



Statutory Planning Committee

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

Tuesday 9 June 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 7523
held on Tuesday, 26 May 2015

Attendance

Members

Mr Eric Lumsden	WAPC Chairman (Presiding Member)
Mayor Russell Aubrey	Local government representative
Mr Ray Glickman	WAPC appointee
Mr Ian Holloway	Professions representative
Ms Elizabeth Taylor	Community representative

Officers

Ms Johanna Dowsett	Department of Planning A/Principal Planning Officer; Regional Planning and Strategy
Mr Johan Gildenhuys	Planning Manager; Regional Planning Strategy
Ms Kym Petani	A/Executive Director; Perth Peel Planning

Committee Support

Mr Luke Downes	Committee Support Officer - Department of Planning
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7523.1 Declaration of Opening

The Presiding Member declared the meeting open at 9.02 am, acknowledged the traditional owners and custodians of the land on which the meeting is taking place and welcomed Members.

7523.2 Apologies

Nil.

7523.3 Members on Leave of Absence and Applications for Leave of Absence

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

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7523.4 Disclosure of Interests

Nil.

7523.5 Declaration of Due Consideration

No declarations were made.

7523.6 Deputations and Presentations

Mr Nick Ayton (Ayton Baesjou Planning) provided a statement on behalf of Mr Bestall. Copies were circulated to members prior to the meeting for consideration.

A copy has been placed on file.

7523.7 Announcements by the Chairperson of the Board and communication from the WAPC

The Chairman advised that he had been provided with a briefing note in regards to legal advice on Madora Bay. A copy will be circulated to members.

The Chairman announced that the Department of Planning is working on a briefing note to provide to the Minister in related to the Multi-Unit Codes.

7523.8 Confirmation of Minutes

7523.8.1 Minutes of the Statutory Planning Committee meeting held on Tuesday, 12 May 2015

Resolved

Moved by Mr Glickman, seconded by Mr Holloway

- 1. To amend the minutes under item 7522.14.1 to change 'Pension' to 'Person';*
- 2. That the minutes of the Statutory Planning Committee meeting held on Tuesday, 12 May 2015 as amended, be confirmed as a true and correct record of the proceedings.*

The motion was put and carried.

Statutory Planning Committee

Minutes
of ordinary meeting 7523
held on Tuesday, 26 May 2015

7523.9 Statutory Items for Decision

7523.9.1 Subdivision to Create Two Rural Residential Lots

File 151337
Report Number SPC/837
Agenda Part C
Reporting Officer Planning Manager, Peel

Resolved

Moved by Ms Taylor, seconded by Mayor Aubrey

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*

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*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.*

The motion was put and carried.

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7523.9.2

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

File DP/15/00123
Report Number SPC/838
Agenda Part E
Reporting Officer Statutory Planning Manager - Central Regions

Resolved

Moved by Ms Taylor, seconded by Mr Holloway

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 Settlement 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;*

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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.*

The motion was put and carried.

7523.10 Policy Items for Discussion/Decision

Nil.

7523.11 Confidential Reports

7523.11.1 Draft State Planning Policy 5.2 – Telecommunications Infrastructure

File DPI/14/00071/1
Report Number SPC/839
Agenda Part A
Reporting Officer Planning Manager - Strategic Infrastructure

THIS ITEM IS CONFIDENTIAL

7523.11.2 City of Karratha Town Planning Scheme No. 8 Local Planning Scheme Amendment No. 37 – for Final Approval

File TPS/1397/1
Report Number SPC/840
Agenda Part B
Reporting Officer Planning Manager – Pilbara

THIS ITEM IS CONFIDENTIAL

7523.11.3 Shire of Coolgardie – Local Planning Strategy – Consent to Advertise

File TPS/1171
Report Number SPC/841
Agenda Part E
Reporting Officer Statutory Planning Manager, Central Regions

THIS ITEM IS CONFIDENTIAL

7523.12 Stakeholder Engagements & Site Visits

Nil.

7523.13 Urgent Business

7523.13.1 Aged Persons Housing

Mr Glickman provided members with a brief overview of the Framework for Aged Persons Housing.

Mr Glickman spoke on a range of topics, these included:

- The responsibility of the regulation of home and facility based care by the Commonwealth and the responsibility the Western Australian Government has for the delivery of health and housing.
- The need for care facilities to cater for end of life or severe dementia/mental health patients only with the majority of aged care to be delivered in residence. Suitability of housing will be key in the provision of successful aged care in the residence and to prevent institutionalisation.
- A framework to foster suitable supply of aged-friendly housing is required and these dwellings should be located close to transport, shopping, services and recreation sites.
- It has been identified that in many Local Government Authorities it is difficult to establish small-sized dwellings in established areas.

Resolved

Moved by Mr Holloway, seconded by Ms Taylor

That the Statutory Planning Committee resolves to establish a WAPC/SPC working party or other more appropriate mechanism to examine whether the current planning framework is conducive to meeting seniors' housing needs including appropriate design (internal and external) and recommend what changes, if any, are required to foster such development and, as a consequence, promote successful care delivery to older people in non-institutional settings.

The motion was put and carried.

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7523.14 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	09/06/2015

7523.15 Closure

The next ordinary meeting is scheduled for 9.00 am on 9 June 2015.

There being no further business before the Committee, the Presiding Member thanked members for their attendance and declared the meeting closed at 10.01 am.

PRESIDING MEMBER _____

DATE _____

INDEX OF REPORTS

Item	Description
9	STATUTORY ITEMS FOR DECISION
<i>C</i>	<i>SUBDIVISIONAL / AMALGAMATIONS</i>
9.1	Subdivision to Create 4 Lots for Residential Purpose
9.2	Consent to Advertise - Proposed Major Amendment to the Canning Vale Outline Development Plan
9.3	Madora Bay East Outline Development Plan - City of Mandurah Town Planning Scheme No. 3
9.4	Madora Bay North Outline Development Plan - Additional Information
10	POLICY ITEMS FOR DISCUSSION/DECISION
	Nil.
11	CONFIDENTIAL REPORTS
<i>B</i>	<i>LOCAL OR REGIONAL PLANNING SCHEMES / AMENDMENTS</i>
11.1	City of Rockingham Town Planning Scheme No. 2 Amendment 127 - for Final Approval
11.2	Shire of Kalamunda - Local Planning Scheme No. 3 Amendment No. 67 - Insertion of Bushfire Protection Provisions into Scheme - Final Approval
11.3	City of Stirling Local Planning Scheme No. 3 - Amendment 54 – for Final Approval
11.4	City of Subiaco Town Planning Scheme No. 4, Amendment No. 25 - for Final Approval
11.5	Improvement Scheme - Anketell Strategic Industrial Area - Initiation
<i>E</i>	<i>MINOR LOCAL OR REGIONAL PLANNING SCHEMES / LOCAL PLANNING SCHEME AMENDMENTS</i>
11.6	Shire of Murchison - Local Planning Strategy and Local Planning Scheme No.1 - for Final Approval

ITEM NO: 9.1

Subdivision to Create 4 Lots for Residential Purpose

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:	151571
DATE:	18 May 2015
REPORT CATEGORY:	Statutory
RECOMMENDATION OUTCOME:	1. Approve 2. Advise
ATTACHMENT(S):	1. Location Plan 2. Plan of Subdivision 3. Preferred Site Layout Plan 4. Street Block Analysis Plan
REGION SCHEME ZONING:	PRS: URBAN
LOCAL GOVERNMENT:	City of Mandurah
LOCAL SCHEME ZONING:	Precinct Development
LGA RECOMMENDATION(S):	Conditional Support
REGION DESCRIPTOR:	Mand
RECEIPT DATE:	10 March 2015
PROCESS DAYS:	69
APPLICATION TYPE:	Subdivision
CADASTRAL REFERENCE:	Lots 171 & 172 Elizabeth Street, Mandurah

RECOMMENDATION:

That the Western Australian Planning Commission resolves to approve the application for subdivision of Lots 171 & 172 Elizabeth Street, Mandurah as shown on the plan date-stamped 10 March 2015. This decision is valid for three years subject to the following conditions and advice:

CONDITIONS:

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

- 2. The proposed access way(s) being constructed and drained at the landowner/ applicant's cost to the specifications of the local government. (Local Government)**
- 3. The landowner/applicant entering into an agreement with the local government to ensure reciprocal rights of access over the battle-axe access way. (Local Government)**
- 4. 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)**
- 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 with the Water Corporation so that provision of a suitable water supply service will be available to the lots shown on the approved plan of subdivision. (Water Corporation)**
- 7. Arrangements being made with the Water Corporation so that provision of a sewerage service will be available to the lots shown on the approved plan of subdivision. (Water Corporation)**
- 8. 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 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 6 and 7, the landowner/applicant shall make arrangements with the Water Corporation for the provision of the necessary services. On receipt of a request from the landowner/applicant, a Land Development Agreement under Section 83 of the Water Services Act 2012 will be prepared by the Water Corporation to document the specific requirements for the proposed subdivision.**
- 3. In regard to Condition 8, Western Power provides only one underground point of electricity supply per freehold lot.**

acknowledges the inconsistency with the SDLP but, nevertheless, considers the application to have planning merit.

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

COMMENTS:

The IMPP was endorsed by the WAPC on 9 March 2011 and identifies the site as Residential R60. The proposal complies with the R60 lot size requirements.

In general, the application is considered to have planning merit as it provides a framework upon which development can occur in accordance with the preferred site layout plan depicted in the IMPP.

The application also embraces the concept of shared driveways as promoted in the IMPP. However, there is an issue with the location of the proposed shared driveway, as discussed below.

Driveways

The IMPP states that crossover locations shall be as per the SDLP and allows only one crossover for every two 20-metre-wide lots. The SDLP depicts shared driveways between Lots 170 and 171 and between Lots 172 and 173. However, no shared driveway is identified on the SDLP between the subject lots (i.e. Lots 171 and 172) as currently proposed.

Under the IMPP, variations to the shared driveway locations are possible. However, such variations are subject to a review of the driveway locations for the relevant street block, including consultation with all affected landowners. Consultation in this regard may be undertaken by the proponent prior to lodgement of a planning application or by the City of Mandurah treating the planning application as an 'SA' use.

In this instance, no pre-lodgement consultations with other landowners in the street block have been undertaken by the proponent and no planning applications have yet been lodged. In addition, the City of Mandurah has not initiated any formal modification to the IMPP that would result in the SDLP being updated. By approving the proposed subdivision, these processes for varying the SDLP would inadvertently be circumvented.

An analysis of the relevant street block is summarised in **Attachment 4** and reveals that:

- a) five substantial dwellings exist, four of which have existing driveways that do not accord with the SDLP. These five dwellings are unlikely to be redeveloped in the short to medium term;
- b) two of the five existing substantial dwellings directly abut the subject lots; and
- c) seven older dwellings exist within the street block, including the dwellings situated on the subject lots. These seven dwellings could be redeveloped in the short to medium term.

It is apparent that a change in the driveway location for the subject lots would have some impact upon the shared driveway locations specified for the remainder of the street block.

There is some risk that some other landowners in the street block may be aggrieved if the application is approved, as they have not been consulted regarding the proposed departure from the SDLP. However, it is considered that the level of risk in this regard would be reasonably low as some landowners in the street block may not have any intention to subdivide or redevelop their properties in the short term, and those that do have such intentions may not necessarily have strong views as to where the shared driveways should be positioned.

If the application is approved, the City of Mandurah should be encouraged to formally review the SDLP for this street block and review whether compliance with the SDLP should remain a mandatory component of the IMPP.

Other Considerations

A plate height condition as recommended by the City of Mandurah is not recommended in this instance as:

- a) this subdivision application represents only the first stage of development for the site and not the final planning outcome the proponent is aiming to achieve;
- b) no development applications have been lodged for the subject land; and
- c) only four lots are proposed at this time, whereas the site has the potential for 14 dwellings, with the second stage applications having been received for determination.

CONCLUSION:

It is recommended that the application be approved, subject to standard conditions as:

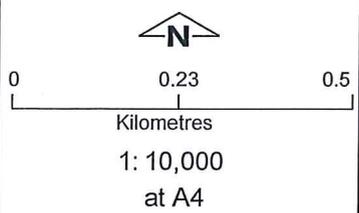
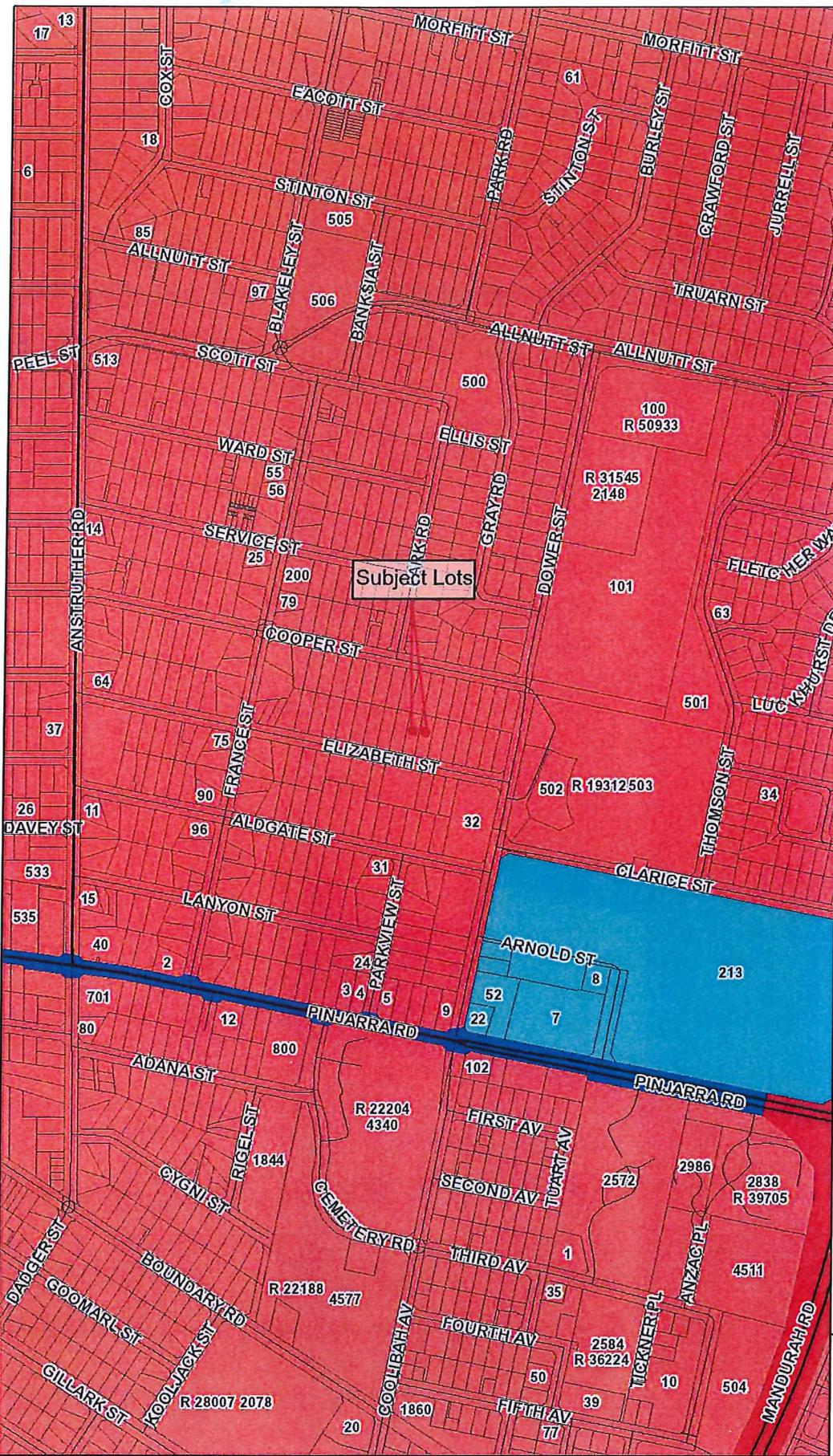
- a) the application will facilitate development in accordance with the preferred site layout plan of the IMPP;
- b) the IMPP principle of having shared driveways is being observed;
- c) the risk of other landowners in the street block being aggrieved by the subdivision being approved is considered to be low; and
- . the proposed shared driveway location represents a pragmatic solution for the subject land.



Government of Western Australia
Department of Planning

Legend

- Cadastral
- Road Centrelines
 - Main
 - Minor
- PRS - Boundary
- PRS - Zones and Reserves
 - other regional roads
 - primary regional roads
 - regional centre
 - urban



Projection:
WGS 1984 Web Mercator Auxiliary Spheroid

Notes:
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Map was produced using DoP's PlanViewWA.

PlanViewWA Map

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Internal Spatial Viewer
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Produced by: FUNCTIONALITY TO COME

Date produced: 11-Mar-2015

ITEM NO: 9.2

Consent to Advertise - Proposed Major Amendment to the Canning Vale Outline Development Plan

WAPC OR COMMITTEE: Statutory Planning Committee

REPORTING AGENCY: Department of Planning
REPORTING OFFICER: Manager - Metropolitan South East
AUTHORISING OFFICER: Director - Metropolitan South
AGENDA PART: C
FILE NO: SPN/0389M-2
DATE: 18 May 2015
REPORT CATEGORY: Statutory
RECOMMENDATION OUTCOME: 1. Approve subject to modifications
2. Advise
ATTACHMENT(S): Attachment 1 - Existing ODP
Attachment 2 - Aerial Photo
Attachment A - Proposed Modification
REGION SCHEME ZONING: Urban
LOCAL GOVERNMENT: City of Gosnells
LOCAL SCHEME ZONING: Residential Development
LGA: Advertise Subject to Modifications
RECOMMENDATION(S):
REGION DESCRIPTOR: Metro South East
RECEIPT DATE: 28 January 2015
PROCESS DAYS:
APPLICATION TYPE: Structure Plan - Consent to Advertise
CADASTRAL REFERENCE: Lot 123 Shreeve Road, Canning Vale

RECOMMENDATION:

That the Statutory Planning Committee resolves to:

1. ***Determine that pursuant to Clause 7.4.4 of the City of Gosnells Town Planning Scheme No.6 the proposed major amendment to the Outline Development Plan (ODP) for Canning Vale is not to be advertised until the following modifications have been undertaken:***
 - (a) ***The ODP map being modified in accordance with the attached plan (Attachment A)***

(b) The following ODP text modifications being introduced:

6.3 Place of Worship Precincts

6.3.1 Common Infrastructure Works and Public Open Space Contributions

The following principles apply to the collection of contributions as specified in the Schedule of Common Infrastructure Works, where development or subdivision is undertaken in a Place of Worship Precinct:

- (i) Development associated with, or ancillary to an existing Place of Worship use, located within the Place of Worship Precinct, will not trigger a requirement to contribute to the Developer Contribution Arrangement associated with the ODP.**
- (ii) Any subdivision or development not associated with, or ancillary to an existing Place of Worship use, located within the Place of Worship Precinct, will trigger a requirement to contribute to the Developer Contribution Arrangement associated with the ODP, based on the spatial extent of the subdivision or development undertaken.**

2. Advise the City of Gosnells that the Canning Vale Outline Development Plan Report Schedule of Common Infrastructure Works, should be modified to:

- (a) replace reference to 'Church Precinct' with 'Place of Public Worship Precinct';**
- (b) reflect the updated land areas for the 'Place of Public Worship Precinct' to be defined through the ODP once finalised; and**
- (c) introduce wording to specify the exemptions applicable in the ODP text if/ when finalised.**

SUMMARY:

The key points relating to this report are as follows:

- The ODP amendment has been submitted to the Western Australian Planning Commission (the Commission) for consent to advertise. The ODP amendment proposes to define the entire area of Lot 123 Shreeve Road, occupied by the Sikh Association of Western Australia, as a 'Place of Worship Precinct';
- The City of Gosnells ('the City') does not support a 'Place of Worship Precinct' being applied over the entire site as it would exempt further development, associated with a place of worship, from the payment of ODP developer cost

contributions. This would have consequential impacts upon the balancing of costs across the entire ODP area.

- The City is, however, supportive of the 'Place of Worship Precinct' being applied to reflect the envelope of existing development within the site. This is consistent with a recent determination of the State Administrative Tribunal in respect of the same matter and reflects a similar principle applied to the 'Place of Worship Precinct' on Warton Road, at the time the original ODP was adopted.
- The consequence of the City's modification will be to exempt any development associated with a place of worship within the existing development envelope from the payment of cost contributions. Development on the remaining portion of the site, whether associated with a place of worship or not, would be liable for cost contribution payments.
- The City's approach is considered to represent the most equitable basis for retrofitting cost contributions in respect of Lot 123 in the context of historic development and the established basis for calculation and balancing of costs across the entire ODP area.
- It is recommended that consent to advertise be granted subject to the ODP map being modified to restrict the 'Place of Worship Precinct' to accord with the extent of existing development within the site.

BACKGROUND:

The City of Gosnells has submitted a proposed major amendment to the Canning Vale Outline Development Plan (ODP) to the Western Australian Planning Commission for consideration of consent to advertise pursuant to Clause 7.4.4 of the City of Gosnells Town Planning Scheme No.6. (**Attachment 1 - Existing ODP**). The amendment proposes to depict the whole of Lot 123 Shreeve Road, Canning Vale, as a 'Place of Worship Precinct', overlaying a Residential R20 zoning.

The City considered the request at its Council Meeting of 24 September 2013 and resolved:

"That the proposed modification is not satisfactory for the purposes of advertising due to implications that it would have on the final balance of the Canning Vale Outline Development Plan Developer Contribution Arrangement and its ability to deliver the necessary infrastructure to the ODP."

An application to review the City's decision was subsequently lodged with the State Administrative Tribunal (SAT). This review addressed two primary issues, being:

- whether the proposal may be progressed as a minor amendment which would avoid the need public advertising and approval by the Commission; and
- whether the proposal as lodged was satisfactory for advertising.

Upon consideration of the matter at a final hearing on 3 December 2014, two primary determinations were made by the SAT, being:

- that the proposal did not constitute a minor change to or departure from the Canning Vale Outline Development Plan; and
- that the proposal should not be advertised until the applicant undertakes modifications to reduce the proposed Place of Worship Precinct to coincide with the existing and current development on the site.

The Commission's assessment has been triggered as a result of the landowner's request that the matter be forwarded to the Commission for determination as to whether the proposal is satisfactory for advertising without undertaking the modifications as directed by SAT.

Under the TPS 6 provisions the Commission is not afforded an ability to direct that an ODP amendment is to be progressed as a minor amendment if the City has determined otherwise. As this aspect has already been addressed through the SAT review process, the Commission's consideration is confined to the matter of whether the proposal is deemed satisfactory for advertising.

The Commission is required to either:

- (a) determine that the Proposed Outline Development Plan is satisfactory for advertising;
- (b) determine that the Proposed Outline Development Plan is not to be advertised until further details have been provided or modifications undertaken; or
- (c) determine that the Proposed Outline Development Plan is not satisfactory for advertising and give reasons for this to the Proponent.

LEGISLATION / STRATEGIC PLAN / POLICY:

Legislation

Section:

City of Gosnells Town Planning Scheme No.6
Clause 7.4.4

Strategic Plan

Strategic Goal:

Planning

Outcomes:

Planned Local communities developing a sense of place

Strategies:

Develop connected and accessible communities.

Improve local planning service capability.

Policy

Number and / or Name:

State Planning Policy 3.6 - Development Contributions for Infrastructure

DETAILS:

The subject land comprises Lot 123 (No.280) Shreeve Road, at the corner of Nicholson Road, in the ownership of the Sikh Association of Western Australia. The site is zoned "Urban" under the Metropolitan Region Scheme and "Residential Development" under TPS No.6, wherein an ODP is to be adopted prior to any subdivision or development. The ODP for Canning Vale was initially adopted in 2001 and has been subject to various amendments, including a comprehensive revision in 2007. The ODP allocates a Residential R20 zone over Lot 123.

Lot 123 contains a Sikh Temple, with a current occupancy permit for 677 people. The site contains ancillary development associated with a Place of Worship use, including a temple, ancillary meeting rooms, storage facility, carpark and associated drainage infrastructure. The property has been subject to various planning approvals associated with the primary use since 1997, however, these have not all been undertaken. The extent of existing development on the site is evident through recent aerial photographs and is estimated to cover approximately 1.357 hectares, with approximately 0.7082 hectares remaining undeveloped (**Attachment 2 - Aerial Photo**).

The proposed ODP modification seeks to define the entire area of Lot 123 as 'Place of Worship' precinct consistent with the ownership and intended use of the site by the Sikh Association. The City of Gosnells recommends, as ratified by the State Administrative Tribunal, that the 'Place of Worship Precinct' be limited to the extent of the existing development only.

The primary matter under contention relates to the consequential impacts of the ODP modification upon the Developer Contribution Scheme (DCS) for the Canning Vale ODP area. Under the City's current DCS calculation methodology development associated with a 'Place of Worship' that occurs within a 'Place of Worship' precinct would be exempt from payment of any developer contribution. The City remains concerned that inclusion of the whole site within the 'Place of Worship Precinct' would have consequential impacts upon the apportionment of costs across the entire ODP area.

CONSULTATION:

The application has been submitted for consent to advertise therefore no formal consultation has been undertaken.

Correspondence has been received from the Sikh Association of WA seeking to advertise the ODP amendment without further modification and requesting an opportunity to address the Statutory Planning Committee on this matter.

OFFICER'S COMMENTS:

STRATEGIC AND STATUTORY CONTEXT

Land Use Planning

The Canning Vale ODP is intended to provide a framework for the planned urban development of the ODP area. It allocates a range of land use designations, consistent with zonings under the local scheme and includes provision for local open space, schools and mixed use centres. The ODP map recognises several religious institutions on land fronting Warton road by designating a 'Place of Worship Precinct' overlaying the base Residential R20 zoning. The 'Precinct' is not linked to any direct land use planning controls under the ODP or Scheme, but would appear to indicate a broad acceptability of use.

Although the Sikh Temple was approved and constructed prior to the adoption of the ODP in 2001, it is not defined as a 'Place of Worship Precinct' and remains under the Residential R20 land use allocation. Notwithstanding, a Place of Worship is classified as an 'A' land use in the Residential and Residential Development zone, wherein the local government can exercise its discretion to grant planning approval after undertaking advertising.

As previously noted, the site has been the subject of various planning approvals to accommodate the current 'Place of Public Worship', with approximately two thirds of the site developed for this purpose. The remainder of the site, near the termination of Seddon Way and along Urquhart Court, remains vacant and is enclosed by solid colourbond panel fencing.

Although the 'Place of Public Worship' designation would not prevent future residential development from occurring, any proposal to extend the DCA exemption across the entire site could be seen to favour expansion of the Place of Worship over residential development. This may have implications for the orderly development of the area, including the ability to extend Seddon Way, as originally intended, or address the residential interface along Urquhart Court.

Developer contribution arrangements

The Canning Vale ODP is subject to Development Contribution Arrangements (DCA) under Schedule 12 of TPS 6. The Scheme provisions require payment of costs in association with a variety of common infrastructure items, including road works, service relocation, public open space and drainage. The DCA has been in operation since 2001, being introduced through Amendment No.478 to the City of Gosnells Town Planning Scheme No.1 (now superseded).

Although TPS 6 does not specify the type of land uses that may be excluded from the payment of costs within the Canning Vale ODP area, reference is included in the Common Infrastructure Report (Common Infrastructure Works Schedule)(CIWS) to the exclusion of land accommodating school sites, commercial sites and a 6 hectare 'Church Precinct', from the net developable area. It would appear that the change in terminology from a 'Church Precinct' to 'Place of Public Worship' was implemented

through a prior ODP amendment, however, the associated CIWS has not been updated accordingly.

At the time of adopting the ODP the nominated 'Church Precinct' was shown to partially cover four lots on Warton Road, reflecting those portions of the site which were developed for civic and community uses. Although the City has acknowledged that development on Lot 123 associated with the Sikh Temple did exist at the time, for reasons unknown it was not nominated as part of the 'Church Precinct' nor identified through a comprehensive ODP revision in 2007.

In applying the DCA the City has indicated that landholdings within the designated 'Place of Worship Precinct' have not contributed towards the DCA, although it has been standard practice for such lots to make a contribution for a portion of the site when residential development is undertaken. Despite Lot 123 not falling within a nominated 'Place of Worship Precinct', the City has nevertheless granted a rates exemption for the whole site and DCA cost payments have not been made for development undertaken to date. Notwithstanding, the City has subsequently resolved to seek the payment of costs for future development, creating uncertainty for the Sikh Association as to how such costs will be calculated and their ultimate liability.

Despite the Sikh Association's desire to retain and develop the entire site as a 'Place of Worship Precinct' and to exempt all future development of this nature from DCA cost contributions, the City maintains that any exemption should only be applied to that portion of the site which is already developed for that purpose. This would ensure that a consistent approach is applied as for 'Place of Worship Precinct' on Warton Road at the time the ODP was adopted.

Given the historic nature of the DCA and progression of development across the ODP area there remains a need to ensure consistency and certainty in the application of cost contribution arrangements. The introduction of any new or expanded 'Place of Worship Precincts' based solely upon an individual landowner's desire to develop their site for such purposes may set a further precedent for further requests of a similar nature, which would have the potential to undermine the DCA and increase the obligations of remaining landholdings.

Notwithstanding, it is recognised that the Sikh Association had undertaken partial development of Lot 123 when the original ODP was adopted and its exclusion from the 'Place of Worship Precinct' at the time would appear to be an anomaly. For the purpose of ensuring equity and consistency in the treatment of similar sites it is appropriate that the 'Place of Worship Precinct' be retrospectively applied to correlate with the boundary of existing development. The remaining undeveloped portion of the site, not actively utilised or developed for public worship and should be excluded from the Precinct.

The City has reviewed the DCA cost implications of allowing an extension of the 'Place of Worship Precinct' to correlate with the extent of established development on Lot 123 Shreeve Road. The City has concluded that there is presently a surplus contribution equivalent to approximately 1.45 hectares, due to various minor adjustments associated with the existing Place of Worship Precinct on Warton Road and the receipt of full contributions for Lot 62 Warton Road, which was subsequently

developed for residential purposes. This would allow the additional 1.357 hectare area comprising existing development within Lot 123 to be accommodated without any adverse impact upon the DCA. The City has resolved to progress an ODP amendment to correct those anomalies in the Warton Road 'Place of Worship Precinct' to be progressed separate to the current application.

ODP Text Modifications

To provide clarity on the DCP contribution arrangements in relation to the 'Place of Worship Precinct' the City has resolved to progress a separate amendment to the ODP text to state as follows:

6.3 Place of Worship Precincts

6.3.1 Common Infrastructure Works and Public Open Space Contributions

The following principles apply to the collection of contributions as specified in the Schedule of Common Infrastructure Works, where development or subdivision is undertaken in a Place of Worship Precinct:

- (i) Development associated with, or ancillary to an existing Place of Worship use, located within the Place of Worship Precinct, will not trigger a requirement to contribute to the Developer Contribution Arrangement associated with the ODP.*
- (ii) Any subdivision or development not associated with, or ancillary to an existing Place of Worship use, located within the Place of Worship Precinct, will trigger a requirement to contribute to the Developer Contribution Arrangement associated with the ODP, based on the spatial extent of the subdivision or development undertaken.*

Given that this text amendment is integral to the DCA methodology which will be applied for the Place of Worship Precinct, and in order to provide clarity and certainty for affected landowners it is appropriate that the additional text modifications be included as part of the ODP amendment prior to advertising.

In the event that the proposed ODP amendment is progressed for final approval the City should be further advised to consider updating the CIWS Report to:

- include the text provisions outlined above;
- correct the existing terminology, replacing 'Church Precinct' with 'Place of Worship Precinct'; and
- adjust the net land area in the document to reflect the revised 'Place of Worship Precinct'.

MODIFICATIONS:

It is recommended that the applicant be required to modify the ODP documentation to:

- (i) reduce the proposed Place of Worship Precinct to accord with the extent of existing development on Lot 123 Shreeve Road (**Attachment A**);
- (ii) and to include the additional text modifications for 'Place of Worship Precincts' as outlined above.

In accordance with Clause 7.4.4 of TPS 6 the Commission is required to consult with the City on any proposed modifications prior to issuing a formal determination. As the City has resolved to initiate a separate ODP amendment to pursue the additional text changes as requested no objections are raised to their inclusion under the current amendment.

CONCLUSION:

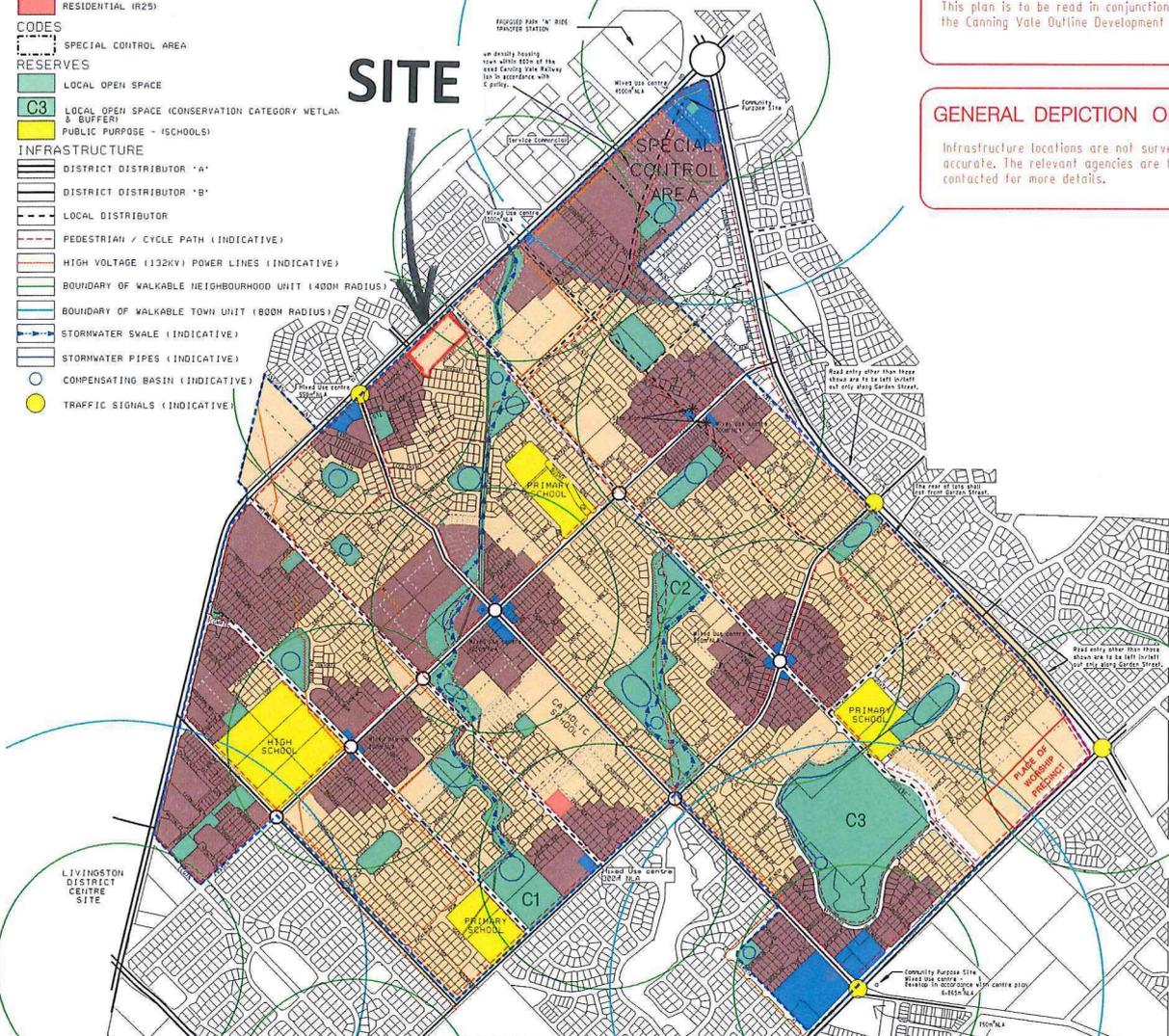
It is recommended that consent to advertise the proposed amendment to the ODP be granted subject to the Place of Workshop Precinct for Lot 123 Shreeve Road being restricted to the area of established development including the Temple, ancillary meeting rooms and storage facility, carpark and associated drainage infrastructure (sump).

ATTACHMENT 1

LEGEND

- BOUNDARY OF OUTLINE DEVELOPMENT PLAN
- HIGHER DENSITY NODE (DENSITY TO BE IN ACCORDANCE WITH A DAP APPROVED BY COUNCIL)
- MIXED USE CENTRES (SUBJECT TO PROVISIONS OF THE DAP)
- PLACE OF WORSHIP PRECINCT
- LOCAL ROAD LAYOUT (INDICATIVE)
- ZONES**
- RESIDENTIAL (R20)
- RESIDENTIAL (R25)
- CODES**
- SPECIAL CONTROL AREA
- RESERVES**
- LOCAL OPEN SPACE
- C3 LOCAL OPEN SPACE (CONSERVATION CATEGORY WETLAND & BUFFER)
- PUBLIC PURPOSE - (SCHOOLS)
- INFRASTRUCTURE**
- DISTRICT DISTRIBUTOR 'A'
- DISTRICT DISTRIBUTOR 'B'
- LOCAL DISTRIBUTOR
- PEDESTRIAN / CYCLE PATH (INDICATIVE)
- HIGH VOLTAGE (132KV) POWER LINES (INDICATIVE)
- BOUNDARY OF WALKABLE NEIGHBOURHOOD UNIT (400M RADIUS)
- BOUNDARY OF WALKABLE TOWN UNIT (800M RADIUS)
- STORMWATER SWALE (INDICATIVE)
- STORMWATER PIPES (INDICATIVE)
- COMPENSATING BASIN (INDICATIVE)
- TRAFFIC SIGNALS (INDICATIVE)

SITE



PLEASE NOTE:

This map is a general indication of existing & proposed land uses only. For information relating to town planning zoning and legal land uses contact Council's City Planning Branch.

WARNING:

This plan is to be read in conjunction with the Canning Vale Outline Development Text.

GENERAL DEPICTION ONLY!

Infrastructure locations are not survey accurate. The relevant agencies are to be contacted for more details.

AMENDMENTS TO THE OUTLINE DEVELOPMENT PLAN

DATE OF OCM ADOPTION	PROPERTIES	DETAILS OF AMENDMENT
7	11/5/2004 Lot 22 Shreeve Road	From Residential (R17.5) to Residential Density Greater than R17.5
8	24/2/2004 Shreeve Rd between Fraser Rd North & Warlon Rd	Relocation of D.U.P. from south side of Shreeve Rd to north side
9	26/10/2004 Lots 180 - 184 Birnam Road and Lot 9005 Tolara Avenue	From Residential (R17.5) to Residential Density Greater than R17.5
10	12/07/2005 Lots P16 & P17 Amherst Rd	From Residential (R17.5) to Residential Density Greater than R17.5
11	06/12/2005 Lots 9, 10, 11 & 111 Amherst Rd and Lots 26, 27, & 28 Birnam Rd	Relocation of drainage basin, density increase & DAP notation
12	14/3/2006 Lots 88, 73, 9001, 429 & 432, Pt 4000 Comrie Rd; Lots 414, 415 Hoop Pt; 416 to Pt 419; 426 to 428 Coulteri Nook	From Residential (R17.5) to Mixed Use Centre & Residential Density Greater than R17.5 - Mixed Use Centre & Residential Density Greater than R17.5 relocated from 'Dumbarton Rd to the area'
13	10/10/2006 Lot 35 Fraser Rd North and portion of Lot 999 Yeo St	From Residential (R17.5) to Residential Density Greater than R17.5
14	25/9/2007 ODP REVISION	
15	15/12/2009 Lot 9001 Birnam Rd	From Residential (R20) to Residential R25
17	15/12/2009 Lot 10 Amherst Rd	Realignment of POS

DATE OF OCM ADOPTION	PROPERTIES	DETAILS OF AMENDMENT
1	26/3/2002 Lots P151, P152 & 50 Cnr Nicholson Rd & Birnam Rd	From Residential (R17.5) to Residential Density Greater than R17.5
2	11/2/2003 Area bounded by Elgin Rd., Fraser Rd North, Dumbarton Rd and Nicholson Rd	From Residential (R17.5) to Residential Density Greater than R17.5
3	10/6/2003 Lots 106 & 107, 112 - 114 Bushy Grove and lots 13 & 14, 50 & 51 Shreeve Road	Relocation of two Primary School sites
4	9/9/2003 Lots 106 & 107 Fraser Road North and Portions of Lots 112, 113 & 114 Bushy Grove	Reconfiguration of the Bushy Grove Primary School site
5	16/12/2003 Lot 112 Dumbarton Road.	From Residential (R17.5) to Residential Density Greater than R17.5
6	24/2/2004 Lots 1, 90, 3, 4, 14 & 23 Nicholson Road	Included in Special Control Area

Revised ODP as adopted by Council on 25 September 2007, pursuant to Cl 7.4.7(a) of TPS6

Plan dated 10 September 2013



CITY OF GOSNELLS

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210 Albany Highway Gosnells 610
PO Box 662 Gosnells 6993
Western Australia

Telephone 08 9391 3222
Facsimile 08 9318 2922
E-mail council@gosnells.wa.gov.au

CANNING VALE
OUTLINE DEVELOPMENT PLAN

The City of Gosnells provides the information contained herein. The Council of the City of Gosnells shall not be liable for any loss or damages howsoever caused as a result of reliance upon information contained in this document.

FILE No. CVDPD_Current.DGN GRID MGA94 (Zone 50) SCALE 1:5,000

ITEM NO: 9.3

Madora Bay East Outline Development Plan - City of Mandurah Town Planning Scheme No. 3

WAPC OR COMMITTEE:	Statutory Planning Committee
REPORTING AGENCY:	Department of Planning
REPORTING OFFICER:	Senior Planning Officer
AUTHORISING OFFICER:	Planning Manager - Peel
FILE NO:	SPN/0662
DATE:	22 May 2015
REPORT CATEGORY:	Statutory
RECOMMENDATION OUTCOME:	1. Endorse 2. Advise
ATTACHMENT(S):	1. Location Plan 2. Proposed Outline Development Plan 3. Current Outline Development Plan 4. Advertised Version of the ODP 5. Schedule of Submissions
REGION SCHEME ZONING:	Urban
LOCAL GOVERNMENT:	City of Mandurah
LOCAL SCHEME ZONING:	Urban Development
LGA RECOMMENDATION(S):	Endorse
REGION DESCRIPTOR:	Peel
RECEIPT DATE:	12 March 2015
PROCESS DAYS:	89 Days
APPLICATION TYPE:	Outline Development Plan
CADASTRAL REFERENCE:	Lot 9006 Madora Beach Road, Madora Beach

RECOMMENDATION:

That the Western Australian Planning Commission resolves to:

- 1. endorse the proposed Madora Bay East Outline Development Plan (Drawing No. 2046-101D-01) dated 17 February 2015 (attached) subject to Notations 4 and 6 on the plan being deleted;*
- 2. advise the City of Mandurah of its decision accordingly.*

SUMMARY:

The City of Mandurah (the City) requests that the Western Australian Planning Commission (WAPC) endorse modifications to the Madora Bay East Outline

Development Plan (ODP) (**Attachment 1** - Location Plan, **Attachment 2** - Proposed ODP).

This report is being presented to Committee as the recommendation seeks to overturn Council's determination of submissions relating to a future intersection involving Orelia Street and Mandurah Road.

It is recommended that the proposed ODP be endorsed, subject to modifications.

BACKGROUND:

In April 2009, the WAPC endorsed the current ODP (**Attachment 3** - Current ODP).

On 23 January 2015, the WAPC approved a subdivision application within the ODP area. That application involved the creation of 257 residential lots, an 8.6 hectare super-lot relating to the proposed private school site, 3 public open space reserves across the ODP area, as well as an 18 hectare balance lot in the north-west sector.

On 27 January 2015, the City of Mandurah Council adopted the revised Madora ODP for approval, subject to modifications.

LEGISLATION / STRATEGIC PLAN / POLICY:

Legislation	<i>City of Mandurah Town Planning Scheme No. 3</i>
Part:	IV Specific Zone Requirements
Section:	4.9 Urban Development Zone
Clause:	4.9.2 Permitted Uses and Development Standards

Legislation	<i>City of Mandurah Town Planning Scheme No. 3</i>
Part:	VII Use and Development of Land
Section:	7.11 Outline Development Plans
Clause:	7.11.3 Adoption Procedure

Strategic Plan	
Strategic Goal:	Planning
Outcomes:	Planned Local Communities with a sense of place
Strategies:	Encourage innovation in the design of communities

Policy	
Number and / or Name:	State Planning Policy 3: Urban Growth and Settlement State Planning Policy 3.1: Residential Design Codes State Planning Policy 5.4: Road and Rail Transport Noise and Freight Considerations in Land Use Planning Liveable Neighbourhoods

DETAILS:

The site is approximately 62.5 hectares in area and is bound by Madora Beach Road to the north, Mandurah Road to the east and existing residential development to the south and west (**Attachment 1** - Location Plan).

A dune system with ridges ranging in height from 20 to 36 metres traverses the site from north to south. Significant parts of this dune system have been retained within POS in both the current and proposed versions of the ODP.

Key differences between the current and proposed ODPs include:

- residential areas in the north-east sector have been replaced by a private school site;
- commercial precincts along Orelia Street and at the intersection of Madora Beach and Mandurah Roads have been replaced with the proposed private school site and residential development;
- residential density codings have been updated;
- a full movement intersection of Orelia Street and Mandurah Road has been replaced with a left in/left out intersection; and
- the number of annotations has been reduced from 19 to 10.

GOVERNMENT AND CORPORATE IMPLICATIONS:

The WAPC will be required to assess and determine future subdivision applications.

CONSULTATION:

The proposed ODP was advertised between 13 August and 12 September 2014 (**Attachment 4** - Advertised Version of the ODP).

Seven submissions were received from residents of Madora Bay. These submissions are summarised in the Schedule of Submissions (**Attachment 5**), together with Council's and the Department of Planning's comments.

Key issues raised in the submissions include:

- (a) concerns were raised about the impact of R40 dwellings on the privacy and property values on existing properties in Charlotte Court and the need to coordinate lot levels between existing and new development;
- (b) opposition was expressed to the proposed removal of the Orelia Street/Mandurah Road intersection due to adverse impacts on traffic movements;
- (c) opposition was expressed to commercial precincts being removed; and
- (d) concerns were raised about the potential impact of the proposed private school on traffic volumes and management in the area.

At the final adoption stage, Council modified the ODP as follows:

- (a) a left-in/out intersection was added to the ODP at Orelia Street and Mandurah Road (Notation 6 on the proposed ODP);
- (b) a requirement for a pathway and associated landscaping to be provided along the eastern side of the Dorothy and Charlie Coote Reserve, not shown on the advertised version ODP, was reinstated (Notation 4 on the proposed ODP); and
- (c) a notation regarding Detailed Area Plans was expanded (Notation 7 on the proposed ODP).

In March 2015, the Department of Planning consulted Main Roads Western Australia (MRWA) regarding Council's decision to add a left-in/out at Orelia Street and Mandurah Road. MRWA advised that it does not support this left-in/out intersection as it may create conflict for vehicles using the Lake Valley Drive/Mandurah Road intersection and the Madora Beach Road/Banksiadale Gate/Mandurah Road intersection. MRWA requested that Notation 6 be deleted from the proposed ODP.

OFFICER'S COMMENTS:

Residential R40 zoned site abutting existing residential development

The submissions opposing R40 development adjacent to Charlotte Court, called for the site to be zoned R20 or for POS to be located on this site so the existing residential properties would back onto POS. It is not considered appropriate to change the designation of this site as:

- (a) this site is currently designated as a Residential R40 site in the current ODP and there has been no change in the designation of this site in the proposed ODP;
- (b) the proposed ODP includes a provision for local development plans to be prepared for the R40 site which should ensure that lot levels are appropriately coordinated; and
- (c) the proposed ODP contains a provision limiting the height of development on the Residential R40 zoned site to a maximum height of 2 storeys, as per the current ODP.

Transport Considerations

A transport assessment prepared by the proponent to demonstrate the impact of the proposed private school on traffic movements indicates that the road network proposed by the ODP will be acceptable, subject to certain roads and intersections being upgraded. This assessment was based on there being no left-in/out intersection at Orelia Street and Mandurah Road.

The advertised version of the ODP did not depict an intersection at Orelia Street and Mandurah Road. Council did not communicate its desire to see a left-in/out intersection at this location when it commented on the subdivision application approved by WAPC on 23 January 2015.

Council officers have advised that MRWA was not consulted on the proposed left-in/out intersection when this was being recommended to Council as a modification at the final adoption stage. Nevertheless, MRWA has expressed strong objection to a left in/left out intersection at this location due to potential traffic conflicts when consulted on this matter by the Department of Planning.

It is recommended that the left-in/out intersection at this location (i.e. Notation 6) be removed from the ODP.

Removal of Commercial Precincts

The proposed removal of commercial precincts from the ODP is supported. If there is to be no intersection at Orelia Street and Mandurah Road, as recommended in this report, commercial development at this location would not likely be sustainable.

Even though the ODP no longer contains commercial precincts, the ODP is located in close proximity to the Lakelands town centre and Meadow Springs local shopping centre. Therefore, the lack of commercially zoned land in Madora Bay East is not a major concern.

Pathway along eastern side of Dorothy and Charlie Coote reserve

The proposed ODP includes a notation requiring the provision of a path and landscaping along the eastern side the Dorothy and Charlie Coote Reserve, as per the current ODP. This reserve is located outside the ODP area and abuts the western boundary of the ODP. The proponent has advised the WAPC that it does not support Notation 4 being included on the proposed ODP.

Notation 4 should be deleted from the proposed ODP as it is not considered appropriate to include a notation requiring the construction of a pathway within public open space which is located outside of the ODP area.

Private School Site

Liveable Neighbourhoods states that such school sites should be generally 10-12 hectares in area. However, there are examples of existing private K-12 school sites that are in the order of 8 hectares. Accordingly, there is no objection to an 8.6 hectare school site in this instance.

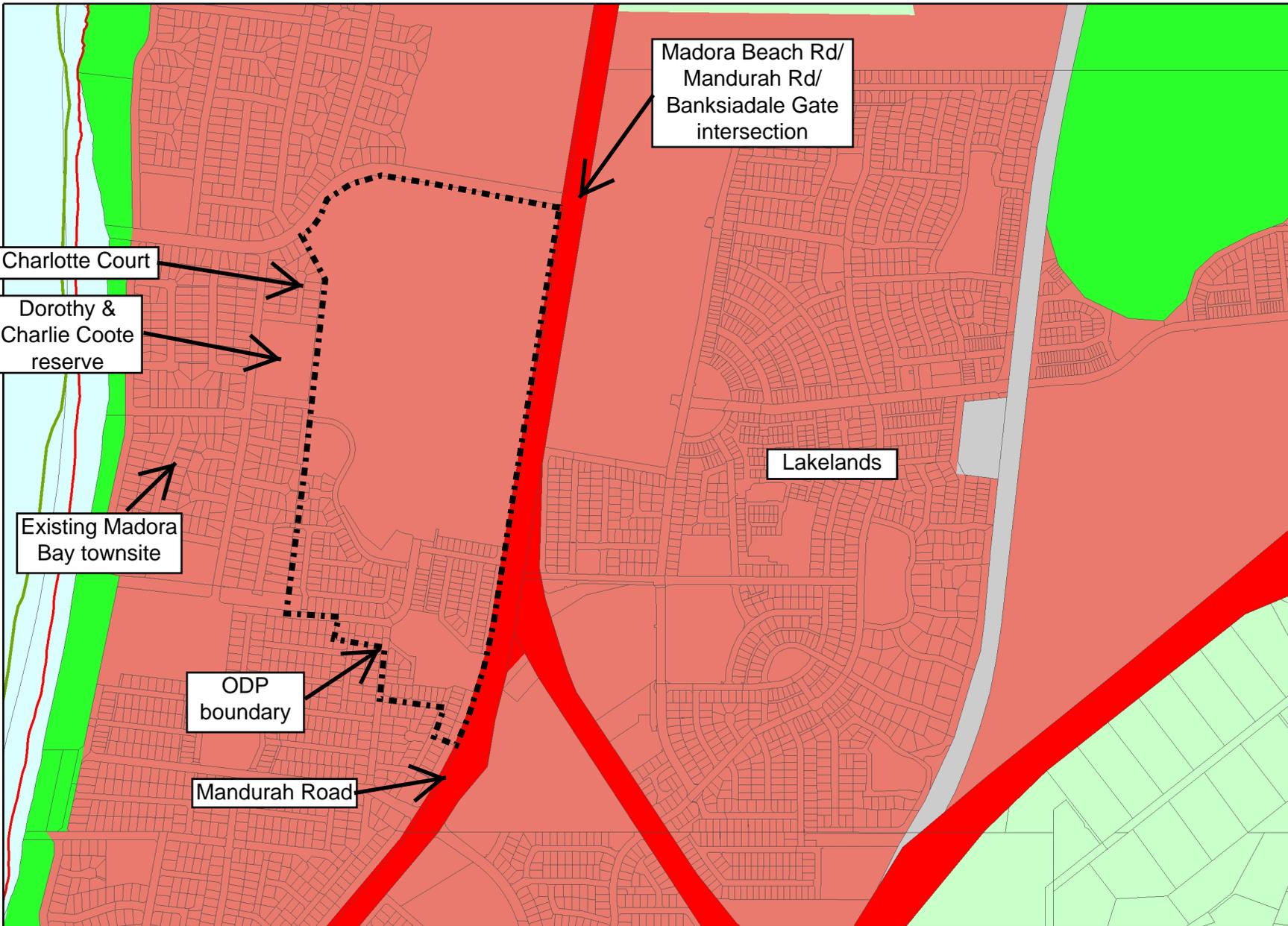
CONCLUSION:

The modified ODP should be endorsed, subject to modifications.



Legend

- Local Government Area
- Cadastre (View 1)
- PRS - Boundary
- PRS - Zones and Reserves**
 - primary regional roads
 - railways
 - 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: 06-May-2015

PlanViewWA Map

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[Link to viewer](#)



0 0.41 0.8 Kilometres

1: 16,314

at A4

Projection: WGS 1984 Web Mercator Auxiliary Sphere

ITEM NO: 9.4

Madora Bay North Outline Development Plan - Additional Information

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: SPN/0628
DATE: 26 May 2015
REPORT CATEGORY: Statutory
RECOMMENDATION OUTCOME: 1. Note
ATTACHMENT(S): 1. Report to SPC
REGION SCHEME ZONING: Urban, Regional Open Space
LOCAL GOVERNMENT: City of Mandurah
LOCAL SCHEME ZONING: Urban Development
LGA RECOMMENDATION(S): Approval
REGION DESCRIPTOR: Peel
RECEIPT DATE: 18 November 2014
PROCESS DAYS: 204 days
APPLICATION TYPE: Outline Development Plan
CADASTRAL REFERENCE: Lot 101 Mandurah Road, Madora Bay

RECOMMENDATION:

That the information in this supplementary report be noted.

SUMMARY:

This report provides additional information regarding the proposed Madora Bay North Outline Development Plan (ODP).

BACKGROUND:

A report on the proposed ODP was presented to the Statutory Planning Committee (SPC) on 10 March 2015 (**Attachment 1 - Report**). At that meeting, the item was deferred in order to:

1. *clarify the legal position on the Western Australian Planning Commission's ability to modify an Outline Development Plan;*

2. *carry a site visit of the Statutory Planning Committee to examine the key elements of difference between the various plans as presented by the deputations;*
3. *have a meeting between the Western Australian Planning Commission and the City of Mandurah and its planners to discuss the observations from the site visit;*
4. *to have the matter be brought back to the Western Australian Planning Commission for further consideration following the meeting with the City of Mandurah.*

In April 2015, SPC members undertook an inspection of the locality. Legal advice has also been obtained, which will be provided under separate confidential cover.

LEGISLATION / STRATEGIC PLAN / POLICY:

Legislation	<i>City of Mandurah Town Planning Scheme No. 3</i>
Part:	IV Specific Zone Requirements
Section:	4.9 Urban Development Zone
Clause:	4.9.2 Permitted Uses and Development Standards

Legislation	<i>City of Mandurah Town Planning Scheme No. 3</i>
Part:	VII Use and Development of Land
Section:	7.11 Outline Development Plans
Clause:	7.11.3 Adoption Procedure

Strategic Plan	
Strategic Goal:	Planning
Outcomes:	Planned Local Communities with a sense of place
Strategies:	Encourage innovation in the design of our communities

Policy	
Number and / or Name:	State Planning Policy 3: Urban Growth and Settlement State Planning Policy 5.4: Road and Rail Transport Noise and Freight Considerations in Land Use Planning

DETAILS:

The Madora Bay North Outline Development Plan (ODP) covers an area of approximately 143 hectares and seeks to facilitate the development of the site for 1,500 residential lots.

GOVERNMENT AND CORPORATE IMPLICATIONS:

The WAPC will be required to assess and determine future subdivision applications.

CONSULTATION:

During the advertising period, 72 submissions were received, as discussed in the report presented to SPC in March 2015.

OFFICER'S COMMENTS:

Legal Advice

Legal advice has been obtained regarding the WAPC's ability to modify an ODP. This advice will be distributed to Committee members under separate confidential cover.

Options

SPC may wish to consider the following options, together with the legal advice provided, in its further consideration to the ODP:

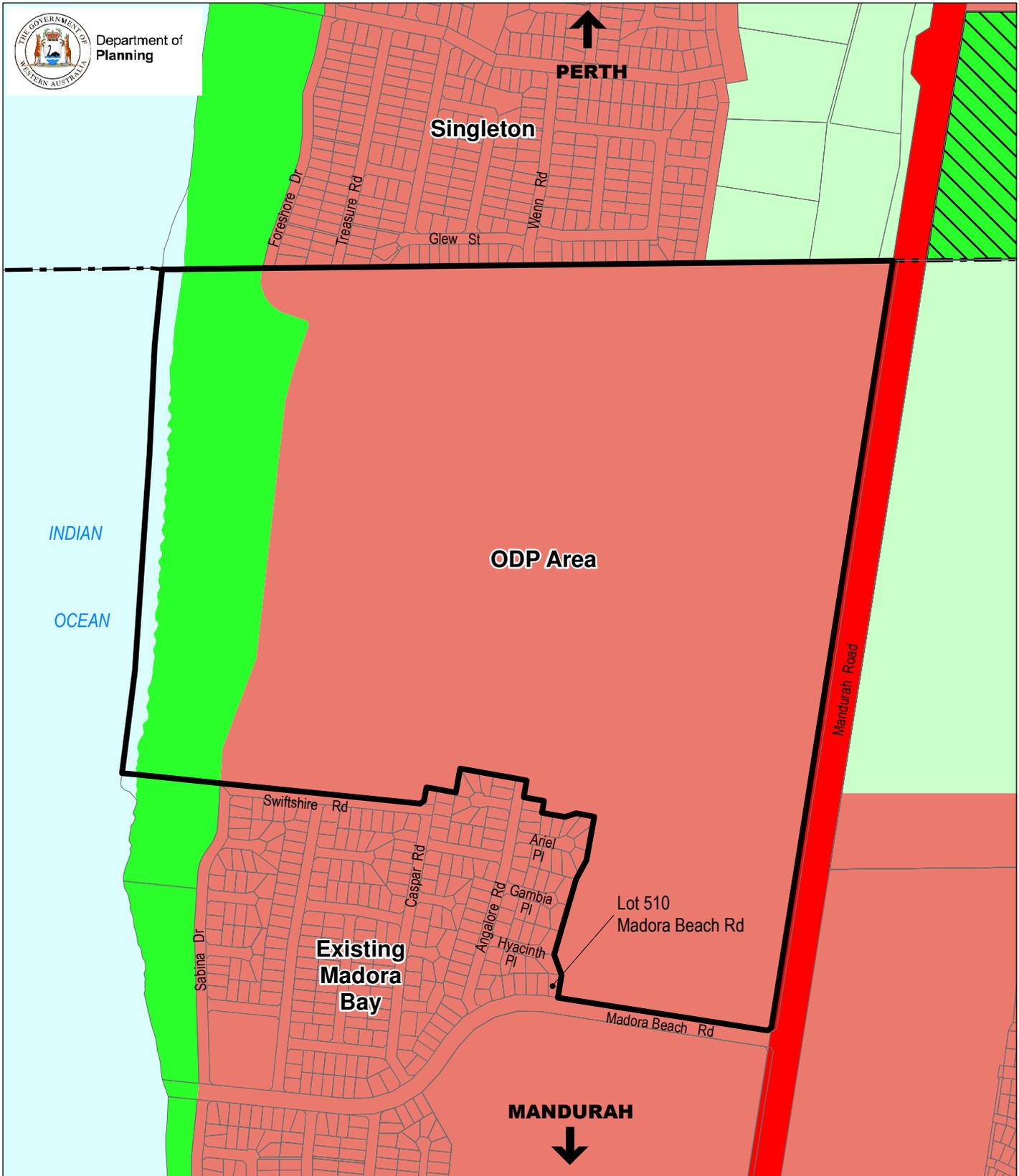
- (a) approve the ODP as submitted by Council, without modification;
- (b) approve the ODP subject to modifications (such as those recommended in March 2015 or some other modifications); or
- (c) refuse to approve the ODP and specify reasons for the refusal.

If SPC was to form a view to refuse the ODP as adopted by Council, then the following reasons for refusal are suggested:

1. the proposed public open space areas are not of a size, configuration and distribution to provide sufficient functional and useable public open space and, therefore, not consistent with the relevant objectives of *Liveable Neighbourhoods*;
2. the east-west vegetation corridor on the northern boundary of the site provides only limited environmental benefit given that most of this land is mapped as being in a 'degraded' or 'completely degraded' condition;
3. the east-west vegetation corridor would effectively terminate at Mandurah Road, which provides a significant barrier to wildlife movement beyond the subject land;
4. the statutory section of the ODP does not clearly set out the proponent's obligations in respect to any upgrading of the existing intersection of Madora Beach Road and Mandurah Road and the construction of the proposed new signalised intersection at Mandurah Road;
5. the boundary of the ODP extends beyond the 'Urban Development' zone;
6. there is ambiguity between the ODP map and the related report (i.e. there is reference to R12.5/20 in the ODP report but not on the ODP map).

CONCLUSION:

It is recommended that this information be noted and a decision be made on the ODP, taking into consideration the legal advice that has been obtained.



Department of Planning

↑
PERTH

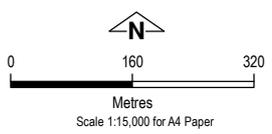
Singleton

ODP Area

INDIAN
OCEAN

Existing
Madora
Bay

↓
MANDURAH



Legend

-  Boundary of Madora Bay Outline Development Plan
-  Urban
-  Urban Deferred
-  Rural

-  Parks and Recreation
-  Parks and Recreation (restricted)
-  MRS - Bush Forever Sites
-  Primary Regional Roads

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GeoSpatial Planning Support
Department of Planning, WA
On behalf of:
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MadoraBay_ODP.mxd

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LI 646-2014-3