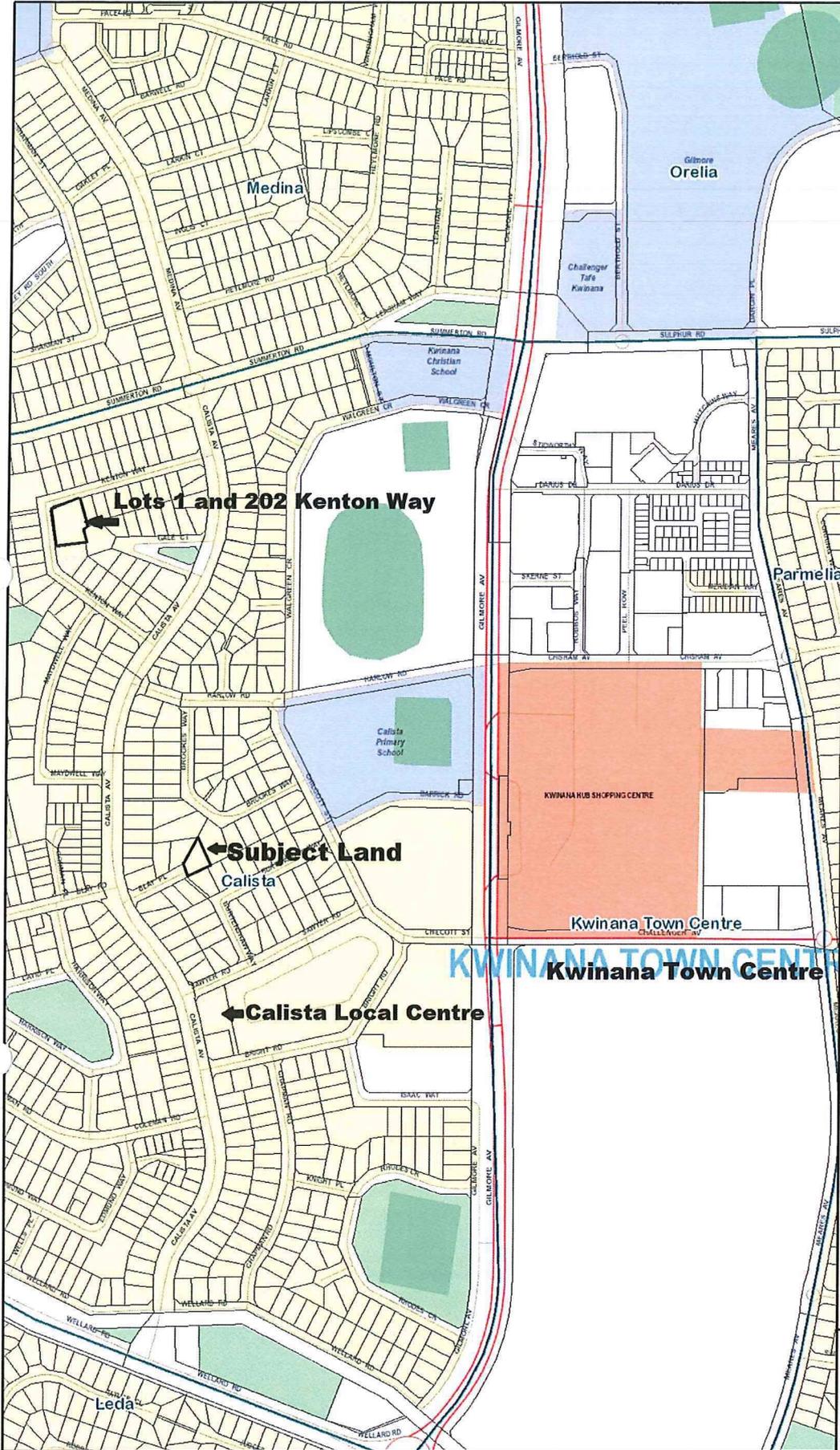
The surrounding development is predominantly single residential. The development, preserves the local amenities being compatible with respect to single storey and contemporary built form.

CONCLUSION:

The merits of the development application can be summarised as follows:

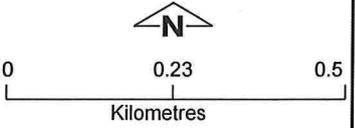
- Effective use of a presently undeveloped residential site;
- The City's desire for more efficient and effective use and development of residential zoned land (Draft Strategy);
- All services are available;
- Provision of contemporary housing in a location close to amenities and public transport; and
- An appropriate residential streetscape outcome.

Accordingly conditional approval is recommended.



Legend

- Local Government Area
 - Locality
 - Cadastre (View 1)
 - Local Planning Scheme Bounda
 - Other Categories - Areas (SCA,
 - R-Code Boundary
- LP Scheme Zones and Reserve**
- Commercial
 - Development
 - General town centre
 - Kwinana town centre
 - Market square
 - No zone
 - Park recreation and drainage
 - Public purposes
 - Residential
 - Service commercial
 - Shopping / business
 - Special use
 - Town centre residential



1: 9,869
at A4

Projection:
WGS 1984 Web Mercator Auxiliary Sphe

Notes:
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Map was produced using DoP's PlanViewWA.

Produced by:FUNCTIONALITY TO COME
Date produced: 17-Mar-2015

Location Plan

INTERNAL USE ONLY

Internal Spatial Viewer
[Link to viewer](#)

ITEM NO: 9.6

Five Three-Bedroom Dwellings and Two Two-Bedroom Dwellings for the Department of Housing at Lot 2 Kirkus Road Medina

WAPC OR COMMITTEE: Statutory Planning Committee

REPORTING AGENCY: Department of Planning
REPORTING OFFICER: Senior Planning Officer
AUTHORISING OFFICER: Director Metropolitan South
AGENDA PART: G
FILE NO: 26-50202-1
DATE: 31 March 2015
REPORT CATEGORY: Statutory
RECOMMENDATION OUTCOME: 1. Approve
ATTACHMENT(S): 1 - Location Plan
2 - Development Plan
REGION SCHEME ZONING: Urban
LOCAL GOVERNMENT: City of Kwinana
LOCAL SCHEME ZONING: Residential with split density of R12.5/20
LGA RECOMMENDATION(S): Not support
REGION DESCRIPTOR: Metropolitan South West
RECEIPT DATE: 14 November 2014
PROCESS DAYS: 123
APPLICATION TYPE: Development
CADASTRAL REFERENCE: Lot 2 Kirkus Road Medina

RECOMMENDATION:

That the Western Australian Planning Commission resolves to approve the proposed development of seven dwellings at Lot 2 Kirkus Road Medina in accordance with development plan date stamped 14 November 2014 subject to the following conditions:

- 1. The car parking spaces , driveways and point of egress and ingress are to be designed, constructed, drained and marked in accordance with AS2890.1 to the satisfaction of the Western Australian Planning Commission.***
- 2. All stormwater drainage from roofed and paved areas shall be contained and disposed of on site to the satisfaction of the Western Australian Planning Commission.***

3. The landowner/applicant contributing towards development infrastructure provisions pursuant to the City of Kwinana Town Planning Scheme No.2.

SUMMARY:

The Department of Housing (DoH) proposes to construct seven dwellings on Lot 2 Kirkus Road Medina.

The subject land is afforded a split residential density of R12.5/20 under the City of Kwinana Town Planning Scheme No.2. A maximum of 4 dwellings could be constructed on this site under the R20 density provisions.

The development application is consistent with the R30 density provisions of the Residential Design Codes 2013.

The development application is recommended for conditional approval.

LEGISLATION / STRATEGIC PLAN / POLICY:

Legislation *Planning and Development Act 2005*
Section: Part 10,Section 162

Strategic Plan
Strategic Goal: Planning
Outcomes: Effective delivery of integrated plans
Strategies: Implement State and Regional Planning Priorities

Policy
Number and / or Name: State Planning Policy No.3.1 - Residential Design Codes (2013)

INTRODUCTION:

The development application, submitted by the DoH, is for the construction of five single storey 3 bedroom dwellings and two single storey 2 bedroom dwellings (seven dwellings in total) at Lot 2 Kirkus Road, Medina (**Attachment A** - Location Plan) (**Attachment B** - Development Plans). The subject land has an area of 2130m² and is vacant.

The development application has been forwarded to the Western Australian Planning Commission (WAPC) for sole determination in accordance with the WAPC's Instrument of Delegation dated 24 July 2009 with regard to public works by a public authority on land zoned under the Metropolitan Region Scheme (MRS).

The DoH is a public authority and Section 6 of the *Planning and Development Act 2005* provides that planning approval for public works is not required under the local planning scheme. As the development application is not in compliance with the local planning scheme with regard to density, DoH is unable to exercise the delegation that has been afforded to it, by the WAPC, to determine this proposal.

The locality consists of a mix of "older" single and grouped dwellings on properties coded variously R12.5/20 and R40. The Kwinana Town Centre is 300 metres to the east.

CONSULTATION:

The City does not support the development application as the proposal does not comply with the Residential Design Codes in relation to the minimum site area requirements for land coded R20 as follows.

Density Code Site Area 2130m ²	Min. Site Area per Dwelling Required (m ²)	Min. Site Area per dwelling Provided (m ²)	Average Site Area Required (m ²)	Average Site Area Provided (m ²)	Max. Number of Dwellings based on Average Site Area
R20	350		450		4*
R30	260	262.3	300	306.8	7*

* Number has been rounded down.

The City recommends that the development application be modified to comply with the R20 density site area requirements (that is a maximum of four dwellings). The City also takes issue with some design components of a minor nature having regard to local planning policies.

The DoH has provided the following planning justification (summarised) in support of the proposal:

- The development will respond to affordable housing demands for the area;
- The development will increase housing diversity and sustainability in an area that has good access to retail, employment, education centres and public transport;
- The City has indicated that there is potential in the future for this site to receive a higher density coding;
- The proposal is consistent with the established streetscape of single storey dwellings;
- The proposal is of a high quality design and will result in improved site amenity; and
- Other developments have been approved at a higher density close to this site (Lots 1 and 202 Kenton Way WAPC Ref 26-50187-1).

The planning justification is supported.

PLANNING ASSESSMENT

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.

For reasons outlined below the development application is supported.

City of Kwinana Draft Local Planning Strategy

The City is preparing its draft Local Planning Strategy (Draft Strategy). This will incorporate the principles of the WAPC's strategic planning document 'Directions 2031' which promotes infill development. The Draft Strategy includes overarching strategies and actions, one of which provides for a variety of housing types, densities and styles. The City's existing housing stock comprises 95 per cent single dwelling. To facilitate achieving more diversity in housing, the City proposes that areas within a 400 metre catchment of an Activity Centre or Local Centre be afforded a higher density coding, typically at R40 and above.

The subject land is within 300 metres from the Kwinana Town Centre and the Medina Local Centre. The development application does provide an opportunity to increase the housing types and number of dwellings within walking distance to the centres. Development at the higher density coding of R30 is appropriate.

Orderly and Proper Planning of the Locality

'Directions 2031' promotes efficient and effective use of residential land through appropriate infill development. This form of infill development for public housing constitutes housing in a density and form compatible to surrounding single residential developments. For example Iriks Way abutting and to the south east of the subject land has been developed at a density of R40. The development application is consistent with orderly and proper planning.

Preservation of the Amenities of the Locality

The surrounding development is predominantly single residential. The development, preserves the local amenities being compatible with respect to single storey and contemporary built form.

CONCLUSION:

The merits of the development application can be summarised as follows:

- Effective use of a presently undeveloped residential site;
- The City's desire for more efficient and effective use and development of residential zoned land (Draft Strategy);
- All services are available;
- provision of contemporary housing in a location close to amenities and public transport; and
- An appropriate residential streetscape outcome.

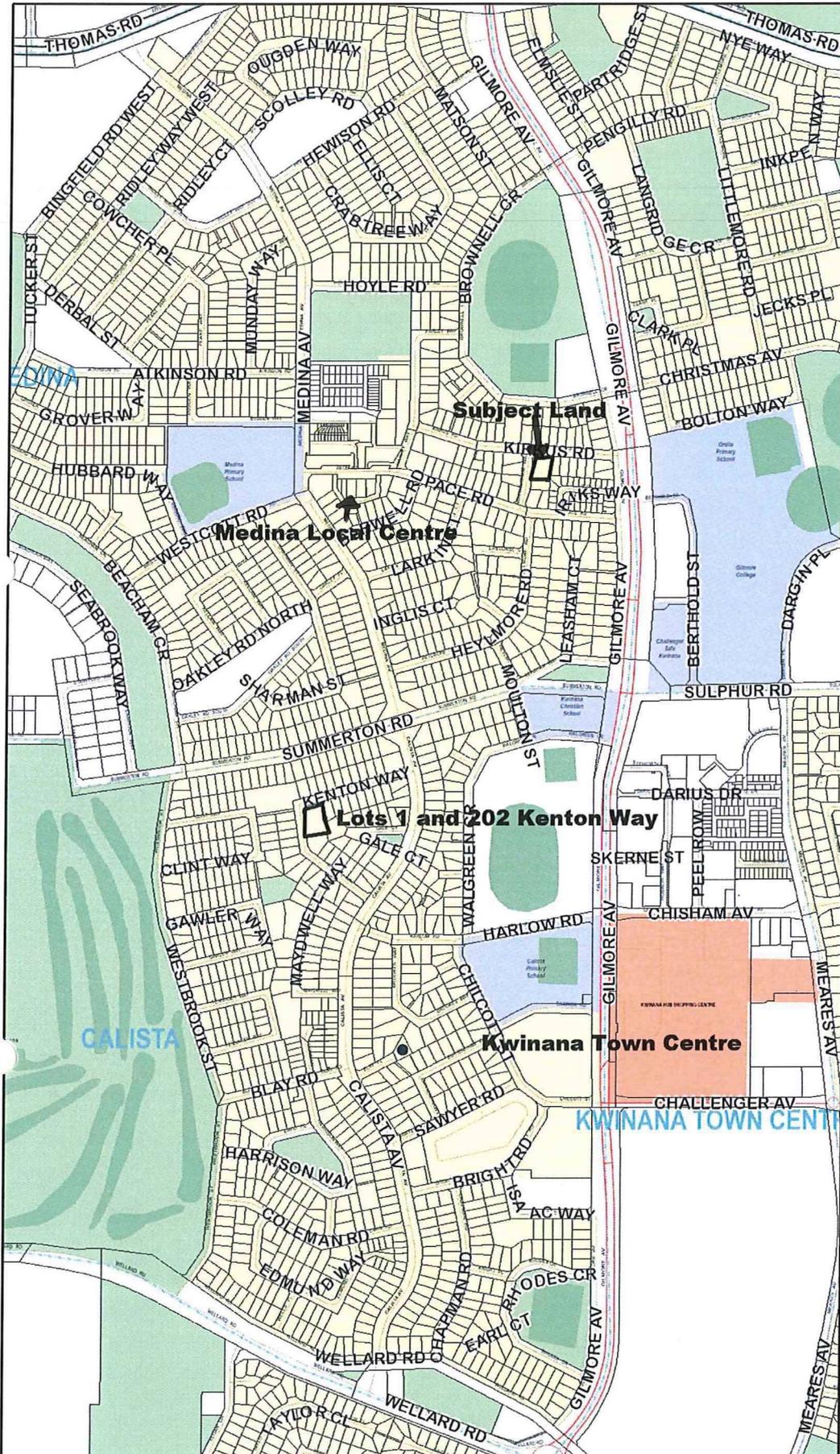
Accordingly conditional approval is recommended.



Government of Western Australia
Department of Planning

Legend

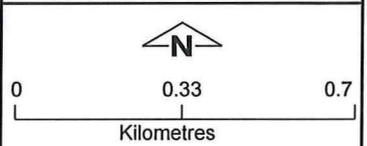
- Local Government Area
- Cadastre (View 1)
- Road Names



Location Plan

INTERNAL USE ONLY

Internal Spatial Viewer
[Link to viewer](#)



Kilometres

1: 14,408

at A4

Projection:
WGS 1984 Web Mercator Auxiliary Sphe

Notes:
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Map was produced using DoP's PlanViewWA.

Produced by: FUNCTIONALITY TO COME

Date produced: 19-Mar-2015

ITEM NO: 9.7

Application to Construct Two (2) Single Storey Grouped Dwellings at Lot 33 (407) Orrong Road, Kewdale

WAPC OR COMMITTEE:	Statutory Planning Committee
REPORTING AGENCY:	Department of Planning
REPORTING OFFICER:	Senior Planning Officer, Metropolitan Central - Perth and Peel
AUTHORISING OFFICER:	Planning Director, Metropolitan Central – Perth and Peel
AGENDA PART:	G
FILE NO:	15-50131-1
DATE:	25 February 2015
REPORT CATEGORY:	Statutory
RECOMMENDATION OUTCOME:	1. Approve
ATTACHMENT(S):	Attachment 1 – Aerial Photograph; Attachment 2 – TPS Zoning and Location Plan; Attachment 3 – Development Plans; Attachment 4 – Vehicle Access Plan; and Attachment 5 – MRWA Concept Plan Impact.

RECOMMENDATION:

That the Western Australian Planning Commission resolves to approve the development application for the construction of two (2) single storey Grouped Dwellings at Lot 33 (407) Orrong Road, Kewdale as shown on the plans date stamped 12 February 2015 subject to the following conditions and advice:

Conditions:

- 1. The proposed development is to comply in all respects with the submitted plans received on 12 February 2015 and stamped accordingly.***
- 2. All existing buildings and structures on the lot(s), including soakwells, leach drains, septic tanks and waste water disposal systems, shall be removed and the land levelled to the specification of the City of Belmont and satisfaction of the Western Australian Planning Commission.***
- 3. A landscaping and irrigation plan being prepared and approved prior to commencement of site works to the specification of the City of Belmont and to the satisfaction of the Western Australian Planning Commission.***

4. ***Prior to occupation the approved Landscape and Irrigation Plan is to be implemented to the specification of the City of Belmont and the satisfaction of the Western Australian Planning Commission, and maintained as such thereafter.***
5. ***Prior to occupation or use of the development, the existing street tree on Orrong Road shall be removed and replaced to the specifications of the City of Belmont and the satisfaction of the Western Australian Planning Commission.***
6. ***A 3m wide access easement along the south eastern boundary shall be provided to the specification of the City of Belmont and to the satisfaction of the Western Australian Planning Commission.***
7. ***Prior to the occupation or use of the development, the part of Lot 33 the subject of any access easement shall be paved, kerbed and drained to the specifications of the City of Belmont and the satisfaction of the Western Australian Planning Commission.***
8. ***Prior to occupation or use of the development, the landowner shall, after having obtained written approval from the City of Belmont, construct a vehicle crossover to the specification of the City of Belmont and the satisfaction of the Western Australian Planning Commission.***
9. ***Prior to occupation or use of the development, the redundant crossover(s) to Lot 33, shall be removed and the verge, footpath and kerb reinstated to the specifications of the City of Belmont and the satisfaction of the Western Australian Planning Commission.***
10. ***All stormwater from roofed and paved areas shall be collected and disposed of on-site to the specification of the City of Belmont and the satisfaction of the Western Australian Planning Commission.***

ADVICE

1. ***In regard to Condition 5, the landowner(s) is advised the access easement is to provide vehicular access in accordance with the Vehicle Access Plan (VAP) adopted by the City of Belmont on 25 October 2011. The applicant is further advised the easement documentation is to be prepared by the City's solicitors at the landowner(s) full expense and registered on the certificate of title for the land prior to lodgement of an application for building permit, unless otherwise agreed by the City.***
2. ***In regard to Condition 6, any construction and maintenance costs are to be borne by the landowner(s). The maintenance obligation is to be stated in the grant of easement documentation.***
3. ***The landowner(s) is advised that the crossover permitted onto Orrong Road is for a temporary period until the access easement (Vehicle Access Plan) is fully constructed and operational. Once the access easement is constructed and operational the crossover to Orrong Road***

will be made redundant and shall be removed and the verge, footpath and kerb reinstated to the specification of the City of Belmont.

- 4. No walls, fences or letterboxes above 0.75 metres in height are to be constructed within 1.5 metres of where walls or fences adjoin vehicular access points to the site, a driveway meets a public street or two streets intersect, unless the further approval of the Western Australian Planning Commission is obtained.*
- 5. Solid fences within the street setback area in excess of 1.2 metres in height are not permitted unless they comply with the Residential Design Codes.*
- 6. No earthworks to encroach into the Orrong Road reserve.*
- 7. Construction work outside the period 7:00am to 7:00pm Monday to Saturday and at any time on Sundays and public holidays is not permitted unless an approved Noise Management Plan for the construction site has been issued.*
- 8. No services, such as air conditioners or water heaters shall be visible from the street.*

ADVICE TO MAIN ROADS WA:

Main Roads WA is advised that the Western Australian Planning Commission (WAPC) has assessed the application in light of the referral advice and background comments provided. The WAPC acknowledges that future planning for Orrong Road is underway but that this review has not yet been finalised with no estimated time for completion.

In light of the current design concept for Orrong Road not being a seriously entertained planning document, the WAPC has made this decision taking into account the legislative requirements of the Metropolitan Region Scheme, the City of Belmont Local Planning Scheme No.15 and the City of Belmont's adopted Vehicle Access Plan, which do not require any additional road widening beyond the existing 'Other Regional Road' reserve.

SUMMARY:

- The City of Belmont (the City) has referred a development application for two (2) single-storey grouped dwellings to the Western Australian Planning Commission (WAPC) for determination.
- The City recommends conditional support for the proposal as it complies with the City's Local Planning Scheme No. 15 (LPS 15) and the Residential Design Codes (R-Codes).
- Main Roads Western Australia (MRWA) have objected to the proposal based on the future conceptual upgrade of Orrong Road which forms a part of the gateway / entrance to the City from the airport via Leach Highway.

- MRWA have advised designs for the widening of Orrong Road are still in conceptual form and currently not on their four (4) year program.
- MRWA have indicated that the conceptual designs will impact proposed Lot 1 adjacent to Orrong Road (**Attachment 5**).
- The application is referred to the WAPC under the Instrument of Delegation (gazetted 13 August 2010) as the recommendation provided by MRWA is not acceptable to the City and the development has the potential to impact on the future plans for Orrong Road.

BACKGROUND:

The subject site comprises Lot 33 (No. 407) Orrong Road, Kewdale and falls within under the jurisdiction of the City of Belmont. The site has a total area of 766m² and is predominantly surrounded by existing residential development.

The area to the north of Orrong Road is residential in nature with the properties to the south being industrial, (**Attachment 1 - Aerial Photograph**). The site is zoned 'Urban' under the Metropolitan Region Scheme (MRS) and 'Residential' with a density coding of R20/60 under LPS 15, (**Attachment 2 - Location & Zoning Plan**). The application proposes the construction of two (2) single-storey, grouped dwellings. All proposed dwellings will achieve temporary vehicle access via an existing crossover to Orrong Road, (**Attachment 3 - Development Plans**).

Adjoining Site Development

A separate application over the adjoining Lot 32 (No. 409) Orrong Road, for the construction of three (3) two-storey, grouped dwellings which is also required to be determined by the WAPC and is on the same agenda. All proposed dwellings will achieve vehicle access temporarily via an existing crossover on Orrong Road, with future access to be provided in accordance with the adopted Vehicle Access Plan (**Attachment 4 – Vehicle Access Plan**).

LEGISLATION / STRATEGIC PLAN / POLICY:

Legislation

Section:

Planning and Development Act 2005
(Section 10) Part 2, Section 16

Strategic Plan

Strategic Goal:

Outcomes:

Strategies:

Strategic Goal 2. Planning
Effective Delivery of Integrated Plans
Implement State and Regional Planning Priorities

Policy

Compliance:

Proposal complies with WAPC policies unless discussed in Planning Assessment section.

CONSULTATION:

The City referred the application to MRWA as the subject site abuts Orrong Road which is classified as 'Other Regional Road' under the MRS and falls under the

jurisdiction of MRWA. MRWA advise that they do not support the application for the following reasons:

- Upgrading of Orrong Road is proposed in the future, although not within a four (4) year estimated construction programme;
- Proposed concept plans for the layout of the Orrong Road and President Street intersection would prevent any future access to the subject lot; and
- Due to the future land requirements needed to upgrade Orrong Road impacting proposed Lot 1.

OFFICER'S COMMENTS:

Background

On 12 February 2015, an application for two (2) single-storey grouped dwellings was received by the Western Australian Planning Commission (WAPC) as a result of an objection received by the City from MRWA.

Responding to a referral from the City, MRWA advised that the proposal, with specific reference to proposed "Lot 1", was unacceptable as future plans to upgrade Orrong Road would require a portion of land to be acquired.

MRWA have advised the proposed designs for the future upgrade are still in a conceptual stage and not currently listed in their four (4) year program.

The City of Belmont are satisfied that the application complies with the Local Planning Scheme (LPS) and the R-Codes 2013, and accordingly recommended the application be conditionally approved.

Since the City of Belmont and MRWA have not been able to reach an acceptable outcome, the application has been forwarded to the WAPC for determination in accordance with the Notice of Delegation (DEL2011/02 Powers of Local Governments (MRS)

Metropolitan Region Scheme & City of Belmont Local Planning Scheme No.15

The subject site is zoned 'Urban' under the Metropolitan Region Scheme (MRS).

Under LPS 15 the land is zoned 'Residential' with a density code of R20/40. The purpose and intent of the 'Residential' zone is:

"to increase the population base of the City of Belmont by permitting a mix of single housing and other housing types to reflect household composition and thereby increase the resident population".

It is considered that the proposal is consistent with the zoning under the MRS and LPS 15.

Residential Design Codes

The City has assessed the proposal against the R-Codes and is satisfied the proposal is compliant.

Traffic Assessment & Road Widening Requirements

Vehicle Access Plan

In accordance with clause 5.7.1 of LPS 15, coordinated access should be provided through the adopted Vehicle Access Plan (VAP) (**Attachment 4 - Vehicle Access Plan**) for all residential development, other than single dwellings, abutting regional roads.

The VAP concerns four (4) lots being Lots 30, 31, 32 and 33 Orrong Road (the subject site), and all are required at the time of development to provide Right of Way (ROW) easements, varying in width along various boundaries to facilitate future access requirements.

In accordance with the VAP, the proposed development on the subject site includes a 3m wide ROW easement along the south eastern boundary. Eventually, it is proposed that all access to the proposed dwellings will be taken via the ROW which is to be accessed off the perpendicular street (President Street) with the existing crossover onto Orrong Road becoming redundant in time. As an interim measure, the proposed dwellings will continue to use the existing crossover of Orrong Road.

Adjoining Lot 32 is subject to a separate development application which is also to be considered by the SPC under WAPC ref 15-50127-1. Similar conditions are recommended in that case

MRWA Concept Plan

The current preliminary concept plan for Orrong Road depicts a 3.0 metre widening of the road reserve where it abuts the subject land. This is over and above the current ORR reserve. (**Attachment 5 - Preliminary Concept Plan**).

Comment

The subject site is zoned 'Urban' under the MRS and no part of the site is currently reserved for road purposes as proposed by the conceptual design provided by MRWA.

While there is an acknowledgement of the aspirations of MRWA, in terms of future road planning, the current plan is only conceptual and has no statutory weight. It is therefore difficult to formulate a sound planning decision (which is defensible in an appeal situation) based on a conceptual design.

The proposed conceptual plan provided by MRWA cannot be considered as a seriously entertained planning document until:

- i. An amendment to the MRS is initiated (and approved);or
- ii. A Planning Control Area is put in place.

Taking the above into consideration the proposed two (2) single storey grouped dwellings are acceptable.

CONCLUSION:

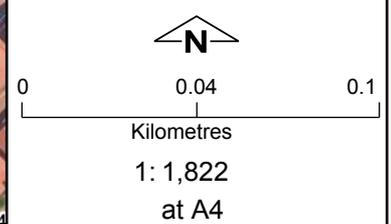
It is considered that the proposal represents appropriate residential development for the 'Urban' zone under the Metropolitan Region Scheme (MRS) and satisfactorily meets the requirements of the LPS 15, the R-Codes and the City's adopted VAP.

The application should be assessed against the current zoning of the land together with any applicable statutory requirements. The future road planning being undertaken by MRWA for the section of Orrong Road abutting the subject site has not reached a stage where it can be considered a seriously entertained planning document. On this basis, it is not accepted as a reasonable basis to determine the application. It is therefore recommended that this application be approved subject to conditions.



Legend

- Local Government Area
- Cadastre



Projection:
WGS 1984 Web Mercator Auxiliary Sphe

Notes:

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

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PlanViewWA Map

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Internal Spatial Viewer
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ITEM NO: 9.8

Application to Construct Three (3) Two Storey Grouped Dwellings at Lot 32 (No. 409) Orrong Road, Kewdale

WAPC OR COMMITTEE:	Statutory Planning Committee
REPORTING AGENCY:	Department of Planning
REPORTING OFFICER:	Senior Planning Officer, Metropolitan Central, Perth and Peel
AUTHORISING OFFICER:	Planning Director, Metropolitan Central, Perth and Peel
AGENDA PART:	G
FILE NO:	15-50127-1
DATE:	26 February 2015
REPORT CATEGORY:	Statutory / Policy
RECOMMENDATION OUTCOME:	1. Approve
ATTACHMENT(S):	Attachment 1 - Aerial Photograph Attachment 2 - TPS Zoning and Location Plan Attachment 3 - Development Plans Attachment 4 - Vehicle Access Plan Attachment 5 - MRWA Concept Plan

RECOMMENDATION:

That the Western Australian Planning Commission resolves to approve the development application for the construction of three (3) two (2) storey Grouped Dwellings at Lot 32 (409) Orrong Road, Kewdale as shown on the plans date stamped 09 January 2015 subject to the following conditions and advice:

CONDITIONS

- 1. The proposed development is to comply in all respects with the submitted plans received on the 09 January 2015 and stamped accordingly.***
- 2. All existing buildings and structures on the lots, including soakwells, leach drains septic tanks and waste water disposal systems, shall be removed and the land levelled to the specification to the City of Belmont to the satisfaction of the Western Australian Planning Commission.***
- 3. Prior to occupation or use of the development, the external face of the walls built on the boundary shall be finished in either:***

- (a) face brick;**
- (b) painted render; or**
- (c) painted brick work.**

to the specification of the City of Belmont and to the satisfaction of the Western Australian Planning Commission.

- 4. A landscaping and irrigation plan being prepared and approved prior to commencement of site works to the specification of the City of Belmont and to the satisfaction of the Western Australian Planning Commission. Once approved, the Landscape and Irrigation Plan is to be implemented in its entirety.**
- 5. Prior to occupation the landscaping and irrigation plan is to be implemented to the specification of the City of Belmont to the satisfaction of the Western Australian Planning Commission, and maintained as such thereafter.**
- 6. Prior to occupation or use of the development, the existing street tree on Orrong Road shall be removed and replaced to the specification of the City of Belmont and to the satisfaction of the Western Australian Planning Commission.**
- 7. A 3m wide access easement along the north eastern boundary shall be provided to the specification of the City of Belmont and to the satisfaction of the Western Australian Planning Commission.**
- 8. Prior to the occupation of the development, the part of Lot 32 the subject of any access easement shall be paved, kerbed and drained to the specification of the City of Belmont to the satisfaction of the Western Australian Planning Commission.**
- 9. Prior to occupation of the development, the owner/applicant shall construct a vehicle crossover to the specification of the City of Belmont and to the satisfaction of the Western Australian Planning Commission.**
- 10. Prior to occupation of the development, the redundant crossover(s) to Lot 32, shall be removed and the verge, footpath and kerb reinstated to the specification of the City of Belmont and to the satisfaction of the Western Australian Planning Commission.**
- 11. All stormwater from roofed and paved areas shall be collected and disposed of on-site to the specification of the City of Belmont and to the satisfaction of the Western Australian Planning Commission.**

ADVICE

- 1. In regard to Condition 7, the applicant is advised that the access easement is to provide vehicular access in accordance with the Vehicle Access Plan (VAP) adopted by the City of Belmont on the 25 October 2011. The applicant is further advised that the easement documentation**

is to be prepared by the City's solicitors at the applicant/owner's full expense and registered on the certificate of title for the land prior lodgement of an application for a building permit, unless otherwise agreed in writing by the City.

- 2. In regard to Condition 8, any construction and maintenance costs are to be borne by the owner. The maintenance obligation is to be stated in the grant of easement documentation.*
- 3. The applicant is advised that the crossover permitted onto Orrong Road is for a temporary period until the access easement (Vehicle Access Plan) is fully constructed and operational. Once the access easement is constructed and operational the crossover to Orrong Road will become redundant and shall be removed and the verge, footpath and kerb reinstated to the specification of the City of Belmont.*
- 4. No walls, fences or letterboxes above 0.75 metres in height are to be constructed within 1.5 metres of where walls or fences adjoin vehicular access points to the site, a driveway meets a public street or two streets intersect, unless the further approval of the Western Australian Planning Commission is obtained.*
- 5. Solid fences within the street setback area in excess of 1.2 metres in height are not permitted unless they comply with the Residential Design Codes.*
- 6. No earthworks to encroach into the Orrong Road reserve.*
- 7. Construction work outside the period 7:00am to 7:00pm Monday to Saturday and at any time on Sundays and public holidays is not permitted unless an approved Noise Management Plan for the construction site has been issued.*
- 8. No services, such as air conditioners or water heaters shall be visible from the street.*

ADVICE TO MAIN ROADS WA:

Main Roads WA is advised that the Western Australian Planning Commission (WAPC) has assessed the application in light of the referral advice and background comments provided. The WAPC acknowledges that future planning for Orrong Road is underway but that this review has not yet been finalised with no estimated time for completion.

In light of the current planning design concept for Orrong Road not being assessed to be a seriously entertained planning document, the WAPC has made this decision taking into account the legislative requirements of the Metropolitan Region Scheme, the City of Belmont Local Planning Scheme No.15 and the City of Belmont's adopted Vehicle Access Plan, which do not require any additional road widening beyond the existing 'Other Regional Road' reserve.

SUMMARY:

- The City of Belmont (the City) has referred a development application for three (3) two-storey grouped dwellings to the Western Australian Planning Commission's (WAPC) for determination;
- The City recommends conditional support for the proposal as it complies with the City's Local Planning Scheme No.15 (LPS 15) and the Residential Design Codes (R-Codes);
- Main Roads Western Australia (MRWA) objects to the application on the basis that future road requirements for Orrong Road suggests that the entire lot will be required as part of the future conceptual upgrade of Orrong Rd;

MRWA has advised that designs for the road widening is still in conceptual stage and not in their four year construction programme;

- The application is referred to the WAPC under the Instrument of Delegation (gazetted 13 August 2010) as the recommendation provided by MRWA is not acceptable to the City and has been elevated to the Statutory Planning Committee as the development has the potential to impact on the future plans for Orrong Road.

LEGISLATION / STRATEGIC PLAN / POLICY:

Legislation

Section:

Planning and Development Act 2005

Section 10

Strategic Plan

Strategic Goal:

Outcomes:

Strategies:

Strategic Goal 2. Planning

Effective Delivery of Integrated Plans

Implement State and Regional Planning Priorities

Policy

Number and / or Name

WAPC Policy No. DC1.2 Development Control - General Principles.

INTRODUCTION:

The subject site comprises Lot 32 (No. 409) Orrong Road and falls under the jurisdiction of the City of Belmont. The site has a total area of 799m² and is predominantly surrounded by existing residential development.

The area to the north of Orrong Road is residential in nature with the properties to the south being industrial, (**Attachment 1 - Aerial Photograph**). The site is zoned 'Urban' under the Metropolitan Region Scheme (MRS) and 'Residential' with a density coding of R20/60 under LPS 15, (**Attachment 2 - Location & Zoning Plan**).

The application proposes the construction of three (3) two-storey, grouped dwellings. All proposed dwellings will achieve vehicle access temporarily via an existing crossover onto Orrong Road, (**Attachment 3 - Development Plans**).

Adjoining Site Development

There is a separate application over the adjoining Lot 33 (407) Orrong Road, for the construction of two (2) single storey grouped dwellings under WAPC ref 15-50131-1. These dwellings will achieve vehicle access temporarily via an existing crossover onto Orrong Road, with future access being provided in accordance with the City's adopted Vehicle Access Plan (**Attachment 4 - Vehicle Access Plan**)

CONSULTATION:

The City referred the application to MRWA as the subject site abuts Orrong Road which is classified as 'Other Regional Road' under the MRS and falls under the jurisdiction of MRWA. MRWA advise that they do not support the application for the following reasons:

- Upgrading of Orrong Road is proposed in the future, although not within a four (4) year estimated construction programme;
- A proposed concept plan for the layout of Orrong Road and President Street intersection would prevent any future access to the subject lot; and
- Due to the future land requirements needed to upgrade Orrong Road the whole of Lot 32 will most likely have to be acquired.

PLANNING ASSESSMENT

Background

On 06 May 2014, an application for three (3) grouped dwellings was referred by the City to MRWA for comment. Responding to the referral, MRWA advised that the plans were unacceptable as future plans to upgrade Orrong Road would require a large proportion of the subject lot to be acquired.

MRWA advised that the widening of MRWA was not in its 4 year plan.

On the 15 October 2014, the City received amended plans. Based on these amendments, the City is satisfied that the application complies with its LPS and the R-Codes 2013, and accordingly recommended that the application be conditionally approved. However, since the City and MRWA cannot come to an agreement, the application has been forwarded to the WAPC for determination in accordance with the Notice of Delegation (DEL2011/02 Powers of Local Governments (MRS)

Metropolitan Region Scheme & City of Belmont Local Planning Scheme No.15 (LPS15)

The subject site is zoned 'Urban' under the MRS.

Under LPS 15 the land is zoned 'Residential' with a density code of R20/40. The purpose and intent of the 'Residential' zone is:

"to increase the population base of the City of Belmont by permitting a mix of single housing and other housing types to reflect household composition and thereby increase the resident population".

It is considered that the proposal is consistent with the zoning under the MRS and LPS 15.

Residential Design Codes

The City has assessed the proposal against the R-Codes and is satisfied the proposal is compliant.

Traffic Assessment & Road Widening Requirements

Vehicle Access Plan

In accordance with clause 5.7.1 of LPS 15, coordinated access should be provided through an adopted Vehicle Access Plan (VAP) for all residential development, other than single dwellings, abutting regional roads. The VAP for the subject site was adopted by Council after consultation with MRWA on 26 July 2005. **Attachment 4 - Vehicle Access Plan.**

The VAP concerns four (4) lots being lots 30,31,32 and 33 Orrong Road which are all required at the time of development to provide right of way easements of varying widths to facilitate future access.

The VAP shows a proposed 6.0 metre wide easement affecting the subject site, neighbouring lot 33 to the west and neighbouring lot 31 to the north. The development plans show a 3.0m along the north eastern boundaries, insofar a Right of Way (ROW) that replicates this easement. Eventually, it is proposed that all access to the proposed dwellings will be taken via this ROW which is to be accessed a side street (President Street) with the existing crossover onto Orrong Road becoming redundant. As an interim measure, the proposed dwellings will continue to use the existing crossover of Orrong Road.

A condition is therefore recommended requiring a 3m wide access easement along the north eastern boundary of the site to ensure that vehicular access is consistent with the VAP. A further condition is recommended to ensure that the area affected by the access easement is paved, kerbed and drained to the specification of the City of Belmont.

Adjoining Lot 33 is subject to a separate development application which is also to be considered by the SPC under WAPC ref 15-50131-1. Similar conditions are recommended in that case.

MRWA Concept Plan

The current preliminary concept plan for Orrong Road, depicts a 4.0m to 12.0m widening of the road reserve where it abuts the subject land. This is over and above the current ORR reserve. (**Attachment 5 - Preliminary Concept Plan**).

Comment

The subject site is zoned 'Urban' under the MRS. No part of the site is reserved for ORR, rather the lot merely abuts it. In and use terms the construction of three (3) grouped dwellings on the subject site is acceptable in principle.

While there is an acknowledgement of the aspirations of MRWA, in terms of future road planning, the fact that the current plan is a concept (with limited statutory weight), it is difficult to formulate a sound planning decision (which is defensible in an appeal situation) based on it.

Any additional widening requirement put by MRWA cannot be considered as a seriously entertained planning proposal until:

- i. An amendment to the MRS is initiated (and approved);or
- ii. A Planning Control Area is put in place.

CONCLUSION:

It is considered that the proposal represents appropriate residential development for the 'Urban' zone under the MRS and satisfactorily meets the requirements of LPS 15, the R-Codes and the City's adopted vehicle access strategy.

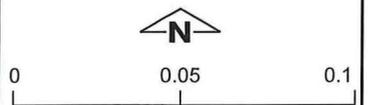
The application should be assessed against the current zoning of the land together with any applicable statutory requirements. The future road planning being undertaken by MRWA for the section of Orrong Road abutting the subject site has not reached a stage where it can be considered a seriously entertained planning document. On this basis, it is not accepted as a reasonable basis to determine the application. It is therefore recommended that this application be approved subject to conditions.



Legend

-  Local Government Area
-  Cadastre (view 1)

ATTACHMENT 1



1: 2,303
at A4

Projection:
WGS 1984 Web Mercator Auxiliary Sphe

Notes:

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Date produced: 18-Feb-2015

PlanViewWA Map

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Internal Spatial Viewer
[Link to viewer](#)

ITEM NO: 9.9

Subdivision: to Create 5 Lots and Common Property for Residential Purpose - Lot 44 Salisbury Road, Midvale

WAPC OR COMMITTEE:	Statutory Planning Committee
REPORTING AGENCY:	Department of Planning
REPORTING OFFICER:	Planning Manager, Metropolitan Planning North East, Perth and Peel Planning
AUTHORISING OFFICER:	Director, North East , Perth and Peel Planning
AGENDA PART:	G
FILE NO:	1522-14
DATE:	12 February 2015
ATTACHMENT(S):	1. Location Plan 2. Proposed Plan of Subdivision
REGION SCHEME ZONING:	Urban
LOCAL GOVERNMENT:	Shire of Mundaring
LOCAL SCHEME ZONING:	Residential
LGA RECOMMENDATION(S):	Refusal
REGION DESCRIPTOR:	Midvale
RECEIPT DATE:	10 December 2014
PROCESS DAYS:	86
APPLICATION TYPE:	Subdivision
CADASTRAL REFERENCE:	Lot 44 Salisbury Road, Midvale.

RECOMMENDATION:

That the Western Australian Planning Commission resolves to approve the application for subdivision of Lot 44 Salisbury Road, Midvale as shown on the plan date-stamped 27 October 2014. This decision is valid for four years subject to the following conditions and advice:

CONDITION(S):

- 1. Other than buildings, outbuildings and structures shown on the approved plan for retention, all buildings, outbuildings and structures present on the proposed lots at the time of subdivision approval being demolished and materials removed from the lot(s). (Local Government)***
- 2. The land being filled, stabilised, drained and/or graded as required to ensure that***
 - a) lots can accommodate their intended development; and***

- b) **finished ground levels at the boundaries of the lot(s) the subject of this approval match or otherwise coordinate with the existing and/or proposed finished ground levels of the land abutting; and**
- c) **stormwater is contained on-site, or appropriately treated and connected to the local drainage system**

(Local Government)

- 3. **Suitable arrangements being made for connection of the land to the comprehensive district drainage system at the landowner/applicant's cost. (Local Government)**
- 4. **The proposed access way being constructed and drained at the landowner/applicant's cost to the specifications of the local government. (Local Government)**
- 5. **Arrangements being made with the Water Corporation so that provision of a suitable water supply service will be available to the lots shown on the approved plan of subdivision. (Water Corporation)**
- 6. **Arrangements being made with the Water Corporation so that provision of a sewerage service will be available to the lots shown on the approved plan of subdivision. (Water Corporation)**
- 7. **Arrangements being made to the satisfaction of the Western Australian Planning Commission and to the specification of Western Power, for the provision of an electricity supply to the survey-strata lots shown on the approved plan of subdivision, which may include the provision of necessary service access rights either as an easement under Section 136C and Schedule 9A of the Transfer of Land Act 1893 for the transmission of electricity by underground cable, or (in the case of approvals containing common property) via a portion of the common property suitable for consumer mains. (Western Power)**

ADVICE:

- 1. **In regard to Condition 1, planning approval and/or a demolition licence may be required to be obtained from the local government prior to the commencement of demolition works.**
- 2. **In regard to Conditions 5 & 6, the landowner/applicant shall make arrangements with the Water Corporation for the provision of the necessary services. On receipt of a request from the landowner/applicant, a Land Development Agreement under Section 83 of the Water Services Act 2012 will be prepared by the Water Corporation to document the specific requirements for the proposed subdivision.**
- 3. **In regard to Condition 7, Western Power provides only one underground point of electricity supply per freehold lot.**

SUMMARY:

The application proposes the subdivision of a 1143m² lot to create five lots and common property. The proposal complies with the lot size requirements of the Residential Design Codes for the 'R40' density coding applicable to the land under the Shire of Mundaring Local Planning Scheme No.4. The proposal is not supported by the Shire of Mundaring as the local planning scheme includes a provision which states the Shire will not support the subdivision of lots less than 1500m² if they are to be subdivided at a density higher than 'R20'. The subject land is located in area which is within close proximity to a primary school and bus routes providing access to the Midland city centre and train station. The land is suitable for subdivision in the manner proposed by the application and should not be prejudiced by the Shire's recommendation. The application is recommended for approval.

LEGISLATION / STRATEGIC PLAN / POLICY:

Legislation

Section:

Planning and Development Act 2005

Part 10

Strategic Plan

Strategic Goal:

Planning

Outcomes:

Effective Delivery of Integrated Plans

Strategies:

Implement State and Regional Planning priorities

Policy

Number and / or Name:

State Planning Policy 3 - Urban Growth and Settlement

State Planning Policy 4.2 - Activity Centres for Perth and Peel

Directions 2031 and Beyond

Outer Metropolitan Perth and Peel Sub-regional Strategy (Draft)

INTRODUCTION:

The application proposes the subdivision of a 1143m² lot to create five (5) survey-strata lots with areas ranging from 190.15m² to 193.12m² and a common property access way of 184.52m². There is an existing dwelling and outbuildings on the land which are proposed to be removed (**Attachment 2** - Proposed Survey Strata Plan).

The subject land is zoned 'Urban' under the Metropolitan Region Scheme (MRS) and 'Residential R40' under the Shire of Mundaring Local Planning Scheme No.4 (LPS No.4) (**Attachment 1** - Location Plan).

CONSULTATION:

The Shire of Mundaring recommend that the application be refused on the grounds that support the application under Clause 5.3.2(b) of LPS No.4 which states:

"On lots with a Residential Design Code higher than R20..... the Shire shall not support subdivision of any lot with an area of less than 1500m²."

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

The Department of Fire and Emergency Services raises no objections to the proposal.

PLANNING ASSESSMENT

Shire of Mundaring Local Planning Scheme No.4

The subject land is prescribed a density coding of R40 under LPS No.4, for which the proposal achieves the minimum (180m² required, 190.15m² provided) and average (220m² required, 228.6m² provided) lot size requirements of the Residential Design Codes. However, Clause 5.3.2 - *Grouped and Multiple Dwellings* of LPS No.4 states:

"On lots with a Residential Design Code higher than R20, the minimum site area per dwelling in Table 1 of the Residential Design Codes shall apply except that:

- (a) Grouped Dwellings or Multiple Dwellings shall not be permitted on any lot with an area of less than 1500m²; and*
- (b) the Shire shall not support subdivision of any lot with an area of less than 1500m²,*

unless all dwellings can be located so as to directly address a street or open space, or were a lot is constrained by adjoining lots having been subdivided or developed to their full potential under the applicable Residential Design Code."

Shire of Mundaring Local Planning Strategy

The Shire's Local Planning Strategy includes a supporting strategic statement, under Part 6.0 - *Strategies - By Issue* and Part 7.0 - *Strategies - By Locality*, which proposes to *"Incorporate a provision in Local Planning Scheme No.4 setting 1500m² as the threshold below which a lot code higher than R20 should not be subdivided or developed for grouped dwellings, unless all dwellings can be located so as to directly address a street or open space, to ensure an improved aesthetic quality of development and to ensure greater levels of visibility and surveillance"*. This strategic statement provides the policy objective to the related scheme provision in that the purpose of the restriction on subdivision of lots below 1500m² is to achieve a higher quality of development and amenity. It is also understood that the Shire's intention is for smaller lots to be amalgamated prior to subdivision with the intention of providing more coordinated development of land.

The above requirement aside, no further planning controls are provided by LPS No.4 to guide the resulting development from the subdivision of a lot 1500m² or greater in area which would differ from the resulting development of a smaller parent lot. While a larger parent lot may offer an opportunity for a more coordinated approach to a grouped dwelling development, there are no requirements which guarantee such an outcome would occur.

In view of the above, the requirement for a 1500m² lot is therefore somewhat arbitrary. This means of achieving a better development outcome is not considered a reasonable justification for preventing the subdivision of lots which would otherwise meet the requirements of the respective density coding applicable to the land under LPS No.4. Furthermore, the amalgamation of lots to achieve this particular requirement prejudices the ability for a significant portion of lots within the area to be developed independently. Without agreement from adjoining landowners to participate in an amalgamation, many lots will effectively be sterilised from further development in accordance with the density coding applicable to the land. The requirement is not conducive to the development of a variety of housing options as it does not effectively accommodate infill development alongside landowners who wish to retain larger lots.

Notwithstanding the above strategy objective, the Shire's Local Planning Strategy also states the following strategy objective for the Midvale locality:

"Increase residential densities in the older area of Midvale, between Bushby Street and Beaconsfield Avenue to capitalise on access to the Midland Regional Centre, public transport, employment and other facilities, and to recognise opportunities for redevelopment."

The subject land is within the above referenced locality, which consists of four street blocks. The application area is within 400 metres of a primary school, approximately 100 metres from a bus stop servicing a route allowing access to Midland Gate Shopping Centre, Midland Train Station and the Midland TAFE campus. The subdivision of the land would be consistent with strategic objectives 4.3.5 and 5.0 of the Local Planning Strategy, which seek to capitalise on areas with existing services and relative proximity to shops, schools, public transport and other facilities. Areas in proximity to the Midland regional centre in particular are identified as areas for intensifying residential development.

State Planning Policy 3 - Urban Growth and Settlement (SPP 3) & State Planning Policy 4.2 - Activity Centres for Perth and Peel (SPP 4.2)

As part of the stated objectives for each respective policy, SPP 3 and SPP 4.3 seek to increase housing density around activity centres and where alternative modes of transport are available, such as public transport, walking and cycling, to access centres and services in order to improve land use efficiency. The subject land meets the locational criteria, under these policies, for increased residential density. The land is provided with infrastructure for reticulated water and sewerage and is capable of accommodating the proposed lots.

The subject land is located in an area for which the proposed subdivision is entirely appropriate based upon the level of services and community facilities available. Such development is consistent with state policy, the density coding afforded to the land under the LPS No.4 and the broader objectives of the Local Planning Strategy. The ability of the land to be developed in a manner which would effectively utilise the services available to the land should not be prejudiced by the requirement for the parent lot to be 1500m² in area.

Directions 2031 and Beyond & The Outer Metropolitan Perth and Peel Sub-regional Strategy (Draft)

Directions 2031 sets a density target of 1620 additional infill dwellings to be provided within the Mundaring municipality by the year 2031. The draft Outer Metropolitan Perth and Peel Sub-regional Strategy identifies these targets to be achieved under a connected city medium density scenario, while under a 'business as usual' scenario only 1400 additional dwellings are projected. Given the locality of the application is identified under the Local Planning Strategy as a target for increasing residential density, the subdivision of the land as proposed to create an additional 4 lots is considered appropriate in the context of the stated density targets for the Mundaring municipality.

While approval of the application by the Western Australian Planning Commission is not strictly considered a conflict with the provisions of LPS No.4, as the provision only prevents the Shire from supporting the proposal, under the *Planning and Development Act 2005*, the Commission may give an approval under section 135 or 136 that conflicts with the provisions of a local planning scheme if:

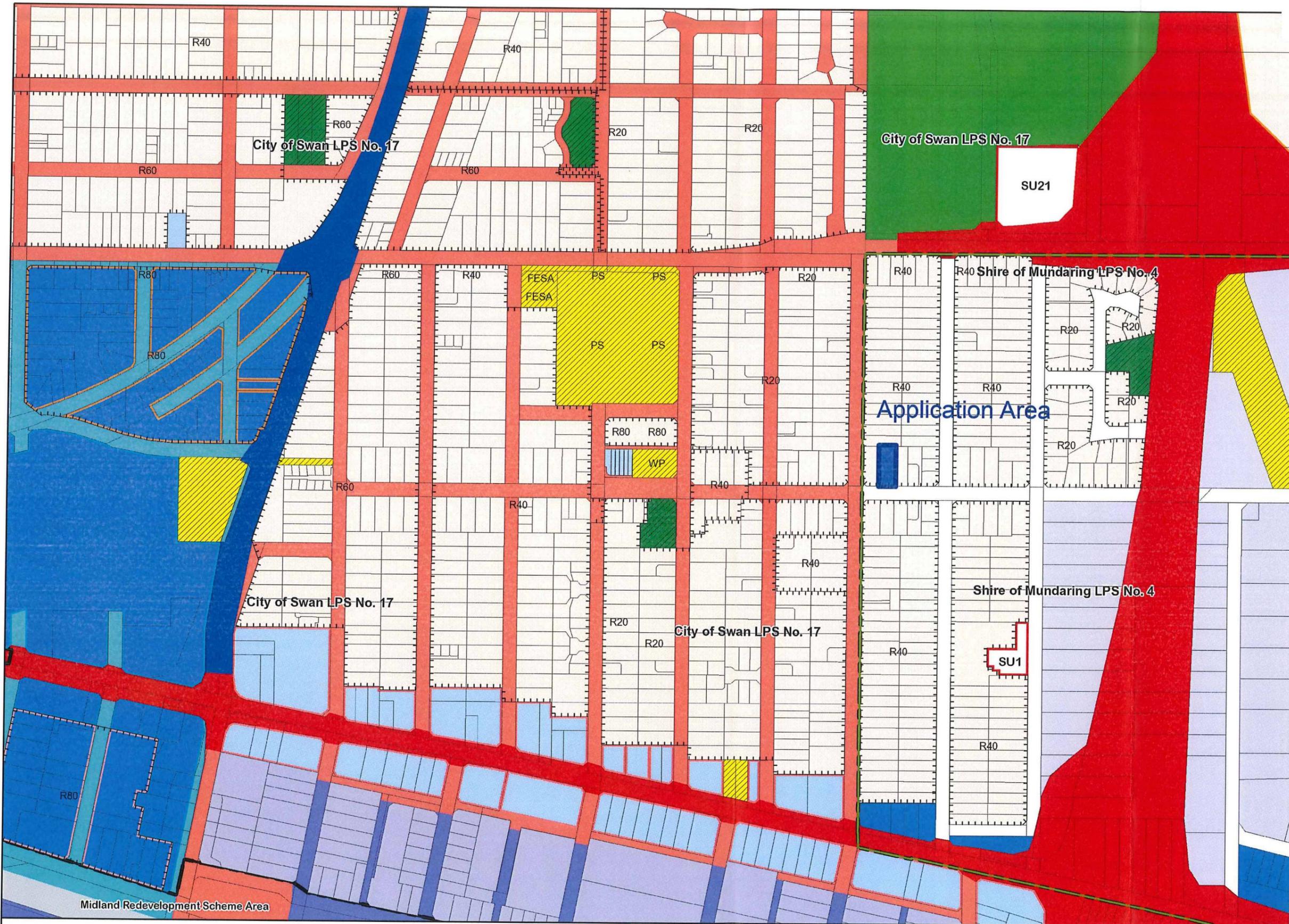
- "(c) *in the opinion of the Commission —*
- (i) *the conflict is of a minor nature; or*
 - (ii) *the approval is consistent with the general intent of the local planning scheme"*

Any conflict with the provisions of LPS No.4 created by approving the subdivision of a lot less than 1500m² in area is considered to be both minor in nature and consistent with the general intent of the LPS No.4 and the objectives of the Local Planning Strategy.

The application area is not identified as being within a public open space (POS) catchment within the Shire of Mundaring's Public Open Space Strategy. Accordingly, no POS contribution is required.

CONCLUSION:

The proposal is consistent with state planning policy, the Residential Design Codes and is generally consistent with the Shire of Mundaring Local Planning Scheme No.4. Accordingly, it is recommended that the application be approved.



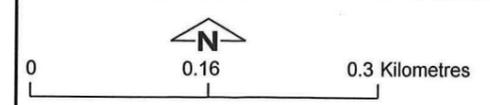
- Legend**
- Local Government Area
 - Cadastre (View 1)
 - Local Planning Scheme Boundary
 - R-Code Boundary
 - LP Scheme Zones and Reserves:**
 - City centre - commercial deferred
 - City centre - mixed use
 - City centre - residential
 - City centre - shopping
 - City centre - showroom
 - General commercial
 - General industrial
 - Highway service
 - Light industry
 - Other local roads
 - Public purposes
 - Recreation
 - Residential
 - Residential development
 - Special use
 - Town centre
 - MRS - Boundary
 - MRS - Redevelopment Scheme Act 1985
 - MRS - Redevelopment and Act /
 - MRS - Zones and Reserves**
 - central city area
 - civic and cultural
 - industrial
 - other regional roads
 - parks and recreation
 - parks and recreation restricted
 - primary regional roads
 - railways
 - urban

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 Map was produced using DoP's PlanViewWA.

PlanViewWA Map

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Produced by: **FUNCTIONALITY TO COME**

Date produced: 24-Mar-2015

ITEM NO: 9.10

Subdivision of One (1) Lot to Create Two Residential Lots in a Dual Coded Area (R10/20) - Lot 236 Rochdale Road, Mount Claremont

WAPC OR COMMITTEE:	Statutory Planning Committee
REPORTING AGENCY:	Department of Planning
REPORTING OFFICER:	Senior Planning Officer - Metropolitan Central
AUTHORISING OFFICER:	Planning Director - Metropolitan Central
AGENDA PART:	G
FILE NO:	151164
DATE:	26 March 2015
REPORT CATEGORY:	Statutory
RECOMMENDATION OUTCOME:	1. Refuse
ATTACHMENT(S):	1. TPS Zoning and Location Plan Attachment 2. Plan of Subdivision

RECOMMENDATION:

That the Statutory Planning Committee resolves to refuse the application for subdivision at Lot 236 Rochdale Road, Mount Claremont as shown on the plan date-stamped 14 December 2014, for the following reasons.

- 1. The proposed subdivision does not comply with the Western Australian Planning Commission's Planning Policy 2.2 (Residential Subdivision), the Residential Design Codes (2013) and the City of Nedlands Town Planning Scheme No. 2, as the proposed lots do not meet the minimum and average lot size requirements for the R10 density code;***
- 2. Approval to the subdivision would set an undesirable precedent for the further subdivision of other lots of a similar size in this locality which would undermine the objectives and provisions of the City of Nedlands Town Planning Scheme No. 2 for land coded R10/20.***

SUMMARY:

The key points relating to this report are as follows:

- The site was subject to a previous application (WAPC ref. 142393) to subdivide the land in a similar configuration, which was refused by the WAPC 20 September 2010;

- The City of Nedlands does not support the application on the basis that the proposal fails to meet the requirements of Clause 5.3.1 of Town Planning Scheme No.2 (TPS2);
- The applicant argues that TPS2 is outdated and not reflective of current planning objectives in terms of infill development in the metropolitan area; and
- The applicant argues that Clause 5.3.1 of TPS2 is unfair and inequitable as it limits development and subdivision opportunities in a particular street block to a particular permissible number.

LEGISLATION / STRATEGIC PLAN / POLICY:

Legislation Planning and Development Act 2005
Section: Section 15, Clause 2 (a)

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

Policy
Number and / or Name: State Planning Policy 3.1 - Residential Design Codes.

INTRODUCTION:

The subject land is zoned 'Urban' Under the Metropolitan Regions Scheme and 'Residential' with a density coding of R10/20 under the City of Nedlands Town Planning Scheme No. 2 (TPS2) (**Attachment 1 - TPS zoning and Location Plan**).

Approval is sought to subdivide a residential lot to create two single house lots with proposed areas of 572m² (Lot 1) and 440m² (Lot 2) The existing dwelling is to be partially retained. (**Attachment 2 - Plan of Subdivision**)

CONSULTATION:

The City of Nedlands recommend that the application be refused on the grounds that the proposed lot sizes do not meet the lot size requirements of the R10 density code.

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

PLANNING ASSESSMENT

Applicants Justification

- The proposed subdivision is considered to meet the principles of orderly and proper planning as it is consistent with all aspects and aspirations of current State level planning policy framework provisions relating to the promotion of increased housing densities;
- The subject land lends itself to subdivision as it is located on a corner with dual street frontage and rear laneway access;

- The subject lot is within walkable distance from recreational, employment, educational, commercial and public transport provision;
- Clause 5.3.1 is unfair, unequitable and illogical; and
- TPS2 is an outdated scheme and not reflective of contemporary planning principles.

Clause 5.3.1 of City of Nedlands Town Planning Scheme No.2.

With respect to the dual coding of the land, sub clause 5.3.1 (b) of TPS2 states as follows:

Notwithstanding the provisions of the Residential Planning Codes and notwithstanding that the Use Class 'Dwelling House Grouped' is designated "AA" in the Residential Zone, the coding designations shown on the Scheme Map shall have the following meanings and effects:

- (a) *where an area is designated with an R. Code R.10 or R12.5, no development other than a single dwelling house or a ancillary accommodation unit is permitted;*
- (b) *where an area is designated with an R. Code R.12.5/R.20 or R.10/R.20 no development other than a single dwelling house complying with R.12.5 or R.10 requirements (as the case may be) is permitted except that the Council may approve a grouped dwelling development containing a maximum of two dwellings subject to R.20 requirements if the following conditions are satisfied:*
 - (i) *grouped dwellings do not occur at a frequency greater than one lot in five of all lots within an area bounded by four streets or other natural boundary;*
 - (ii) *grouped dwellings are separated from any other grouped dwelling by not less than two single dwellings in the same street frontage; and*
 - (iii) *the setback requirements of the first mentioned R. Code designation are observed."*

In addition clause 5.3.1(d) of TPS2 provides:

- (d) *Recognising that the Western Australian Planning Commission determines subdivision applications, in order to protect the amenity of the dual-coded areas (R10/R20, R12.5/R40) Council will only support Survey Strata or Green Title subdivision of land in accordance with the lower coding.*

It is noted that the above dual coding provisions offer some scope, based on development potential, for a limited number of grouped dwelling developments of a specified frequency and type to occur at the higher density code. However, the City has advised that the applicant is unable to pursue a grouped dwelling or built strata arrangement on the subject site as the allocation of grouped dwellings at a one in five ratio for the street block (Haldene Street, Mayfair Street, Asquith Street and Rochdale Road) has already been exhausted.

Therefore, if assessed against the lower density coding of R10, the application is not consistent with the minimum (875m² required, 440m² achieved) and average

(1000m² required, 506m² achieved) as stipulated by Table 1 of the Residential Design Codes 2013. This equates to a 66.2% variation to minimum lot size requirements and 65.6% variation to average lots size requirements.

Subdivision v's development

It is broadly accepted that 'development of land' does not include the 'subdivision of land', and given that Clause 5.3.1(b) refers to 'development' and not 'subdivision', the amount of weight which can be applied to Clause 5.3.1(b) to allow the subdivision of land is arguably open to interpretation. Therefore, to explore this issue further, attention is drawn to a number of State Administrative Tribunal (SAT) decisions which are discussed below.

In the case of Landpark Holdings Pty Ltd and WAPC [2007] WASAT 130, the Tribunal resolved to approve a subdivision application which contemplated lots which were less than the minimum site area requirements that applied to the land for 'development' purposes. In this case, the Tribunal concluded that since 'development' does not include 'subdivision', the relevant provision of the scheme (which related to the 'development' of land), should not form the basis of the subdivision assessment. The Tribunal considered the review on merit, and subsequently overturned the WAPC's decision on the basis, (amongst other things), the proposed lot sizes were consistent with that which is characteristic of the locality, and there would not be any significant impact on the streetscape.

By contrast, in the case of Di Re and WAPC [2004] WATPAT 118, the Tribunal observed that variations to minimum site areas should be approached with the greatest care, because it is the minimum lot size which ultimately defines the urban fabric of a locality. This is particularly pertinent to smaller infill subdivisions, such as the subject site, as the built form outcome is controlled at development stage and is dependent on the size of developable lot area available.

In addition, in the case of Kilburn & Anor and Western Australian Planning Commission [2008] WASAT 131, (which most relevant to the subject application as it related to the same matter), the Tribunal concluded that there is no logic in supporting subdivision of 'dual coded' land based on compliance with the higher coding, when at development stage, those lots would then be subject to development assessment at the lower density code. This could introduce problems later on in the process were the lots are potentially incapable of being developed. This is not in the interests of proper and orderly planning as the new lot is effectively sterilised.

With regard to the subject application, the City has confirmed that should the subdivision be supported by the WAPC, and the lots are created at the higher density code of R20, the City would assess 'development' against the base code of R10. This would be problematic insofar the City has no discretion to vary its scheme and would not be in a position to approve a development application which is certain to require extensive variations owing to the size of the newly created lot.

How much regard should be given to the scheme?

It is important to note that the WAPC is required to give 'due regard' to the Scheme in determining subdivision applications.

Section 138(2) of the Planning and Development Act states:

*Subject to subsection (3), in giving its approval under section 135 or 136 the Commission is to have **due regard** to the provisions of any local planning scheme that applies to the land under consideration and is not to give an approval that conflicts with the provisions of a local planning scheme.*

The amount of weight which should be given to the words 'due regard' has on many occasions been open to debate and subject to interpretation, with Tribunal decisions often providing conflicting views on the matter. However, there is a general expectation in the wider community that the subdivision of land in any locality will be primarily controlled at a particular designated density. As previously mentioned, the City believes that it will be unable to support a single dwelling at the lower density, and the option of pursuing a grouped dwelling has been exhausted in this street block as the local planning scheme requirements make it quite clear as to what housing type and density will be permitted within this street block. Further, the WAPC has dealt with this particular issue a number of times in recent years, and has consistently refused applications for subdivision into green title and survey strata lots in the dual coded affected by Clause 5.3.1(b).

In response, the applicant claims that Clause 5.3.1(b) is unfair, inequitable and not reflective of contemporary planning principles. This claim has been carefully considered in the context of the subject application as there may be some merit in it since clause 5.3.1(b) is a tailored clause which is included in a TPS which is now 30 years old. Arguably, clause 5.3.1(b) operates on a "first in, best dressed" basis where applicants face resistance from the outset, because development ratio in the street block has been exceeded, rather than being given a fair assessment within the context of the sites characteristics. It is noted that the subject site has a two street-frontage where a good urban design outcome is possible. Clause 5.3.1(b) ignores site specific characteristics, by providing a blanket ban over the street block once the development/subdivision ratio has been reached.

Notwithstanding, the City has been reviewing TPS2 since 2002. Draft TPS3 was granted consent to be advertised for public submissions on 4 March 2015, and has been compiled under the WAPC's current Model Scheme Text. It is noted that the draft scheme removes Clause 5.3.1 and proposes a residential zone with an R10 density code for the subject land. Draft TPS3 has been given consent for advertising, this indicates that that the WAPC is satisfied with the City's analysis of where increased residential densities are more appropriate. The subject lot has not been identified as part of an area that warrants a higher residential density.

CONCLUSION:

The proposed subdivision does not comply with the provisions of the City of Nedlands Town Planning Scheme No. 2. If approved, it would establish an undesirable precedent for further subdivision of a similar nature in the locality. Accordingly, it is recommended that the application be refused.

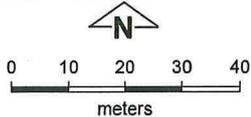


LOCATION PLAN

Subdivision Application 151164

Decision: **OUTSTANDING**

Printed: **2/02/2015**



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

Legend

Subdivision Applications

- Outstanding
- Refused

- Local government boundary
- Existing Zones and Reserves
- Residential
- R Code Boundaries



Department of Planning



Western Australian Planning Commission

Referrals and Easements

ATTACHMENT 1

ITEM NO: 9.11

Subdivision of One Lot to Create Two Residential Lots in Dual Coded Area - Lot 206 Mayfair Street, Mount Claremont

WAPC OR COMMITTEE:	Statutory Planning Committee
REPORTING AGENCY:	Department of Planning
REPORTING OFFICER:	Planning Officer, Metro Planning Central
AUTHORISING OFFICER:	Planning Director, Metro Planning Central
AGENDA PART:	G
FILE NO:	151001
DATE:	25 MARCH 2015
RECOMMENDATION OUTCOME:	1. Refuse
ATTACHMENT(S):	1 - Location Plans 2 - Plan of Subdivision 3 - Aerial View

RECOMMENDATION:

That the Western Australian Planning Commission resolves to refuse the application for subdivision at Lot 206, Mayfair Street, Mount Claremont as shown on the plan date-stamped 20 November 2014, for the following reasons:

- 1. The proposed subdivision does not comply with the Western Australian Planning Commission's Development Control Policy 2.2 - Residential Subdivision, the Residential Design Codes (2013) and the City of Nedlands Town Planning Scheme No.2 as the proposed lots do not meet the minimum and average lot size requirements for the R10 density code;***
- 2. Approval to the subdivision would set an undesirable precedent for the further subdivision of other lots of a similar size in this locality which would undermine the objectives and provisions of the City of Nedlands Town Planning Scheme No.2 for land coded R10/20.***

SUMMARY:

Key points to be considered are:

- The site, which is coded R10/20 under the City of Nedlands Town Planning Scheme No.2 (TPS2), was subject to two previous applications to subdivide in a similar configuration. These were refused by the WAPC and an application for review dismissed by the State Administrative Tribunal on 9 June 2008.

- The City of Nedlands recommends that the application be refused on the grounds that the proposed lot sizes do not meet the requirements of the R10 density code, and that the City can only support subdivision in accordance with the lower coding as per clause 5.3.1(d) of TPS2.
- The higher density coding of R20 only applies to grouped dwelling developments under certain circumstances, and such a proposal would be refused by the City in this instance.
- The applicant contends that TPS2 is outdated and not reflective of current planning objectives for infill development in the central metropolitan area.
- The applicant also contends that TPS2 allows the WAPC to approve R20 subdivision notwithstanding the City's position.
- Under the draft City of Nedlands local planning Scheme No.3 (LPS3), which has been approved for advertising by the WAPC, the land is coded R10. This allows for no intensification in the locality.

LEGISLATION / STRATEGIC PLAN / POLICY:

Legislation Planning and Development Act 2005
 Section: Subdivision / Development Approval / Reconsiderations - Part 10 of the P&D Act 2005

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: State Planning Policy 3.1 - Residential Design Codes

INTRODUCTION:

The subject land is zoned 'Urban' under the Metropolitan Region Scheme and 'Residential' with a density coding of R10/20 under TPS2. (**Attachment 1 - Location Plans**)

It is proposed to subdivide a lot of 1237m² to create two lots with areas of 618m² and 619m² for residential purposes. The subject site contains a dwelling and associated outbuildings, all of which are proposed to be removed. (**Attachment 2 - Subdivision Plan**)

CONSULTATION:

There are no servicing constraints associated with the site and the Water Corporation and Western Power raise no objections to the application subject to standard conditions.

The City of Nedlands recommends that the application be refused on the grounds that the proposed lot sizes do not meet the lot size requirements of the R10 density

code, and that the City can only support subdivision in accordance with the lower coding in accordance with clause 5.3.1(d) of TPS2.

COMMENTS:

Applicant's Justification

The applicant considers that the application should be approved for the following reasons:

- TPS2 was gazetted on 18 April 1985 and is now outdated.
- Clause 5.3.1(d) of TPS2 recognises that the WAPC determines and has the discretion to approve subdivision applications.
- The proposed lot sizes comply with the minimum and average lot size requirements of the R20 Code.
- Under section 138 of the *Planning and Development Act 2005* the WAPC may consider an approval if it is consistent with a State Planning Policy that deals with substantially the same matter as the Scheme.
- Directions 2031 and the draft Central Metropolitan Perth Sub-regional Strategy establish a strong policy position of increasing densities in existing urban areas well serviced by infrastructure.
- The subject land is well serviced by infrastructure and relatively close to amenities.

Residential Design Codes

The proposal is not consistent with the minimum (875m² required, 618m² provided) or the average (1000m² required, 618.5m² provided) site area requirements for the designated R10 coding. The proposed lot areas represent a variation of 29% to the minimum lot size and 38% from the average lot size permissible in R10 coded areas. These variations exceed the maximum variation of 5% allowable under Performance Criteria 3.1.3 of the R-Codes and clause 3.2.3 of WAPC policy DC2.2 - '*Residential Subdivision*'.

The Commission has consistently refused applications for the creation of green title and survey strata lots in those dual-coded areas affected by sub-Clause 5.3.1 of TPS2, including WAPC Refs: 113740, 116836, 124737, 132103, 135588, 136780, 136781, 142393, 312-03, 263-02, 699-06, and 1270-03. It has also twice previously refused applications (WAPC Refs: 103789 and 135588) seeking to subdivide the subject site, and reconfirmed this position when invited by SAT to review its decision. No subdivision applications requiring consideration under the R20 coding have been approved in this dual-coded area. (**Attachment 3 - Aerial View**)

The City has advised that it can only support grouped dwelling developments at this location if it is in accordance with clause 5.3.1 of TPS2. Clause 5.3.1 (b) (ii) requires grouped dwellings to be separated from any other grouped dwellings by not less than

two single dwellings in the same street frontage. There is only one single dwelling separating the subject site from an existing grouped dwelling located at Lot 204 Mayfair Street. No further grouped dwelling, survey strata or freehold subdivision proposal can be supported by the City on this street block.

Clause 5.3.1 states as follows:

"Notwithstanding the provisions of the Residential Planning Codes and notwithstanding that the Use Class 'Dwelling House Grouped' is designated "AA" in the Residential Zone, the coding designations shown on the Scheme Map shall have the following meanings and effects: AMD 25 GG 14/9/90

- (a) *where an area is designated with an R-Code R.10 or R12.5, no development other than a single dwelling house or a ancillary accommodation unit is permitted;* AMD 123 GG 31/3/2000
- (b) *where an area is designated with an R-Code R.12.5/R.20 or R.10/R.20 no development other than a single dwelling house complying with R.12.5 or R.10 requirements (as the case may be) is permitted except that the Council may approve a grouped dwelling development containing a maximum of two dwellings subject to R.20 requirements if the following conditions are satisfied:*
 - (i) *grouped dwellings do not occur at a frequency greater than one lot in five of all lots within an area bounded by four streets or other natural boundary;* AMD 46 GG 6/10/92
 - (ii) *grouped dwellings are separated from any other grouped dwelling by not less than two single dwellings in the same street frontage; and*
 - (iii) *the setback requirements of the first mentioned R-Code designation are observed.*
- (c) *Where an area is designated with an R code R12.5/R40 development to the density and standards of the R40 code shall be permitted subject to compliance with the design guidelines outlined in Appendix 3 of the Scheme.* AMD 57 GG 5/7/94
- (d) *Recognising that the Western Australian Planning Commission determines subdivision applications, in order to protect the amenity of the dual-coded areas (R10/R20, R12.5/R20 & R12.5/R40) Council will only support survey strata or green title subdivision of land in accordance with the lower coding.* AMD 123 GG 31/3/00"

Refusal of Previous Application

On 26 October 2007, the Commission refused an application under WAPC Ref: 135588 which sought approval to create two similar single house lots on the subject land.

The Commission's reasons for refusal were:

- "1. *The proposed subdivision does not comply with the Commission's Policy DC2.2, a provision of Statement of Planning Policy No.1 (Variation No.2), by reason of the proposed subdivision not complying with the minimum and average lot size requirement for the R10 density code as specified in Table 1 of the Residential Design Codes.*
2. *The proposed subdivision does not comply with the City of Nedlands Town Planning Scheme No.2 by reason of the proposed lot sizes being below the minimum and average lot size requirement under the R10 coding in the City of Nedlands Town Planning Scheme No. 2.*
3. *Approval to the subdivision would set an undesirable precedent for the further subdivision of other lots of a similar size in this locality which would undermine the objectives and provisions of the City of Nedlands Town Planning Scheme No. 2 for land coded R10/R20."*

Further to this, the applicant was advised as follows:

"Although the subject land is zoned Residential R10/20 in the City of Nedlands Town Planning Scheme No. 2, the provisions of the Scheme only support Survey Strata or Green Title subdivision of land in accordance with the lower coding (R10). The Commission assessed the proposal against the lot size requirements of the R10 coding and is not prepared to approve the application as it is contrary to the requirements of the City's Scheme."

State Administrative Tribunal Decision

On the 26 November 2007, the applicant submitted an appeal to the State Administrative Tribunal (SAT) for a review of the WAPC's refusal. Invited to reconsider the application, the Commission resolved to reiterate its reasons for refusal. The application for review was considered by SAT, which concluded that the proposed subdivision was contrary to the interest of orderly and proper planning for the area and dismissed the application for the following reasons:

- It was not accepted that the proposal was generally consistent with Commission policy or that the inconsistency with TPS2 was of a minor nature.
- The proposal was considered to be contrary to the City's long term planning objectives for this locality and approval would represent an ad-hoc approach to development. The site is not situated within proximity of a current or future activity centre or activity corridor.
- The Tribunal questioned the logic and practicality of creating lots based on compliance with the higher coding, and accepting that those lots would then be subject to lower code development controls on setbacks and frontage requirements. This would seem to contradict the logic and practicality of the R-Codes in terms of the proportionality of a building's footprint to its allotted land area.

- The Tribunal did not accept the applicant's proposition that the subdivision should be allowed because of its claimed consistency with State planning policies. In this regard, the Tribunal noted that the Policy DC1.6 quoted in evidence identified that the appropriate means to achieve objectives for increased development density in strategically appropriate areas should be by mechanisms of scheme review and amendment.

Approval under Section 138 of the Planning and Development Act 2005

Section 138 of the *Planning and Development Act 2005* (P&D Act) sets out the circumstances under which the Commission may give an approval to a subdivision. Clause 3(a) of s138 of the P&D Act provides that the WAPC may give an approval under s135 or s136 that conflicts with the provisions of a local planning scheme if the scheme was not first published, or a consolidation has not been published, in the preceding five years and the approval is consistent with a State planning policy that deals with substantially the same matter.

Since TPS2 was published over five years ago, the Commission under s138 of the Act may consider that such an approval is consistent with a State planning policy that deals with substantially the same matter.

The primary objective of Statement of Planning Policy 1 '*State Planning Framework*' (SPP1) is "*to provide for fair, orderly, economic and sustainable use of land*". Approval of the proposed subdivision in an area not targeted for higher density residential development would represent an ad hoc approach to development inconsistent with the character of the area and the City's long-term objectives.

Statement of Planning Policy 3 '*Urban Growth and Settlement*' (SPP3) encourages priority to be given "*to infill development in established urban areas, particularly through urban regeneration and intensification of development of underutilised urban land, whilst respecting neighbourhood character*". In respect of this, the proposed subdivision would give rise to development inconsistent with a respect for the character of the area and would therefore be contrary to the intent of SPP3.

The applicant advises that the imperative for infill development is clearly established in Directions 2031 and the draft Central Metropolitan Perth Sub-regional Strategy. In response, the Department continues to work with local governments and service delivery agencies to further develop the housing targets program and realise infill development opportunities. However the subject area is not within a strategic growth area identified in these documents. Lot 206 is located more than 2 kilometres from a railway or bus station. It is also not located in or close to an "activity centre" or "activity corridor" identified in Directions 2031.

An assessment of the lots in the locality reveals that they are generally of a similar size and could therefore have subdivision potential under the higher (R20) coding of the land. Approval of the subject proposal would create a precedent for the further subdivision of these lots, which would undermine the objectives and provisions of TPS2 and draft TPS3.

Even though TPS2 was gazetted in 1985, it is the current local planning scheme applicable to the subject site. In this regard, the City has advised that its draft

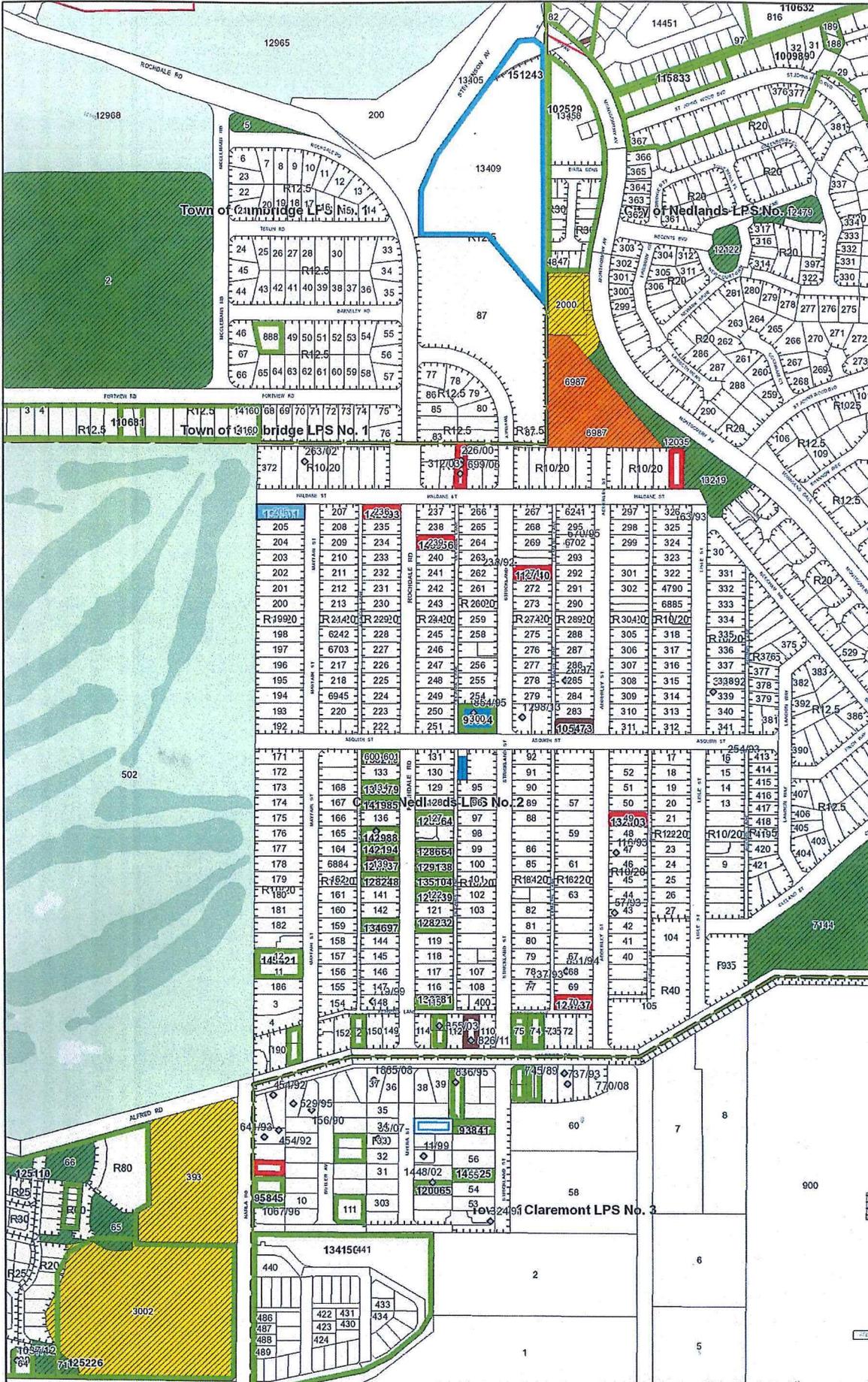
scheme, which has been approved by the WAPC to proceed for advertising, proposes that the dual coding is replaced by a R10 density code for the subject lot, precluding any form of intensification. The City has also advised that it has identified a total of 20 areas where increased density and housing diversity are actively supported and encouraged. The subject site is not included within any of these areas and, in view of the above, the proposed subdivision would be contrary to the City's long term planning objectives for the area.

On the event that subdivision at the higher coding is supported, the City has confirmed that it would have no option under TPS2 but to consider any development proposal for the subject site in accordance with the lower density R10 coding. This could limit development options for any future landowner.

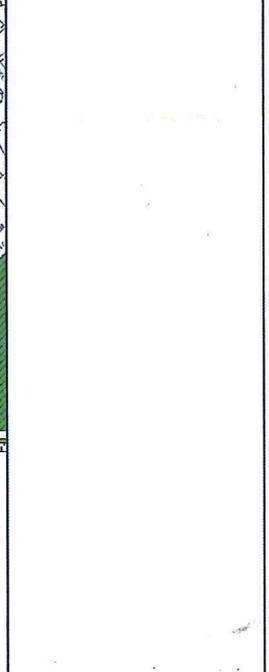
In light of the above, the proposed subdivision represents an ad hoc approach to subdivision and development, inconsistent with the character and amenity of the locality, and is likely to set an undesirable precedent undermining the principles of orderly and proper planning. It is concluded that there are insufficient grounds to approve the proposal under the provisions of s138.

CONCLUSION:

The application falls substantially below the minimum and average lot size requirements under the R10 coding of the land as per TPS2. Further, the application is contrary to WAPC Policy DC2.2 in respect of residential subdivision. In view of this non-compliance and the precedent that may be set for further subdivision of a similar nature in this locality, it is recommended that the WAPC re-iterate the grounds for refusal of previous subdivision proposals for the subject land.



- Legend**
- Local Government Area
 - Cadastre (view 1)
 - Cadastre (view 2)
 - Strata (point)
 - Strata Applications - Application
 - Outstanding
 - Strata Applications - Internal Boundary
 - Outstanding
 - Subdivision - Application Boundary
 - Approved
 - Outstanding
 - Refused
 - Cancelled
 - Subdivision - Internal Boundary
 - Approval
 - Outstanding
 - Refused
 - Cancelled
 - Local Planning Scheme Boundary
 - R-Code Boundary
 - LP Scheme Zones and Reserves
 - Development
 - Local roads
 - Municipal purposes
 - No zone
 - Parks and recreation
 - Public purposes
 - Recreation
 - Residential
 - Retail shopping
 - Special use

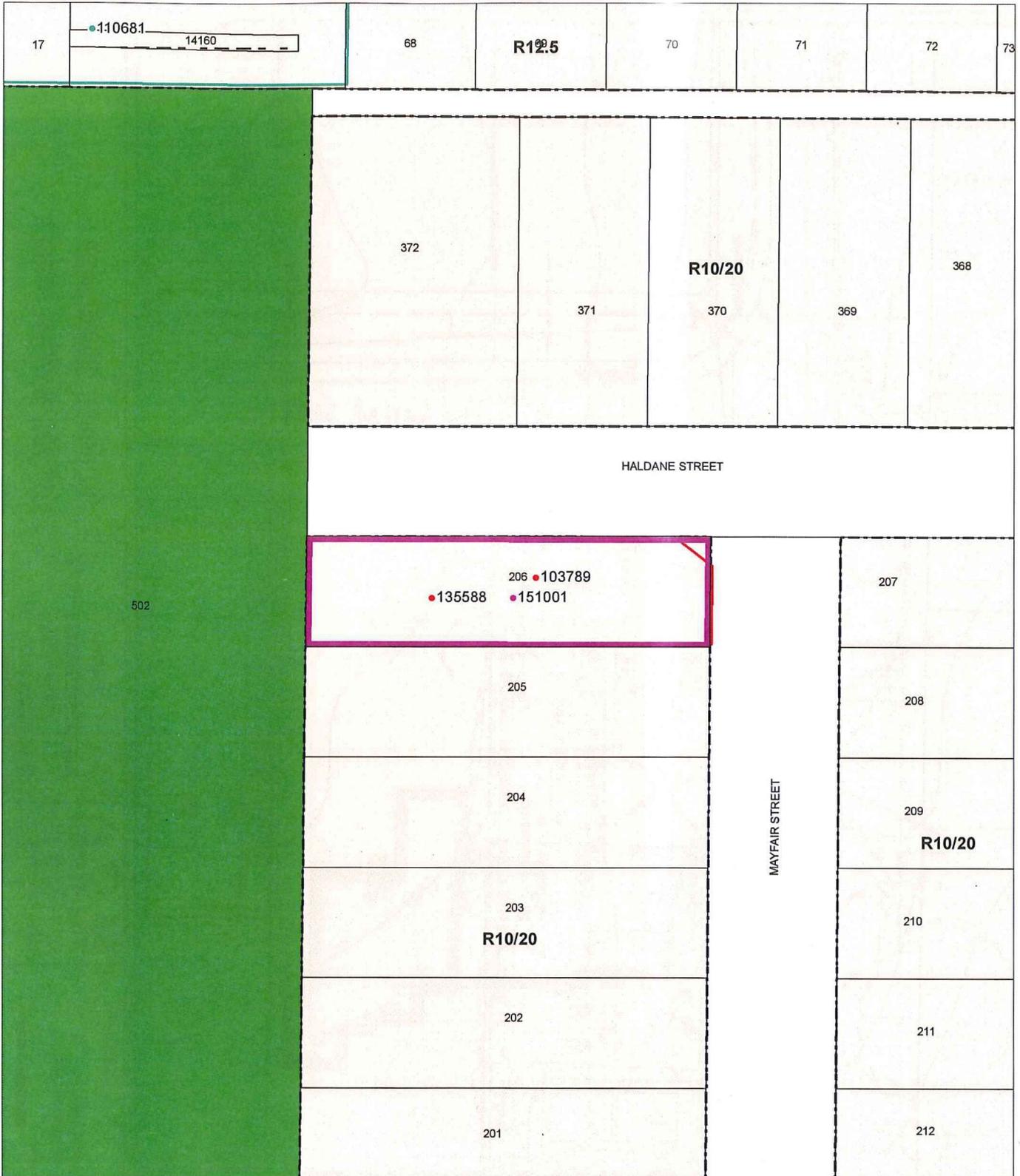


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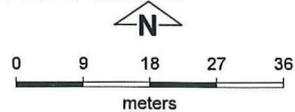


LOCATION PLAN

Subdivision Application 151001

Decision: Outstanding

Printed: 21/11/2014



Department of Planning



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

Legend

Subdivision Applications

- Conditional Approval
- Outstanding
- Refused

Referrals and Easements

- Easements

Existing Zones and Reserves

- Residential
- R Code Boundaries
- Existing Region Scheme Reserves**
- Parks and recreation restricted

ATTACHMENT 1

ITEM NO: 9.12

Application for Proposed Remedial Works and Partial Demolition of Workshop, Office and Incidental Buildings at Lot 7 (106) Guildford Road, Maylands

WAPC OR COMMITTEE:	Statutory Planning Committee
REPORTING AGENCY:	Department of Planning
REPORTING OFFICER:	Senior Planning Officer, Metropolitan Central - Perth and Peel
AUTHORISING OFFICER:	Planning Director, Metropolitan Central – Perth and Peel
AGENDA PART:	G
FILE NO:	14-50096-1
DATE:	9 March 2015
REPORT CATEGORY:	Statutory
RECOMMENDATION OUTCOME:	1. Approve (AP)
ATTACHMENT(S):	1- Aerial Photograph 2 - MRS Zoning and Location Plan 3 - Existing Encroachment 4 - Land Protection Plan 5 - Future Encroachment 6 - Remediation and Demolition Plans

RECOMMENDATION:

That the Statutory Planning Committee resolves to:

Approve the development application in accordance with the plans submitted thereto subject to the following condition(s):

Conditions:

- 1. The proposed development shall include the relocation of all heritage aspects of the building and its integration with any new development proposal on the site to the specifications of the City of Bayswater, Heritage Council of Western Australia and the satisfaction of the Western Australian Planning Commission.*
- 2. With the exception of (1) above the development shall comply in all respects with the submitted plans received on 23 December 2014 and stamped accordingly.*

3. ***Prior to the submission of a building / demolition permit, a Works Management Plan shall be prepared to the specification of the City of Bayswater and the satisfaction of the Western Australian Planning Commission.***
4. ***Prior to the submission of a building / demolition permit, a Vacant Lot Management Plan shall be prepared, submitted and approved to the specification of the City of Bayswater and the satisfaction of the Western Australian Planning Commission.***
5. ***All septic sewer systems including all tanks and pipes and associated drainage systems (soak wells or leach drains) shall be decommissioned, in accordance with the Health (Treatment of Sewerage and Disposal of Effluent and Liquid Waste) Regulations 1974, removed, filled with clean sand and compacted. Proof of decommissioning is to be provided in the form of either certification from a licensed plumber or a statutory declaration from the landowner/applicant, confirming that the site has been inspected and all septic tanks, soak wells, leach drains and any associated pipework have been removed.***

Advice.

1. ***Asbestos products are to be handled and disposed of in accordance with the Health (Asbestos) Regulations 1992; AS2601 - 1991 'Demolition of Structures' and NOHSC 3002 (1988) 'Guide to the Control of Asbestos Hazards in Buildings and Structures'.***

SUMMARY:

The City of Bayswater (the City) has referred a development application for proposed remediation works and partial demolition of a former motor vehicle workshop (excluding front facade), office and incidental buildings adjacent to a 'Primary Regional Road' to the Western Australian Planning Commission (WAPC) for determination, as Council does not concur with the recommendation of MRWA as per the Instrument of Delegation (gazetted 13 August 2010).

BACKGROUND:

The subject land comprises Lot 7 (No. 106) Guildford Road, Maylands and is located within the City of Bayswater. The site has a total area of 1005m² and is predominantly surrounded by existing residential development.

The applicant has applied to the City for approval to undertake remediation works and partial demolition of an existing motor vehicle workshop (excluding front facade), canopy extension, shops / office and toilets.

Under the City's Municipal Heritage Inventory (MHI) dated October 2006, the subject land has a management classification of 2, which makes provisions for the most significant sites within the City and are included within the Scheme list.

LEGISLATION / STRATEGIC PLAN / POLICY:

Legislation

Section:

Planning and Development Act 2005
(Section 10) Part 2, Section 16

Strategic Plan

Strategic Goal:

Strategic Goal 2. Planning

Outcomes:

Effective Delivery of Integrated Plans

Strategies:

Implement State and Regional Planning Priorities

Policy

Compliance:

Proposal complies with WAPC policies unless discussed in Planning Assessment section.

CONSULTATION:

The City referred the application to MRWA as a portion of the subject land is reserved "Primary Regional Road" under the MRS and falls under the jurisdiction of MRWA. MRWA advise that they do not support the application for the following reasons:

- The lot is affected by land reserved as "Primary Regional Road" in the existing Metropolitan Region Scheme (MRS);
- The lot is encumbered with a portion of the existing building that is listed on the City of Bayswater Town Planning Scheme No 24 Municipal Inventory of Heritage Places with a Classification 2; and
- Parts of the building encroaches into the MRWA's regional road reserve (Guildford Road).

OFFICER'S COMMENTS:

Background

On 23 December 2014, an application proposing the retention of the driveway canopy and front facade of the subject workshop adjacent to Guildford Road, and the demolition of the remaining workshop, canopy extension, shops / office and toilets, was forwarded to the Western Australian Planning Commission (WAPC) as a result of the City and MRWA being unable to agree on the development application.

(Attachment 1 - Aerial Photograph)

In response to the City, MRWA advised that the proposal, with specific reference to the encroachment of the existing building into the Guildford Road regional road reserve and the proposal to remedy the situation through the subject application, was unacceptable as future plans to upgrade Guildford Road would be affected.

The City has recommended approval subject to conditions, but has not addressed the encroachment of the front facade into the reserve.

Since the City and MRWA have not been able to reach agreement, the application has been forwarded to the WAPC for determination in accordance with the Notice of Delegation (DEL2011/02 Powers of Local Governments (MRS))

Metropolitan Region Scheme & City of Bayswater Town Planning Scheme No.24 (TPS 24)

- The subject site is zoned 'Urban' and adjoins a 'Primary Regional Road' (Guildford Road) under the Metropolitan Region Scheme (MRS). **(Attachment 2 - Location and Zoning Plan)**
- Under TPS 24 the land is zoned 'Service Station'.

It is considered that the proposal is not consistent with the MRS and the policy objectives of Development Control Policy 1.7 (DC 1.7).

- *"To promote the planning of road networks throughout the State which maximise efficiency, safety and amenity."*

Heritage Value

As detailed above there are parts of the existing building that have been included in the City's MHI, and are described as follows:

"The garage evokes Moorish themes, with reference to the Alhmbra in Spain, for its canopy as a decorative treatment to dignify an otherwise utilitarian building."

Historical Notes:

This place is a fine example of a theme approach to service stations, which was once much more common, and is now something of a rarity. It has Mediterranean influence, with reference to the Alhmbra in Spain. It is one of the few remaining service stations in the Metropolitan area.

Statement of Significance:

This place is significant for its rarity, being one of the few themed services stations remaining within Perth. It has associations with transport and communications within the region. It is a well-known landmark within the Guildford Road streetscape."

The heritage value of the building has been acknowledged by the State Heritage Office through a heritage agreement entered into between the Heritage Council of WA and the landowner.

MRWA Guildford Road

Currently the building, particularly the north eastern corner of the main canopy encroaches into the existing road reserve (Guildford Road) under the control of MRWA. **(Attachment 3 - Existing Encroachment)**

The reserve was gazetted in 1994 and included under the MRS as "Primary Regional Road" through the Guildford Road (H026) Land Protection Plan.**(Attachment 4 - Land Protection Plan)** MRWA has confirmed the need for the reserve and the intention to progress with the widening of Guildford Road. However, the project has

not been budgeted for in their four (4) year financial plan and no timeframe is available.

Should the main canopy and workshop facade (the facade) be retained as proposed by the applicant, and required by the State Heritage Office, it will result in a continued encroachment of building form into the road reserve. **(Attachment 5 - Future Encroachment)**

When MRWA proceeds with the road widening this encroachment will necessitate demolition of the facade as its location will impact upon the ability to proceed with the widening. The facade is currently under assessment by the State Heritage Office for potential inclusion into the State Heritage Register (SHR). Should the facade be included into the SHR, the State Heritage Office will require the retention or relocation of the facade.

Proposed Development

It is not the applicant's intention to redevelop the site with a service station. Rather they intend to develop an aged persons facility which would require a scheme amendment in the first instance followed by a development application. **(Attachment 6 - Proposed Remediation and Demolition Plans)**

Applicant Comment:

The applicant has provided the following comments:

- *"Our position is that Main Roads' objection is without merit as the only portion of the Main Roads reservation to be affected by the proposed partial demolition is a 1.4m² triangular area of land on Third Avenue. The balance of the reservation is unaffected by the proposal for partial demolition of the building;*
- *The State Heritage Office (SHO) noted that the Heritage Agreement runs with the land, and the Heritage Agreement is a "contract with the state". Therefore, should Main Roads acquire the land in future the facade will enjoy the same protection and require negotiation between Main Roads and SHO; and*
- *The SHO advised it is in progressing towards listing of the facade on the State Heritage Register, with the full protection of the Act (Heritage of WA Act)."*

Comment

Taking into consideration the State Heritage Office has not yet included the facade in the SHR, it would be unreasonable to place the burden of relocating the facade onto MRWA, given the road widening was gazetted in 1994 and included in the MRS as a "Primary Regional Road" reserve in 2010.

Despite MRWA being the primary agency responsible for the widening of Guildford Road, it was not included in the Heritage Agreement undertaken between the landowner and the Heritage Council of Western Australia.

The primary objective of a reserve is to ensure its protection and ability to be used for its intended purpose. Whilst it is acknowledged that the proposed road widening is not included in the MRWA's four (4) year financial plan, the land is reserved under the MRS and needs to be protected.

Since the heritage listing of the facade is still in the assessment stage, the DoP will inform the State Heritage Office that the facade falls within a road reserve. The road widening has been reserved under the MRS since 1994, and as a result the facade will have to either be demolished or relocated by the landowner, should the facade be listed in the SHR.

While there is an acknowledgement of the aspirations of the State Heritage Council, in terms of preserving existing heritage, the inclusion of the subject site in the SHR has not yet been concluded. Additionally, given MRWA is the primary interest holder of the reserve MRWA should have been included in the Heritage Agreement.

The applicants position that the MRWA objection is without merit is not supported as the building, including the heritage facade, lies within a gazetted road reserve and identified in the MRS as "Primary Regional Road".

It is considered that when development is carried out on the site, it would be reasonable to expect any impact on a gazetted road reserve to be remedied as part of the development application.

CONCLUSION:

The inclusion of the facade in the SHR has not yet been concluded. The reserve has been gazetted since 1994, and reserved under the MRS as "Primary Regional Road" since 2010. It would have been beneficial if MRWA was a party to the heritage agreement entered into between the State Heritage Office and the landowner in 2014.

On this basis, it is not accepted as reasonable to encumber MRWA with the responsibility to retain or relocate the facade. The application is therefore, recommended for approval subject to, inter alia a condition requiring the relocation of the facade to be dealt with by the landowner.

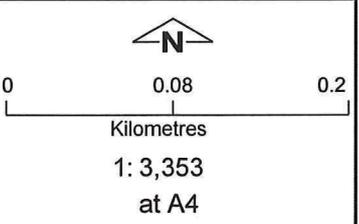


Legend

- Local Government Area
- Cadastre
- W.A. Coastline

Erodibility

- Dominantly undifferentiated soft sediment (erodibility)



Projection:
WGS 1984 Web Mercator Auxiliary Sphere

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

Produced by: FUNCTIONALITY TO COME
Date produced: 10-Mar-2015

PlanViewWA Map

INTERNAL USE ONLY

Internal Spatial Viewer
[Link to viewer](#)

ATTACHMENT 1

ITEM NO: 10.1

City of Fremantle Residential Design Local Planning Policy to Vary State Planning Policy 3.1 Residential Design Codes

WAPC OR COMMITTEE: Statutory Planning Committee

REPORTING AGENCY: Department of Planning
REPORTING OFFICER: Senior Planning Officer
AUTHORISING OFFICER: Planning Director, Metro Planning Central
AGENDA PART: A
FILE NO: SPN/0578/1
DATE: 24 March 2015
REPORT CATEGORY: Statutory
RECOMMENDATION OUTCOME: 1. Approve
ATTACHMENT(S): 1. City of Fremantle Local Planning Policy
2. Policy Summary and Justification

RECOMMENDATION:

That the Western Australian Planning Commission resolves to:

- 1. endorse the City of Fremantle Local Planning Policy 3.15;*
- 2. advise the City of Fremantle of its decision accordingly.*

SUMMARY:

In accordance with clause 7.3.2 of State Planning Policy 3.1 Residential Design Codes (R-Codes), the City of Fremantle seeks the Western Australian Planning Commission's (WAPC) approval of a 'Residential Design' Local Planning Policy (LPP), which seeks to vary a number of the deemed-to-comply provisions of the R-Codes. A copy of the LPP is contained as **Attachment 1 - Local Planning Policy 3.15**. A summary of the deemed-to-comply provisions that are proposed to be varied are listed below:

- 5.1.2 C2.1 Street setback;
- 5.1.3 C3.1 Lot boundary setback;
- **5.1.4 C4 Open space;**
- 5.1.6 C6 Building height;
- 5.2.1 C1.1-C1.5 Setback of garages and carports;
- 5.2.2 C2 Garage width;
- **5.3.1 C1.1 & C1.2 Outdoor living areas;**
- 5.3.5 C5.1 – C5.3 Vehicular access;
- **5.4.1 C1.1 Visual Privacy;**

- **5.4.2 C2.1 & C2.2** **Solar access for adjoining sites;**
- **6.3.1 C1** **Outdoor living areas; and**
- **6.3.3 C3.1** **Parking.**

The highlighted clauses and deemed-to-comply provisions require the approval of the local government and the Western Australian Planning Commission (WAPC) in accordance with clause 7.3.2 of the R-Codes. The un-highlighted clauses only require the approval of the local government and have not been assessed or reported on.

The LPP relates specifically to the former Kim Beazley School Site White Gum Valley Local Structure Plan (the Structure Plan). The LPP, the subject of this report, is a requirement of the Structure Plan, which was endorsed by the WAPC on 1 September 2014.

The rationale for the City's LPP is largely based on the outcomes and general theme of the Structure Plan and Design Guidelines (which have been prepared ancillary to the Structure Plan) being; a trending towards smaller lot sizes and a high quality infill development that is site responsive and which introduces alternative housing typologies to increasing housing diversity in the locality. A key component of the LPP is the integrated approach to sustainable design and the delivery of climate response built form.

It is recommended the City's request for endorsement of the LPP be granted on the grounds that the modifications to the R-Codes deemed-to-comply provisions are:

- warranted due to a specific need related to that particular site;
- consistent with the objectives and design principles of the R-Codes; and
- implementable by the City of Fremantle in the assessment of future development applications.

BACKGROUND:

The endorsed Structure Plan provides for redevelopment of the former Kim Beazley School Site, located in White Gum Valley and bounded by Stevens Street, Nannie Avenue, Hope Street and Yalgoo Avenue. The Structure Plan provides for redevelopment of the former school site with medium density residential development and contemplates residential densities ranging between R35 and R80 and accommodating a variety of dwelling types, including provision for affordable housing. A subdivision application has also been approved over the site by the WAPC. The subdivision was in accordance with the endorsed Structure Plan

LEGISLATION / STRATEGIC PLAN / POLICY:

Legislation	<i>Planning and Development Act 2005</i>
Section:	Part 10, section 135 (Approval of WAPC required for subdivision)

Strategic Plan	
Strategic Goal:	Planning
Outcomes:	Effective delivery of integrated plans

- v) relaxation of solar access and overshadowing requirements to allow for up to 50% (in lieu of the standard 35%) of the adjoining properties being overshadowed (R-Codes clause 5.4.2); and
- vi) inclusion of additional discretionary provisions for parking requirements on Lot 7 (**Attachment 1**) in the R40 coded area of the Structure Plan development to enable a reduction in the standard parking requirements, subject to suitable provision for scooters, bicycle bays and on-street parking (R-Codes clause 6.3.3 C3.1).

As detailed above, the rationale, justification and comment on the proposed R-Code variations are detailed in the Officer Comment Section and in the Table contained as **Attachment 2**.

GOVERNMENT AND CORPORATE IMPLICATIONS:

This proposal will assist in provision of a variety of housing stock to compliment targets identified in Directions 2031 and Beyond. There will be no financial or expenditure implications for the WAPC in implementation of the structure plan.

There is no risk that the integrity of SPP 3.1 will be compromised if the WAPC approves the variations to the R-Codes.

CONSULTATION:

In accordance with clause 2.4 of the City of Fremantle Local Planning Scheme No. 4 and the City's LPP 1.3 - Public Notification of Planning Proposals, the proposed LPP 3.15 for the former Kim Beazley School Site White Gum Valley was advertised for public comment from the 28 October 2014 to the 25 November 2014. Advertisements were placed in the Fremantle Gazette as well as copies of the LPP being made available at the Council offices and the Library as well as on the City's website.

No submissions were received during the consultation period however comments were provided by the Department of Planning. The comments from the Department indicated support for the proposed LPP subject to further assessment by the Department and the outcome of community consultation.

As a result of the community consultation phase raising no issues or objections to the LPP, no modifications have been recommended to the LPP by the City and no modifications resulting from this process will be recommended by the Department of Planning.

OFFICER'S COMMENTS:

As previously advised, clause 7.3.2 of the R-Codes requires the WAPC to be satisfied that any proposed amendments to the R-Codes:

- are warranted due to a specific need related to that particular locality or region;
- are consistent with the objectives and design principles of the R-Codes; and

- can be properly implemented and audited by the decision-maker as part of the ongoing building approval process.

The variations sought by the policy and the justification provided by the City are summarised in **Attachment 2**, along with an assessment by the Department in accordance with the above criteria.

Outdoor Living Areas

The LPP seeks to reduce the overall open space requirements with a greater focus on delivering individual outdoor living areas that are of sizes and configurations that are functional and well located.

The LPP also proposes that the maximum area permitted to have permanent roof cover can be increased, subject to the solar access requirements of the LPP being met. This variation is intended to provide for a greater level of flexibility to achieve the solar access requirements under the LPP and to ensure outdoor living areas achieve access to winter sun and ventilation but can be more readily used if the permanent roof area can be increased.

The LPP proposes to increase the minimum dimension requirements for outdoor living areas and requires a minimum outdoor living area dimension of five metres in lieu of the standard four metres, subject to the outdoor living area having a minimum area of 28m² (in lieu of the standard 24m²). This is proposed in order to provide for some flexibility in design whilst ensuring well sized and proportioned living areas.

The proposed variations within the LPP are supported by Design Guidelines that have also been prepared ancillary to the Structure Plan area and comply with the overall objectives of the endorsed Structure Plan. In this regard there are no objections to this variation.

Reduced Private Open Space

The LPP seeks to support residential development that is highly responsive to site and lot attributes and which promotes energy efficient dwelling design to optimise use of the northern aspect of the Structure Plan area and the subsequent lot orientation.

The setbacks, increased outdoor living area dimensions and passive solar design requirements under the LPP will essentially result in strategically located building envelopes within lots that allow for outdoor living areas to be better located to achieve more useable and functional spaces which will result in open space areas that are practical, not overshadowed and highly accessible.

Reductions in the amount of required open space around dwellings could potentially enable residential land to be used more efficiently and may lead to better urban design outcomes, particularly for narrow frontage lots. Accordingly, the lesser area of open space is considered appropriate for the lots within the LPP area to provide for more flexibility in building design whilst ensuring sustainable and site responsive design outcomes.

The proposed variations within the LPP are supported by Design Guidelines that have also been prepared ancillary to the Structure Plan area and comply with the overall objectives of the endorsed Structure Plan. In this regard there are no objections to this variation by the City of Fremantle or the Department.

Solar Access for Adjoining Sites

The LPP encourages environmentally sustainable development and promotes access to natural light to provide for improved energy efficiency and amenity within the lots. The LPP requires outdoor living areas and habitable living areas to have direct access to sunlight, encouraging developments to optimise north-facing living spaces.

The proposed variations within the LPP are supported by Design Guidelines that have also been prepared ancillary to the Structure Plan area and comply with the overall objectives of the endorsed Structure Plan. In this regard there are no objections to this variation by the City of Fremantle or the Department.

Visual Privacy

The proposed building envelopes (contemplated in the Design Guidelines and the LPP) have been considered within the context of achieving effective and mutually beneficial outcomes in respect to reducing overlooking to adjacent habitable spaces through the application of good design.

A lesser privacy setback requirement is considered appropriate in this instance due to the built form outcomes that are being sought and the narrow lot frontages which are not dissimilar to that being applied in higher-density areas.

The proposed variations within the LPP are supported by Design Guidelines that have also been prepared ancillary to the Structure Plan area and comply with the overall objectives of the endorsed Structure Plan. In this regard there are no objections to this variation by the City of Fremantle or the Department.

CONCLUSION:

The proposed LPP seeks to support residential development that is highly responsive to the site and which promote energy efficient dwelling designs that optimise the use of the northern aspect of the Structure Plan area and the approved lot design, which maximises the northern solar orientation of the lots.

The LPP is consistent with the objectives of the Structure Plan which has previously been endorsed by the WAPC and it is therefore recommended that the WAPC endorse the subject LPP and advise the City of Fremantle accordingly.