



## Statutory Planning Committee

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

**Tuesday 26 May 2015  
9.00 am**

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



**Tim Hillyard  
WAPC Secretary**

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Please convey apologies to Luke Downes on 6551 9549 or email  
[luke.downes@planning.wa.gov.au](mailto: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 7522  
held on Tuesday, 12 May 2015

### Attendance

#### Members

Mr Eric Lumsden	WAPC Chairman (Presiding Member)
Mayor Russell Aubrey	Local government representative
Ms Megan Bartle	WAPC appointee
Mr Martin Clifford	Regional Minister's nominee (Deputy)
Mr Ray Glickman	WAPC appointee
Mr Stephen Hiller	WAPC appointee
Ms Gail McGowan	Director General, Department of Planning
Ms Elizabeth Taylor	Community representative

#### Officers

Mr Chau Chong	Principal Planning Officer; Perth and Peel Planning
Mr Robert Cull	Senior Planning Officer; Perth and Peel Planning
Mr James Dorn	Senior Planning Officer; Perth and Peel Planning
Mr Nik Lamat	Planning Officer; Perth and Peel Planning
Ms Lee O'Donohue	Manager, Metro Planning Central; Perth and Peel Planning
Ms Kym Petani	A/Executive Director; Perth and Peel Planning
Mr Andrew Thomas	Senior Planning Officer; Perth and Peel Planning

#### Presenters

Mr Jeremy Hofland	Rowe Group (item 6.1 for item 9.1)
Mr Stephen Kargotich	Kargotich Industries (item 6.2 for item 11.2)
Mr Trevor Moran	Landvision (item 6.2 for item 11.2)
Mr Paul Garbett	City of Fremantle (item 6.3 for item 11.4)
Ms Bridie Howe	City of Fremantle (item 6.3 for item 11.4)

#### Committee Support

Mr Luke Downes	Committee Support Officer - Department of Planning
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### 7522.1 Declaration of Opening

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

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### 7522.2 Apologies

Mr Ian Holloway                      Professions representative

### 7522.3 Members on Leave of Absence and Applications for Leave of Absence

Ms Burrows had previously submitted an application for a leave of absence for the Statutory Planning Committee meeting scheduled for 12 May 2015.

Ms Bartle, Mr Clifford, Mr Hiller and Ms McGowan have submitted applications for a leave of absence for the Statutory Planning Committee meeting scheduled for 26 May 2015.

#### **Resolved**

#### **Moved by Ms Taylor, seconded Ms Bartle**

*That the approval for a leave of absence be granted to Ms Bartle, Mr Clifford, Mr Hiller and Ms McGowan for the Statutory Planning Committee meeting to be held on 26 May 2015.*

*The motion was put and carried.*

### 7522.4 Disclosure of Interests

Nil.

### 7522.5 Declaration of Due Consideration

No declarations were made.

### 7522.6 Deputations and Presentations

#### **7522.6.1 Subdivision to Create 3 Single Residential Lots**

Presenter    Mr Jeremy Hofland, Rowe Group

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

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### 7522.6.2 **City of Armadale Town Planning Scheme No. 4 – Amendment 48 – for Final Approval**

Presenter Mr Stephen Kargotich, Kargotich Industries

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

A copy has been placed on file.

### 7522.6.3 **City of Fremantle - Local Planning Scheme Amendment 43 - for Final Approval**

Presenter Mr Paul Garbett, City of Fremantle

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

A copy has been placed on file.

### 7522.7 **Announcements by the Chairperson of the Board and communication from the WAPC**

The Chairman advised members that the sub-regional framework has been publicly released and has been published on the internet. The Chairman also advised that the Western Australian Planning Commission have made amendments to the R-Codes and Multi-Unit Housing Codes.

Comments on the proposed Terms of Reference for the Statutory Planning Committee had been received and the Chairman asked members to submit their comments if necessary.

### 7522.8 **Confirmation of Minutes**

#### 7522.8.1 **Minutes of the Statutory Planning Committee meeting held on Tuesday, 28 April 2015**

**Resolved**

***Moved by Mr Glickman, seconded by Ms Taylor***

*That the minutes of the Statutory Planning Committee meeting held on Tuesday, 28 April 2015, be confirmed as a true and correct record of the proceedings.*

***The motion was put and carried.***

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### 7522.9 Statutory Items for Decision

#### 7522.9.1 Subdivision to Create 3 Single Residential Lots

File 151244  
Report Number SPC/828  
Agenda Part C  
Reporting Officer Metropolitan Central, Planning Officer

Members agreed to amend condition 6 for clarification purposes as follows:

“The 9.7 metre length of right-of-way adjoining the north east boundary of proposed Lot 1 being widened by 1.0 metre and the entire right-of-way, including the widening is to be constructed and drained at the landowner/applicants cost along the rear boundary of the subject land.”

#### Officer's Recommendation

That the Western Australian Planning Commission resolves to approve the application for subdivision of Lot 12 Shepperton Road, East Victoria Park as shown on the plan dated 23 December 2014. This decision is valid for three years subject to the following conditions and advice:

#### CONDITION(S):

1. Other than buildings, outbuildings and/or structures shown on the approved plan for retention, all buildings, outbuildings and/or structures present on the proposed lots at the time of subdivision approval being demolished and materials removed from the lots. (Local Government)
2. All dwelling(s) being constructed to plate height prior to the submission of the diagram or plan of survey (deposited plan). (Local Government)
3. 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 Shepperton Road being lodged on the certificate(s) of title of the proposed lots at the full expense of the landowner/applicant. The covenant is to specify:

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- "No vehicular access is permitted from Shepperton Road." (Main Roads Western Australia)
4. The land required for the widening of Shepperton Road is to be set aside as a separate lot for acquisition pending future road widening requirements. (Western Australian Planning Commission)
  5. Easement(s) in accordance with Sections 195 and 196 of the Land Administration Act 1997 for the benefit of proposed Lots 2 and 3 are to be placed on the certificate(s) of title of the proposed Lots 1 and 2 specifying access rights. Notice of this easement(s) is to be included on the diagram or plan of survey (deposited plan). (Western Australian Planning Commission)
  6. A 1 metre wide right-of-way is to be provided, constructed and drained at the landowner/applicants cost along the rear boundary of the subject land. The right-of-way is to be accurately illustrated and denoted on the [Diagram or Plan of Survey (Deposited Plan) and vested in the Crown under Section 152 of the Planning and Development Act 2005, such land to be ceded free of cost and without any payment of compensation by the Crown. (Local Government)
  7. Redundant vehicle crossover(s) to be removed and the kerbing, verge, and footpath (where relevant) reinstated with grass or landscaping to the satisfaction of the Western Australian Planning Commission and to the specifications of the local government. (Local Government)
  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:

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'The lot/s is/are situated in the vicinity of a transport corridor and is currently affected, or may in the future be affected by transport noise.' (Local Government)

9. The land being filled, stabilised, drained and/or graded as required to ensure that:

- (a) lots can accommodate their intended development;
- (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)

10. All septic sewer systems including all tanks and pipes and associated drainage systems (soak wells or leach drains) and any stormwater disposal systems are to be decommissioned, in accordance with the Health (Treatment of Sewerage and Disposal of Effluent and Liquid Waste) Regulations 1974, removed, filled with clean sand and compacted. Proof of decommissioning is to be provided in the form of either certification from a licensed plumber or a statutory declaration from the landowner/applicant, confirming that the site has been inspected and all septic tanks, soak wells, leach drains and any associated pipework have been removed. (Local Government)

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)

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12. 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)
13. 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)
14. 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)

### ADVICE:

1. Main Roads Western Australia advises that:
  - (a) No earthworks are to encroach onto the road reserve;
  - (b) No stormwater drainage is to be discharged onto the road reserve; and
  - (c) The landowner/applicant should make good any damage to the existing verge vegetation within the Shepperton Road reservation, at their full expense.
2. With regard to Condition 1, a demolition licence may be required to be obtained from the local government prior to the commencement of demolition works.
3. With regard to Condition 2, the Town of Victoria Park advises that given the size and shape of the proposed lots, and the development constraints that exist, the landowner/applicant is required to demonstrate via submission of a development application that the proposed lots can be developed in accordance with

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the relevant provisions of the Residential Design Codes and the Town of Victoria Park Town Planning Scheme No. 1. Such application is to be submitted and approved by the Town, and construction completed to plate height prior to the issue of any subdivision clearance.

4. With regard to Conditions 11, 12 and 13, the landowner/applicant shall make arrangements with the Water Corporation for the provision of the necessary services. On receipt of a request from the landowner/applicant, a Land Development Agreement under Section 83 of the Water Services Act 2012 will be prepared by the Water Corporation to document the specific requirements for the proposed subdivision.
5. With regard to Condition 14, Western Power provides only one underground point of electricity supply per freehold lot.

### Resolved

#### ***Moved by Ms McGowan seconded by Ms Taylor***

*That the Western Australian Planning Commission resolves to approve the application for subdivision of Lot 12 Shepperton Road, East Victoria Park as shown on the plan dated 23 December 2014. This decision is valid for three years subject to the following conditions and advice:*

#### **CONDITION(S):**

1. *Other than buildings, outbuildings and/or structures shown on the approved plan for retention, all buildings, outbuildings and/or structures present on the proposed lots at the time of subdivision approval being demolished and materials removed from the lots. (Local Government)*
2. *All dwelling(s) being constructed to plate height prior to the submission of the diagram or plan of survey (deposited plan). (Local Government)*

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3. 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 Shepperton Road being lodged on the certificate(s) of title of the proposed lots at the full expense of the landowner/applicant. The covenant is to specify:

*"No vehicular access is permitted from Shepperton Road." (Main Roads Western Australia)*

4. The land required for the widening of Shepperton Road is to be set aside as a separate lot for acquisition pending future road widening requirements. (Western Australian Planning Commission)

5. Easement(s) in accordance with Sections 195 and 196 of the Land Administration Act 1997 for the benefit of proposed Lots 2 and 3 are to be placed on the certificate(s) of title of the proposed Lots 1 and 2 specifying access rights. Notice of this easement(s) is to be included on the diagram or plan of survey (deposited plan). (Western Australian Planning Commission)

6. The 9.7 metre length of right-of-way adjoining the north east boundary of proposed Lot 1 being widened by 1.0 metre and the entire right-of-way, including the widening is to be constructed and drained at the landowner/applicants cost along the rear boundary of the subject land. The right-of-way is to be accurately illustrated and denoted on the [Diagram or Plan of Survey (Deposited Plan) and vested in the Crown under Section 152 of the Planning and Development Act 2005, such land to be ceded free of cost and without any payment of compensation by the Crown. (Local Government)

7. Redundant vehicle crossover(s) to be removed and the kerbing, verge, and footpath (where relevant) reinstated with

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*grass or landscaping to the satisfaction of the Western Australian Planning Commission and to the specifications of the local government. (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 situated in the vicinity of a transport corridor and is currently affected, or may in the future be affected by transport noise.'* (Local Government)

9. *The land being filled, stabilised, drained and/or graded as required to ensure that:*

- (a) lots can accommodate their intended development;*
- (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)*

10. *All septic sewer systems including all tanks and pipes and associated drainage systems (soak wells or leach drains) and any stormwater disposal systems are to be decommissioned, in accordance with the Health (Treatment of Sewerage and Disposal of Effluent and Liquid Waste) Regulations 1974, removed, filled with clean sand and compacted. Proof of decommissioning is to be provided in the form of either certification from a licensed plumber or a statutory declaration from the*

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*landowner/applicant, confirming that the site has been inspected and all septic tanks, soak wells, leach drains and any associated pipework have been removed. (Local Government)*

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)*
12. *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)*
13. *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)*
14. *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)*

### ADVICE:

1. *Main Roads Western Australia advises that:*
  - (a) *No earthworks are to encroach onto the road reserve;*
  - (b) *No stormwater drainage is to be discharged onto the road reserve; and*
  - (c) *The landowner/applicant should make good any damage to the existing verge vegetation within the Shepperton Road reservation, at their full expense.*

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2. *With regard to Condition 1, a demolition licence may be required to be obtained from the local government prior to the commencement of demolition works.*
3. *With regard to Condition 2, the Town of Victoria Park advises that given the size and shape of the proposed lots, and the development constraints that exist, the landowner/applicant is required to demonstrate via submission of a development application that the proposed lots can be developed in accordance with the relevant provisions of the Residential Design Codes and the Town of Victoria Park Town Planning Scheme No. 1. Such application is to be submitted and approved by the Town, and construction completed to plate height prior to the issue of any subdivision clearance.*
4. *With regard to Conditions 11, 12 and 13, the landowner/applicant shall make arrangements with the Water Corporation for the provision of the necessary services. On receipt of a request from the landowner/applicant, a Land Development Agreement under Section 83 of the Water Services Act 2012 will be prepared by the Water Corporation to document the specific requirements for the proposed subdivision.*
5. *With regard to Condition 14, Western Power provides only one underground point of electricity supply per freehold lot.*

7522.9.2

### **Request for Clearance of Condition 12 and Endorsement of Deposited Plan 69273**

File 142459  
Report Number SPC/829  
Agenda Part G  
Reporting Officer A/Planning Manager: Metropolitan Planning North East

### **Resolved**

***Moved by Ms McGowan, seconded by Ms Bartle***

*That the Western Australian Planning Commission resolves to note the background to*

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*the issue arising in relation to the clearance of Condition 12 of WAPC 142459 and the endorsement of Deposited Plan 69273 for Lot 9067 The Broadway, Aveley.*

***The motion was put and carried.***

**7522.9.3**

### **Proposed Rural Shed - Lot 102 West Swan Road Henley Brook**

File 21-50449-1  
Report Number SPC/830  
Agenda Part G  
Reporting Officer A/Planning Manager Metropolitan  
Planning North East

### **Resolved**

***Moved by Mr Hiller, seconded by Mayor Aubrey***

*That the Western Australian Planning Commission resolves to refuse the application to commence development for the construction of a shed on Lot 102 West Swan Road Henley Brook for the following reasons:*

- 1. The proposed development is inconsistent with the objectives of Area B of the Swan Valley Planning Act 1995;*
- 2. The land is zoned 'Rural' in the Metropolitan Region Scheme and 'Swan Valley Rural' within the City of Swan Local Planning Scheme No.17. The proposed development is contrary to the intent of the rural zoning which is to preserve the rural character and landscape of the area;*
- 3. The proposed development is inconsistent with the Swan Valley Interim Planning Policy whereby the development of shed above the 200m<sup>2</sup> total floor area in Area B of the Swan Valley Planning Act 1995 is not consistent with the aims of the policy to protect rural uses of the area;*

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4. *Approval of the proposed development would be inconsistent with the rural character of the area and would create a precedent for the introduction of development contrary to the objectives of the Swan Valley Planning Act 1995.*

***The motion was put and carried.***

### 7522.10 Policy Items for Discussion/Decision

Nil.

### 7522.11 Confidential Reports

#### 7522.11.1 City of Canning - Town Planning Scheme No. 40 Amendment No. 192 - for Final Approval

File TPS/0936/1  
Report Number SPC/831  
Agenda Part B  
Reporting Officer Planning Manager – Schemes and Amendments

**THIS ITEM IS CONFIDENTIAL**

#### 7522.11.2 City of Armadale Town Planning Scheme No. 4 – Amendment 48 – for Final Approval

File TPS/0319/2  
Report Number SPC/832  
Agenda Part B  
Reporting Officer Planning Manager, Schemes and Amendments

**THIS ITEM IS CONFIDENTIAL**

#### 7522.11.3 City of Stirling - Local Planning Scheme No. 3, Amendment No. 48 - for Final Approval

File TPS/1421  
Report Number SPC/833  
Agenda Part B  
Reporting Officer Planning Manager, Schemes and Amendments

**THIS ITEM IS CONFIDENTIAL**

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### 7522.11.4 City of Fremantle - Local Planning Scheme Amendment 43 - for Final Approval

File TPS/0898  
Report Number SPC/834  
Agenda Part B  
Reporting Officer Planning Manager - Schemes and Amendments

**THIS ITEM IS CONFIDENTIAL**

### 7522.11.5 Shire of Coorow - Local Planning Strategy and Local Planning Scheme No. 3 - for Final Approval

File TPS/1192/1  
Report Number SPC/835  
Agenda Part E  
Reporting Officer Statutory Planning Manager, Central Regions

**THIS ITEM IS CONFIDENTIAL**

### 7522.11.6 Shire of Wyndham East Kimberley - Consent to Advertise Local Planning Scheme No. 9 and the Local Planning Strategy

File TPS 1344/1 and DP/10/00078/2  
Report Number SPC/836  
Agenda Part E  
Reporting Officer A/Director Northern Regions

**THIS ITEM IS CONFIDENTIAL**

### 7522.12 Stakeholder Engagement and Site Visits

Nil.

### 7522.13 Urgent Business

Nil.

### 7522.14 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

## Statutory Planning Committee

Minutes  
of ordinary meeting 7522  
held on Tuesday, 12 May 2015

- |                   |                                  |  |
|-------------------|----------------------------------|--|
| <b>7515.14.1</b>  | DAP report                       | Establishment report to be TBA presented to the Committee                      |
| <b>7517.14.1</b>  | Building Codes                   | To be discussed at a future TBA meeting of the Committee                       |
| <b>7517.14.2</b>  | Sub-Regional Planning Frameworks | A presentation to be made to the TBA Committee at a future meeting             |
| <b>7519.14.1</b>  | Housing Choice by Construction   | Member Ian Holloway to present 26/05/2015 (20 minutes) to the next SPC meeting |
| <b>75.22.14.1</b> | Aged Pension Housing             | Discussion to be held at the 26/05/2015 meeting of 26 May 2015                 |

### **7522.15 Closure**

The next ordinary meeting is scheduled for 9.00 am on 26 May 2015.

There being no further business before the Committee, the Presiding Member thanked members for their attendance and declared the meeting closed at 10.00 am.

**PRESIDING MEMBER** \_\_\_\_\_

**DATE** \_\_\_\_\_

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## ITEM NO: 9.1

### Subdivision to Create Two Rural Residential Lots

**WAPC OR COMMITTEE:** Statutory Planning Committee

REPORTING AGENCY: Department of Planning  
REPORTING OFFICER: Planning Manager, Peel  
AUTHORISING OFFICER: Planning Director, Peel  
AGENDA PART: C  
FILE NO: 151337  
DATE: 8 May 2015  
REPORT CATEGORY: Statutory  
RECOMMENDATION OUTCOME: 1. Approval  
ATTACHMENT(S): 1. Location Plan  
2. Proposed Subdivision Plan  
3. Aerial Image  
REGION SCHEME ZONING: Rural  
LOCAL GOVERNMENT: City of Mandurah  
LOCAL SCHEME ZONING: Rural Residential  
LGA RECOMMENDATION(S): Not Supported  
REGION DESCRIPTOR: MAND  
RECEIPT DATE: 23 January 2015  
PROCESS DAYS: 105  
APPLICATION TYPE: Subdivision  
CADASTRAL REFERENCE: Lot 31 (No. 55) Red Road, Parklands

#### RECOMMENDATION:

***That the Western Australian Planning Commission resolves to approve the application for subdivision of Lot 31 (No. 55) Red Road, Parklands as shown on the plan dated 23 January 2015. This decision is valid for three years subject to the following conditions and advice:***

#### CONDITIONS:

- 1. 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 subdivisional works. (Local Government).***
- 2. 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)***

**3. *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)***

**4. *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)**

**5. *A notification, pursuant to Section 165 of the Planning and Development Act 2005 is to be placed on the certificates of title of the proposed lot(s) advising of the existence of a hazard or other factor. Notice of this notification is to be included on the diagram or plan of survey (deposited plan). The notification is to state as follows:***

***'This lot is in close proximity to known mosquito breeding areas. The predominant mosquito species is known to carry viruses and other diseases.'* (Western Australian Planning Commission)**

**6. *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)***

**ADVICE:**

**1. *In regard to Condition 6, Western Power provides only one underground point of electricity supply per freehold lot.***

**SUMMARY:**

- The application seeks approval to subdivide create two rural residential lots.
- This application is being presented to Committee for determination as a result of the subject property having some risk of bushfire, and due to the absence of an endorsed bushfire management plan (BMP).
- It is recommended the application is approved subject to conditions.

## LEGISLATION / STRATEGIC PLAN / POLICY:

### Legislation

Section: *Planning and Development Act 2005*  
Part 10 - Subdivision and development control

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

## INTRODUCTION:

The application seeks to subdivide a 2.02ha property in Parklands into two lots with areas of 1.00 ha and 1.02 ha for rural residential purposes (**Attachment 1** - Location Plan, **Attachment 2** - Proposed Subdivision Plan, **Attachment 3** - Aerial Image).

The site was the subject of a similar conditionally approved application (WAPC Ref: 140075) which has expired prior to completion of the required subdivision works.

## CONSULTATION:

The City of Mandurah (the City) advises that it does not support the application for the following reasons:

- (a) a BMP has not been submitted with the application in accordance with the provisions of draft State Planning Policy 3.7: Planning for Bushfire Risk Management;
- (b) approval of this application is likely to compromise future planning objectives for this locality. In this respect, Appendix 4 of the *City of Mandurah Town Planning Scheme No. 3* (TPS3) states that the locality has been earmarked for future urban development;
- (c) the *City of Mandurah Biodiversity Strategy* identifies that this locality meets 5 to 7 ecological criteria and states that further subdivision should not occur until such time that a statutory structure plan for the area is prepared; and
- (d) a subdivision guide plan and technical guidelines have not been submitted and approved by Council as required under clause 4.7.3.3.1 of TPS3.

The Department of Fire and Emergency Services (DFES) was consulted regarding point (a) above. DFES considers it appropriate in this instance to impose a condition requiring the preparation, approval and implementation of a BMP for the site rather than using the absence of an endorsed FMP as grounds for refusing the application. The DFES considers the application to have minimal complexity, with a low risk of the BMP impacting on the proposed subdivision layout.

The Water Corporation raises no objection to the application and has not requested any conditions, as a water service has been provided to the proposed lots as part of the previous application.

Western Power raises no objection to the application, subject to a standard power supply condition being imposed to ensure the removal of the overhead power supply. Underground power has already been provided to the proposed lots as part of the previous application.

## **COMMENTS:**

### Bushfire risk management

The subdivision application was not accompanied by a bush fire hazard assessment, despite the property being well-vegetated and adjacent to other well vegetated areas. Based on aerial photography, it is likely that the bush fire hazard rating for this site would be moderate or extreme.

The draft SPP3.7 requires any planning proposal in an area with a moderate bushfire hazard level to be accompanied by a BMP and reduces the scope for planning proposals to be supported in areas having an extreme bushfire hazard.

The Parklands area of Mandurah is reasonably flat land and is well connected in terms of existing public roads. Having regard to this and the advice received from DFES, it is considered reasonable in this instance for bushfire considerations to be addressed via a condition of subdivision approval. Such a condition has been used previously in the Parklands areas, (WAPC Refs: 150296, 148873, 148186, 145135 and 143246).

### Strategic Context

TPS3 does make reference to Parklands being earmarked for future urban development. However, the recently released draft South Metropolitan Peel Sub-regional Planning Framework identifies Parklands for Rural Residential purposes and not future Urban, even in the long term. Therefore, it is considered appropriate for the site to be subdivided for Rural Residential purposes.

### Remnant vegetation

The City has raised concerns about the further subdivision of the site causing further degradation to the remaining vegetation and has recommended that further subdivision should not occur until a statutory structure plan is prepared for the area. This recommendation is dismissed as there is no statutory requirement for a structure plan to be prepared for this area. It is also worth noting that the City's Biodiversity Strategy has not been considered or endorsed by the WAPC.

### Subdivision Guide Plan (SGP)

Clause 4.7.3.3 of TPS3 requires an SGP be prepared prior to subdivision approval being granted for Rural Residential zoned land. With regard to the requirement that an SGP be prepared:

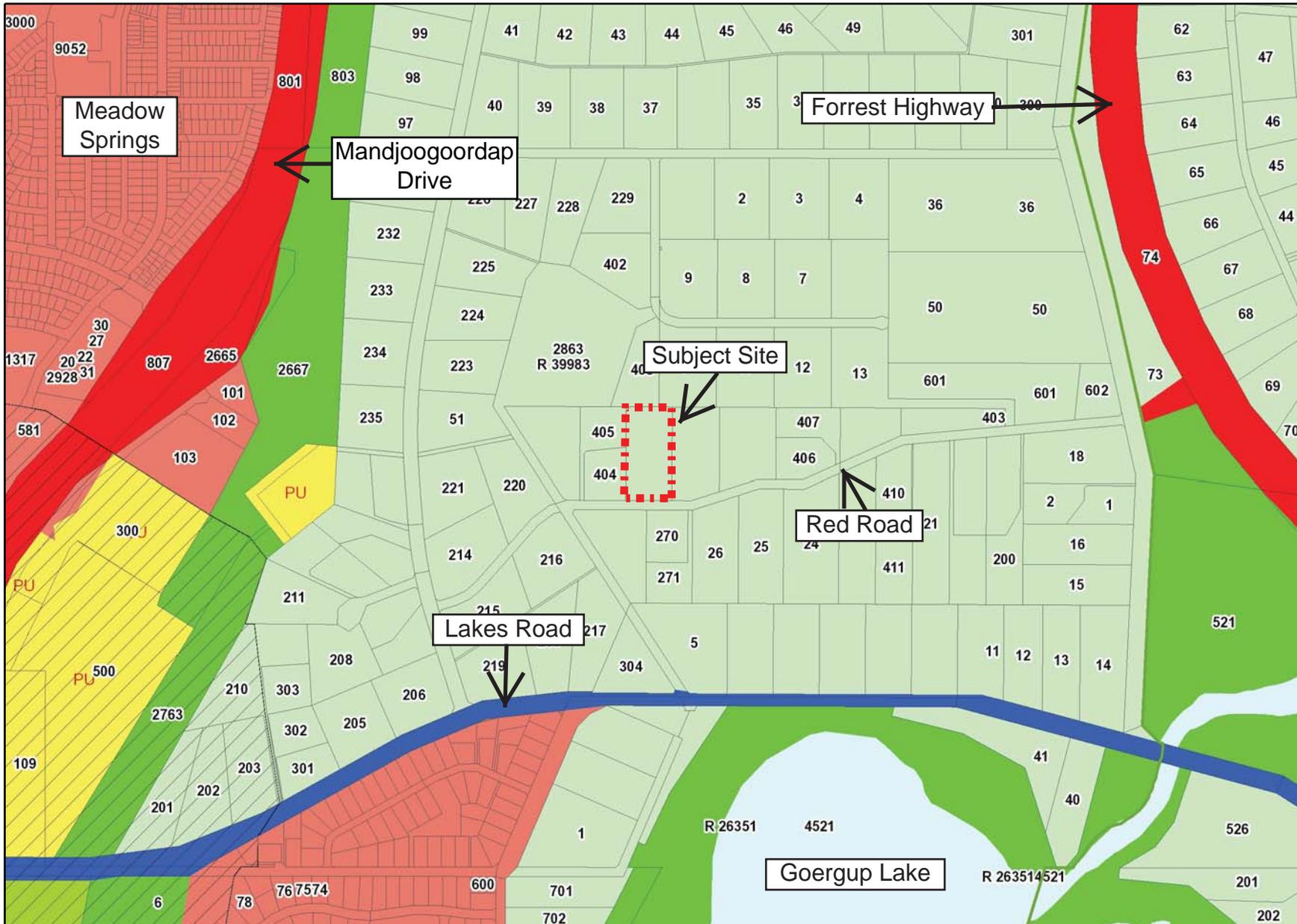
- (a) the WAPC has previously determined that it would be onerous to require an SGP to be prepared for a two lot subdivision in Parklands (WAPC Refs: 150296, 148873, 148186, 145327, 145135 and 144048); and

(b) the subject site does not contain any significant wetlands or natural areas.

Having regard to the above, it is not considered necessary for an SGP to be prepared and approved for this site prior to subdivision.

**CONCLUSION:**

It is recommended the application be approved subject to conditions.



### Legend

- Local Government Area
- Cadastre (View 1)
- PRS - Boundary
- PRS - Special Control Area 2 (W Treatment Plant Odour Buffer)
- PRS - Zones and Reserves**
- other regional roads
- pp - public utilities
- pp - special uses
- primary regional roads
- regional open space
- rural
- urban
- waterways

### 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: **07-May-2015**

## PlanViewWA Map

**INTERNAL USE ONLY**

PlanViewWA  
[Link to viewer](#)



1: 14,587  
at A4

Projection: WGS 1984 Web Mercator Auxiliary Sphere

## ITEM NO: 9.2

### Shire of Esperance Local Planning Strategy Amendment 2 - Consent to Advertise

<b>WAPC OR COMMITTEE:</b>	<b>Statutory Planning Committee</b>
REPORTING AGENCY:	Department of Planning
REPORTING OFFICER:	Statutory Planning Manager - Central Regions
AUTHORISING OFFICER:	A/Executive Director - Regional Planning and Strategy
AGENDA PART:	E
FILE NO:	DP/15/00123
DATE:	12 March 2015
REPORT CATEGORY:	Statutory
RECOMMENDATION OUTCOME:	2. Refuse
ATTACHMENT(S):	1. Locality Plan 2. Text Proposed 3. Subdivision Concept Plan 4. Esperance Lot Data - Map

#### RECOMMENDATION:

***That the Western Australian Planning Commission resolves not to certify the Shire of Esperance Local Planning Strategy Amendment 2, Condingup under Regulation 12A(3) of the Town Planning Regulations 1967 (as amended) and refuse advertising of the proposal for the following reasons:***

- 1. 'Intensive-Agriculture' in this location is not prohibited by the Local Planning Scheme or Strategy at present, as it is a Discretionary use within the current zone;***
- 2. the amendment is inconsistent with SPP 1 State Planning Framework and SPP 3 Urban Growth and Management as it does not provide a logical expansion of an existing settlement, and is isolated from existing infrastructure, markets, services and employment centres;***
- 3. the amendment is inconsistent with SPP 2.5 Land Use Planning in Rural Areas as no evidence of demand from industry for lots in the Shire or in Condingup has been provided to justify the proposal, and any future businesses would be isolated from markets and supporting infrastructure.***
- 4. the amendment, if approved in its current form, could set an undesirable precedent for proponents circumventing WAPC policy by amending local planning strategies to provide for fragmentation of rural landholdings;***

**5. *the amendment does not meet the requirements for certification as outlined in Regulation 12A(3) of the Town Planning Regulations 1967 (as amended), as it does not apply state and regional planning policies.***

**SUMMARY:**

The Shire of Esperance is seeking certification and consent to advertise for proposed Amendment 2 to their Local Planning Strategy (WAPC endorsed February 2010).

Amendment 2 seeks to modify the provisions of Condingup Precinct 56 (an existing townsite, with general agriculture and blue gum plantations precinct) to allow for creation of an intensive agriculture sub-precinct.

The proposal does not meet the requirements of Regulation 12A(3) of the Town Planning Regulations 1967 (as amended). Refusal to certify is recommended.

**BACKGROUND:**

The Shire of Esperance Local Planning Strategy ('the Strategy') was endorsed by the WAPC on 4 February 2010. The Strategy divides the Shire into a number of precincts and outlines specific objectives, strategies and actions for each. The Strategy provides the strategic planning direction and guidance for the Shire of Esperance District Zoning Scheme No. 23 (DZS 23).

Precinct 56 Condingup is located generally east of the localities of Cape Le Grand, Merivale and Neridup and includes the coastal areas around the Duke of Orleans Bay. The median lot size in this area is approximately 747ha, and the predominant land uses are cropping, grazing and forest plantations, with the latter generally confined to south of Fisheries Road (**Attachment 1**).

The Strategy states that *"The first blue gum plantations in the area were planted in 1999. Since then thousands of hectares of land throughout the region have been acquired for plantation purposes....anecdotal comments from the community indicate that farmers are selling out and leaving the community"*. The key objectives for Precinct 56 in the Strategy are to:

- ensure that broad acre areas are protected from inappropriate subdivision and urban encroachment, with provision for limited subdivision for the creation of 'tradeable' lots.
- support the continuing growth of Condingup townsite; and
- ensure the sustainable development of tourist nodes in the precinct.

Amendment 2 consists of two lots(207 and 208 totalling 1012ha), both zoned 'Agriculture - General' and are currently used for a Blue Gums plantation. The south western portion of Lot 208 was rezoned in 2005 to Special Use 3 for tourism purposes, and these lots do not provide for intensive agriculture or horticulture type uses.

The subject lots are bounded by Cape Le Grand National Park to the west and north, and the undeveloped Wharton townsite and the operating Duke of Orleans Bay Caravan Park to the south. The Condingup townsite is approximately 22km to the

north (refer to **Attachment 1**). The lots are bounded by Orleans Bay Road to the east with a bitumised road, and 60m wide road reserve.

The intent of the amendment in this area is to provide for alternative economic and regional development opportunities beyond the existing broad acre agriculture and plantation, such as vineyards, boutique forms of agriculture (i.e. olives and berries etc.) and associated tourism opportunities.

The Shire's Planning Officer Report recommended refusal of the amendment. Council for the Shire of Esperance resolved to initiate the amendment on 27 January 2015, and now requests WAPC certification and consent to advertise.

## **LEGISLATION / STRATEGIC PLAN / POLICY:**

### **Legislation**

Section: *Town Planning Regulations 1967 (as amended)*

Regulation 12

### **Strategic Plan**

Strategic Goal: Planning

Outcomes: Planning Local Communities developing a sense of place

Strategies: Improving local planning service capability

### **Policy**

Number and / or Name: State Planning Policy (SPP):  
SPP 1 - State Planning Framework Policy  
SPP 2 - Environment and Natural Resources Policy  
SPP 2.5 - Agricultural and Rural Land Use Planning  
SPP 2.7 - Public Drinking Water Source Policy  
SPP 2.9 - Water Resources  
SPP 3 - Urban Growth and Settlement  
SPP 3.7 - Draft Planning for Bushfire Risk Management  
  
Development Control Policy 3.4 Subdivision of Rural Land

## **DETAILS:**

Amendment 2 proposes to amend the Strategy to provide for smaller lots (minimum 20ha) within the subject land for the purposes of more intensive forms of agriculture and/or horticulture. The objective of this change is to allow for some diversification of the existing industry within the area and to provide for regional development opportunities. The changes to the strategy objectives, actions and plans will be restricted to the subject land only (refer to **Attachment 2**).

No changes to DZS 23 have been proposed at this time, and as such the land will remain 'Agriculture - General'. Based on the land capability assessment completed, a preliminary concept plan has also been provided (**Attachment 3**) which proposes creation of eleven (11) lots:

- one (1) conservation lot of 201ha to protect remnant vegetation;
- one (1) horticultural lot of 146ha with approximately 50% of the lot containing remnant vegetation; and
- nine (9) horticulture lots ranging from 22 - 49ha in size, with vegetated buffers on the northern and southern boundaries of the subject land to separate the proposed land uses from the existing tourism node and adjacent 'General Agriculture' zoned lot.

### **GOVERNMENT AND CORPORATE IMPLICATIONS:**

The proposal is contrary to WAPC policy and planning principles, and is seeking to circumvent WAPC policy requirements by inclusion of the proposal in the Local Planning Strategy instead.

### **CONSULTATION:**

The Shire is seeking approval for consent to advertise the Strategy amendment documents. Advertising and public submissions would provide an opportunity for State agencies and the public to provide formal comment should this be the decision of the WAPC.

Department of Planning officers have received advice from the Department of Agriculture and Food WA (DAFWA) stating that it has no objection to the proposal. The land is not considered high quality for cereal cropping. It is waterlogged during the winter months. It could be used for perennial horticulture and / or rural residential development with lifestyle niche or boutique style enterprises.

Recent history has shown that this form of subdivision has typically resulted in rural residential alone locating in such areas. DAFWA's strategic and industry planning does not identify land at Condingup for the development of a new irrigated agricultural industry, and DAFWA does not support the subdivision of land for intensive agricultural unless it forms part of a well-planned and investigated industry development, such as in the Ord and Gascoyne valleys.

### **OFFICER'S COMMENTS:**

#### History

A local planning scheme amendment (Amendment 46, Local Planning Scheme No. 22) was proposed in 2005 for the creation of a special use zone over the subject land to allow for the development of rural residential lots, limited tourist accommodation and the operation of the blue gum plantation.

In November 2005, the amendment was refused by the then Minister for Planning and Infrastructure as the rezoning of the land was inconsistent with the provisions of Statement of Planning Policy No. 2.5 – Agricultural and Rural Land Use Planning and Draft Statement of Planning Policy No. 3 – Urban Growth and Settlement on the grounds that:

- (a) the proposed settlement is remote from services and facilities;
- (b) is not identified in any strategic or settlement plan; and

- (c) the issue of protection of agricultural land and potential land use conflict between residential development and the plantation has not been adequately addressed.

In 2008, the amendment area was modified and a smaller portion of the site approved for rezoning to a 'Special Use' tourism zone (Amendment 46A). Subsequent to the approval of this amendment, the portion of the lot subject to the Special Use zone was then subdivided.

An additional local planning scheme amendment was also refused by the WAPC over the subject site in 2011 (Amendment 7, Shire of Esperance District Zoning Scheme No.23). The scheme amendment sought to rezone land surrounding the tourist accommodation site to 'Rural Residential' and provide for approximately 21 additional lots. This proposal was refused as it did not accord with the Local Planning Strategy or WAPC policy, including SPP2.5 and SPP3.

#### Local Planning Scheme and Strategy

Intensive Agriculture/Horticulture is not precluded from locating in these lots by the existing Scheme and Strategy. DZS 23 includes more intensive forms of agriculture as a 'D' (discretionary) use and the Strategy precinct does not exclude this form of use either.

#### Prevailing Lot Size & Regional Development

The proposal states that subdivision is required as the large lot sizes within the Shire are economically prohibitive to industry and there are limited lots of these proposed sizes (20 ha plus) available elsewhere in the Shire.

Review of the existing lot sizes within the Shire supports the assertion that there are limited smaller lots available. **Attachment 4** shows that there are 176 lots of 20-50ha in the Shire zoned Agriculture General or Rural Smallholdings. Of which 64 are within Special Control Areas (with some environmental or public drinking water source protection constraints) and of the remaining 112, only 21 are freehold titles.

DAFWA advised that there was no evidence in the South West that subdivision of rural land for the purposes of intensification had led to the establishment of new horticultural enterprises. Instead it has promoted rural living on the pretext of agricultural development. The current proposal risks the establishment of lots primarily for rural living. There is no legal mechanism to require the land to be developed for horticulture once subdivision (and the associated dwelling entitlement) has been approved.

The existing zoning does provide for a broad range of uses within the zone and provides for regional development opportunities and diversification on agricultural landholdings. The current scheme does not provide for subdivision without the endorsement of the local planning strategy.

The history of applications on this lot shows an ongoing pursuit of subdivision for the purposes of rural living.

## Fragmentation of Rural/Agricultural Landholdings

SPP 2.5 Land Use Planning in Rural Areas prohibits subdivision of rural land unless guided by a local planning strategy or scheme. While the proposal to amend the Strategy would enable future subdivision to occur in line with SPP 2.5 requirements (by being planned in advance) the proposal itself does not meet policy requirements. SPP 2.5 states in section 5.1 d) and e) that:

*"d) the use of rural land for intensive or emerging primary production land uses does not warrant creation of new smaller rural lots on an unplanned, ad hoc basis; and*

*e) creation of new rural lots will be by exception and in accordance with DC 3.4"*

DC 3.4 Subdivision of Rural Land section 4 policy measures for more intensive agricultural uses states that *"where local conditions require subdivision or creation of land parcels for this purpose, it should be provided for in a strategy or scheme and supported by the provision of evidence from the agency responsible for agriculture and food"*. The Rural Planning Guidelines for SPP 2.5 also outline the need for demand of proposed lots to be established to justify the proposals.

No such evidence or justification has been provided. DAFWA has no objection.

The Planning Officer report to Council recommended refusal of the Amendment on the basis of non-compliance with SPP 2.5; the remote and isolated nature of the site; and that sufficient sites for more intensive production are provided for elsewhere in the Shire closer to the main townsite of Esperance. The Shire Officer did recognise that existing intensive agriculture lots were inhibited by existing environmental constraints and landowners not pursuing the intensive agriculture use after purchase.

The proposal is contrary to established WAPC policy, namely SPP 2.5 Land Use Planning in Rural Areas (SPP2.5) and Development Control Policy 3.4 Subdivision of Rural Land (DC 3.4).

## Remote and Isolated Location

Proper and orderly planning would involve a strategic assessment of the ideal location for intensive or boutique agriculture/horticulture proposals within the whole Shire of Esperance based on land capability, environmental constraints, access to and demand from market, and the provision of supporting infrastructure. The location of the proposal should involve of a logical pattern of settlement and provide for smaller lots located closer to town sites and existing populations. This would allow the efficient provision of infrastructure. The Local Planning Strategy could be amended to reflect strategic locations and provide the context for future industry, subdivision and development locations.

The current proposal involves one landowner in a remote location proposing smaller lots based on a land capability assessment. The land capability has been confirmed by the proponents study and DAFWA, but does not meet planning considerations. Industry demand for the lots for this purpose has not been demonstrated. The location is isolated from Condingup (20km south with a population of 438 people, Abs 2011) and from the main regional centre Esperance (approx. 90km west with 10,000

people, ABS 2011). The proposal is also 730km south east from Perth. Drive through traffic from Esperance to Condingup and down to Duke of Orleans Bay and its Caravan Park is also unlikely to provide sufficient market demand to sustain future industry.

This proposal would see smaller lot sizes and future industry and populations isolated from existing settlements, markets, infrastructure and services. It does not accord with SPP 1 State Planning Framework and SPP 3 Urban Growth and Management principles.

The Local Government could reconsider more intensive industries through smaller lot sizes based on existing services, population centres and access to market, demand and environmental constraints.

## **CONCLUSION:**

The Town Planning Regulations 1967 (as amended) require that the WAPC certify Local Planning Strategy (and amendments) against Regulation 12A(3) requiring that A Local Planning Strategy shall —

- (a) set out the long term planning directions for the local government;
- (b) apply State and regional planning policies; and
- (c) provide the rationale for the zones and other provisions of the Scheme.

The proposal does not meet the requirements of Regulation 12A(3).It does not provide a long term strategic direction for the Shire as a whole, and is not in accordance with state and regional planning policies, in particular SPP 1, SPP 2.5 and SPP 3. The existing zone and scheme already provides for the proposed use and objectives for intensive agriculture proposals.

Refusal is recommended.



LOCATION : Precinct 56 - Condungup