



## Statutory Planning Committee

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

**Tuesday 14 July 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 7525  
held on Tuesday, 23 June 2015

### Attendance

#### Members

Mr Eric Lumsden	WAPC Chairman (Presiding Member)
Mayor Russell Aubrey	Local government representative
Ms Megan Bartle	WAPC appointee (arrived at 9.13 am)
Ms Sue Burrows	WAPC appointee
Mr Martin Clifford	Regional Minister's nominee (Deputy)
Mr Ray Glickman	WAPC appointee
Mr Stephen Hiller	WAPC appointee
Mr Ian Holloway	Professions representative
Ms Elizabeth Taylor	Community representative

#### Committee Support

Mr Luke Downes	Committee Support Officer - Department of Planning
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### 7525.1 Declaration of Opening

The Presiding Member declared the meeting open at 9.01 am, acknowledged the traditional owners and custodians of the land on which the meeting is taking place and welcomed Members.

### 7525.2 Apologies

Ms Gail McGowan	Director General, Department of Planning
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### 7525.3 Members on Leave of Absence and Applications for Leave of Absence

Mr Lumsden submitted an application for a leave of absence for the Statutory Planning Committee meetings scheduled for 28 July, 11 August and 25 August 2015.

Mr Clifford submitted an application for a leave of absence for the Statutory Planning Committee meetings scheduled for 14 July 2015.

Ms McGowan submitted an application for a leave of absence for the Statutory Planning Committee meetings scheduled for 14 July 2015.

## Statutory Planning Committee

Minutes  
of ordinary meeting 7525  
held on Tuesday, 23 June 2015

### Resolved

***Moved by Ms Taylor, seconded by Mayor Aubrey***

*That the approval for a leave of absence be granted to Mr Lumsden, Mr Clifford, Ms McGowan for the Statutory Planning Committee meetings to be held on 14 July, 28 July, 11 August and 25 August 2015.*

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

#### **7525.4 Disclosure of Interests**

Nil.

#### **7525.5 Declaration of Due Consideration**

No declarations were made.

#### **7525.6 Deputations and Presentations**

Nil.

#### **7525.7 Announcements by the Chairperson of the Board and communication from the WAPC**

The Chairman advised members that he had met with staff at the City of Mandurah regarding the Madora Bay Outline North Development Plan and that the item will be coming back to the Committee for consideration.

The Chairman noted that four different plans had been submitted and subsequently discussed at the meeting. These included plans from the applicant, community representatives, a modified plan by the applicant in conjunction with the City of Mandurah, and a recommended plan by the City of Mandurah. An issue on the central area of the plan stemmed around the potential widening of the public open space corridor.

**Ms Bartle arrived at 9.13 am**

## Statutory Planning Committee

Minutes  
of ordinary meeting 7525  
held on Tuesday, 23 June 2015

### 7525.8 Confirmation of Minutes

#### 7525.8.1 Minutes of the Statutory Planning Committee meeting held on Tuesday, 9 June 2015

An administrative error has been corrected under item 7524.9.3.

#### **Resolved**

***Moved by Mayor Aubrey, seconded by Ms Taylor***

*That the minutes of the Statutory Planning Committee meeting held on Tuesday, 9 June 2015, be confirmed as a true and correct record of the proceedings.*

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

### 7525.9 Statutory Items for Decision

Nil.

### 7525.10 Policy Items for Discussion/Decision

The Chairman updated members on the amendments currently being undertaken to the Committee's Terms of Reference and had received advice from the State Solicitors Office. Discussion was focused on delegation of specific items and the responsibility of the Committee in conjunction with the Western Australian Planning Commission to allow the Commission to have a strategic focus and other Committees to discuss major issues.

It was highlighted that the Commission needed to take on a leadership role and for its Committees to provide appropriate advice on a whole of government approach. Reports submitted to the Commission and its Committees are to be condensed and to have a strategic focus to allow high level discussion of the issues facing the future of State planning.

Members discussed the establishment of a working group to consider policy matters encompassing Commission and private enterprise members. The working group would focus on identifying overlapping and out of date policies, review current policies and to establish a framework of which future policies will be created.

Ms Burrows agreed to circulate to members a list of policies that have been identified as duplications, no longer relevant and out-of-date to be deleted.

## Statutory Planning Committee

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of ordinary meeting 7525  
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The Chairman highlighted issues surrounding the Budget and that specific resources should be directed into strategic planning and project delivery as they relate to the processes of the Commission. Also noted was that the revised Commission strategic plan and board charter would be circulated to members.

Members discussed the possibility of holding a forum four times a year prior to the Statutory Planning Committee.

### 7525.11 Confidential Reports

Nil.

### 7525.12 Stakeholder Engagements & Site Visits

Nil.

### 7525.13 Urgent Business

Nil.

### 7525.14 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

**Statutory Planning Committee**

Minutes  
of ordinary meeting 7525  
held on Tuesday, 23 June 2015

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**7525.15 Closure**

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

There being no further business before the Committee, the Presiding Member thanked members for their attendance and declared the meeting closed at 10.22 am.

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

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

UNCONFIRMED

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**G** *DEVELOPMENTS / SUBDIVISIONAL / SURVEY STRATA*

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

## ITEM NO: 9.1

### Endorsement of Subdivision Guide Plan - Lot 7 Dunkeld Drive, Herron - City of Mandurah

<b>WAPC OR COMMITTEE:</b>	<b>Statutory Planning Committee</b>
REPORTING AGENCY:	Department of Planning
REPORTING OFFICER:	Planning Manager, Peel
AUTHORISING OFFICER:	Director, Peel
AGENDA PART:	C
FILE NO:	SPN/0757
DATE:	23 June 2015
REPORT CATEGORY:	Statutory
RECOMMENDATION OUTCOME:	1. Endorse 2. Advise
ATTACHMENT(S):	1. Location Plan 2. Proposed SGP 3. Lake Clifton - Herron Structure Plan 4. Advertised SGP 5. Southern Mandurah Rural Structure Plan
REGION SCHEME ZONING:	Rural
LOCAL GOVERNMENT:	City of Mandurah
LOCAL SCHEME ZONING:	Rural Residential and Rural
LGA RECOMMENDATION(S):	Approve subject to Modification
REGION DESCRIPTOR:	Peel
RECEIPT DATE:	23 April 2015
PROCESS DAYS:	82 days
APPLICATION TYPE:	Structure Plan
CADASTRAL REFERENCE:	Lot 7 (No. 225) Dunkeld Drive, Herron

#### RECOMMENDATION:

*That the Western Australian Planning Commission resolves to:*

- 1. endorse the Subdivision Guide Plan (Plan ID: 7353-SUB-01-D) for Lot 7 Dunkeld Drive, Herron, subject to the following modifications:**

- a) notation 1 on the subdivision guide plan being modified to read:**

*'This plan shall be updated to incorporate building envelopes prior to subdivision.'*

- b) notation 6 on the subdivision guide plan being modified to read:**

***'An updated Fire Management Plan shall be approved by the Department of Fire and Emergency Services prior to subdivision.'***

- c) a notation being added to clarify that details on the SGP that relate to Rural zoned land are indicative only.**

**2. advise the City of Mandurah of its decision accordingly.**

**SUMMARY:**

The City of Mandurah has forwarded a Subdivision Guide Plan (SGP) for Lot 7 Dunkeld Drive, Herron to the Western Australian Planning Commission (WAPC) for its endorsement (**Attachment 1** - Location Plan, **Attachment 2** - Proposed SGP).

This report is being presented to Committee for consideration having regard to legal advice obtained in relation to the WAPC's ability to require modifications to an Outline Development Plan that has been submitted for approval. This advice was distributed to Committee members in June 2015 under confidential cover. In addition, the proponent has requested the WAPC reinstate features of the SGP that were removed by Council.

It is recommended that the SGP be approved subject to minor modifications.

**BACKGROUND:**

In December 2009, the WAPC endorsed the Lake Clifton - Herron Structure Plan (LCHSP), which is local planning policy adopted by the City of Mandurah and the Shire of Waroona. The LCHSP identifies the site for Rural Residential purposes and specifies minimum and average lot size requirements of 2ha and 5ha hectares respectively (**Attachment 3**).

In April 2013, the City of Mandurah Council (the Council) adopted the SGP for the purposes of advertising (**Attachment 4** - Advertised SGP).

In September 2014, the proponent referred the SGP to the Federal Department of the Environment (FDE) under the *Environmental Protection and Biodiversity Conservation Act 1999* (EPBC). In October 2014, the FDE determined that the referral was not a controlled action.

In February 2015, the WAPC refused a subdivision application over the subject Lot. This application was refused on the grounds that it was not consistent with State Planning Policy 2.5, the Lake Clifton-Herron Structure Plan and the City of Mandurah Town Planning Scheme No 3 (TPS3) as no SGP had been approved for the site.

In March 2015, the proponent appealed the WAPC's refusal of the subdivision application at the State Administrative Tribunal. This matter has been adjourned to allow the WAPC to consider the SGP.

In March 2015, the Council resolved to approve the SGP subject to the removal of an area of public open space and the deletion of building envelopes. The removal of public open space was due to the City being concerned about ongoing maintenance

costs, including bush fire management. The deletion of building envelopes was intended to enable a detailed assessment of the building envelope locations to occur at a later stage, pursuant to an application(s) for planning approval.

In March 2015, Council also adopted Amendment 121 and the related Mandurah Southern Rural Structure Plan (MSRSP) for final approval, which identifies the lot as Rural Residential. Under the MSRSP, most of the lot is identified as requiring a minimum lot area of 10 hectares with the remaining portion requiring a minimum lot area of 5 hectares (**Attachment 5**). Amendment 121 and the MSRSP have not yet been considered by the WAPC.

In April 2015, the proponent requested the WAPC consider reinstating the public open space and building envelopes removed by Council due to a concern that Council's removal of these features may generate the need for the SGP to be reconsidered by the FDE and may result in the need for environmental offsets.

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

**Legislation** *City of Mandurah Town Planning Scheme No 3*  
Section: 4.7 - Rural Residential Zone

**Strategic Plan**  
Strategic Goal: Planning  
Outcomes: Planned local communities developing a sense of place  
Strategies: Encourage innovation in the design of our communities

**Policy**  
Number and / or Name: *Lake Clifton-Heron Structure Plan*  
*State Planning Policy 2.5 - Land Use Planning in Rural Areas*

### **DETAILS:**

The lot has an area of 82.7 hectares and is located approximately 25 kilometres south of the Mandurah city centre (**Attachment 1** - Location Plan).

To the east of the lot is existing rural residential development with lots areas between 2 and 2.5 hectares. To the south is rural zoned land, some of which has been developed for agricultural purposes. To the north and west of the site is Lot 5 Old Coast Road which contains a quarry. Lot 5 and the subject lot are separated by the unconstructed Dunkeld Drive road reserve.

The SGP proposes 14 lots ranging from 2.97 to 9.33 hectares (**Attachment 2** - SGP).

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

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

## **CONSULTATION:**

One submission was received from the owner of Lot 5 Old Coast Road, which contains the existing extractive industry, to the immediate west of the Lot. This submission raised concerns regarding the introduction of sensitive land uses adjacent to the nearby quarry. This issue is addressed later in the report.

## **OFFICER'S COMMENTS:**

### Public Open Space (POS)

The area of POS shown on the advertised version of the SGP is not specifically identified for this purpose in broader strategic planning documents for the southern Mandurah area such as the *Coastal and Lakelands Planning Strategy* (WAPC 1999) or the *Lake Clifton - Herron Structure Plan*.

The provision of POS is not normally required for rural residential subdivisions. In this instance, the area identified as POS on the advertised version of the SGP would align with a small existing area of POS to the east. However, the opportunity to establish an east-west ecological corridor in this location is limited due to existing rural residential subdivision and development to the east of the subject land. In addition, the narrow shape of the POS is not ideally suited to quality vegetation retention. Accordingly, the applicant's request to reinstate this area of POS is not supported.

### Building Envelopes

Notation 1 on the proposed SGP specifies the need for Building Envelopes and Building Protection zones to be subject to planning approval. However, TPS3 does not specifically enable the establishment of building envelopes to be deferred in this manner.

It is considered reasonable to enable the siting of building envelopes to be established pursuant to a condition of subdivision approval. However, in order to ensure the envelopes can be enforced, they should later be incorporated into the SGP as a minor modification. It is recommended that Notation 1 be modified accordingly.

The proponent's request to reinstate the building envelopes is not supported as the subdivision layout has changed since the SGP was first advertised and no new plan identifying updated building envelopes has been proposed or analysed at this time.

### Environmental Protection and Biodiversity Conservation Act 1999

The Department of Planning has been advised by the proponent's environmental consultant that although Council modified the SGP after it was referred to the FDE, the need for a new referral under the *EPBC Act* would only arise if the modifications resulted in a net negative impact on the environment.

The likelihood of the SGP requiring further consideration by the FDE appears to be low. However, the potential for this to occur should not be a key determining factor in WAPC's consideration of the SGP.

### Bush Fire Management

The Department of Fire and Emergency Services (DFES) has endorsed a Fire Management Plan (FMP). However, the endorsed FMP was based on an earlier version of the SGP. Accordingly, Notation 6 should be modified to refer to the requirement for the FMP to be updated prior to subdivision.

### Proposed Mandurah Southern Rural Structure Plan (MSRSP)

The SGP is inconsistent with the MSRSP, both of which were adopted by Council in April 2015. More specifically, the MSRSP provides for a lower lot yield of approximately 10 lots, compared to the 14 lots shown on the SGP. This anomaly will need to be addressed by the WAPC when it makes a determination on the MSRSP in due course.

### Acoustic Consideration

The proponent has incorporated noise level contours on the SGP which are based on an EPA Works Approval that relates to the adjacent quarry. Provided no dwellings are located within the 45 dB isopleth it is considered that residential development on the site will be compatible with the quarry operations.

### Other Considerations

The SGP boundary encompasses both Rural and Rural Residential zoned land under TPS3, as the subject lot has dual zoning. As an SGP only has statutory effect with the Rural Residential zone, it is recommended that a notation be added to state that the details on the SGP that relate to the Rural zoned portion of the site are indicative only.

It is recommended that the Committee have due regard to legal advice obtained in relation to the WAPC's ability to require modifications to an ODP that has been submitted for approval. This advice was distributed to Committee members in June 2015 under confidential cover.

### **CONCLUSION:**

It is recommended that the SGP be endorsed subject to minor modifications.



## ITEM NO: 9.2

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

<b>WAPC OR COMMITTEE:</b>	<b>Statutory Planning Committee</b>
REPORTING AGENCY:	Department of Planning
REPORTING OFFICER:	Planning Manager - Peel
AUTHORISING OFFICER:	Planning Director - Peel
FILE NO:	SPN/0662
DATE:	25 June 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:	124 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 for consideration having regard to legal advice obtained in relation to the WAPC's ability to require modifications to an ODP that has been submitted for approval. This advice was distributed to Committee members in June 2015 under confidential cover. In addition, 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.

A report on the Madora Bay East ODP was presented to the Committee on 9 June 2015. At that meeting the item was deferred.

**LEGISLATION / STRATEGIC PLAN / POLICY:**

<b>Legislation</b>	<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

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

<b>Policy</b>	
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.

### Legal Advice

Legal advice has been obtained regarding the WAPC's ability to modify an ODP and was distributed to Committee members under confidential cover in June 2015. It is recommended that the Committee have due regard to the legal advice when making its determination on the ODP.

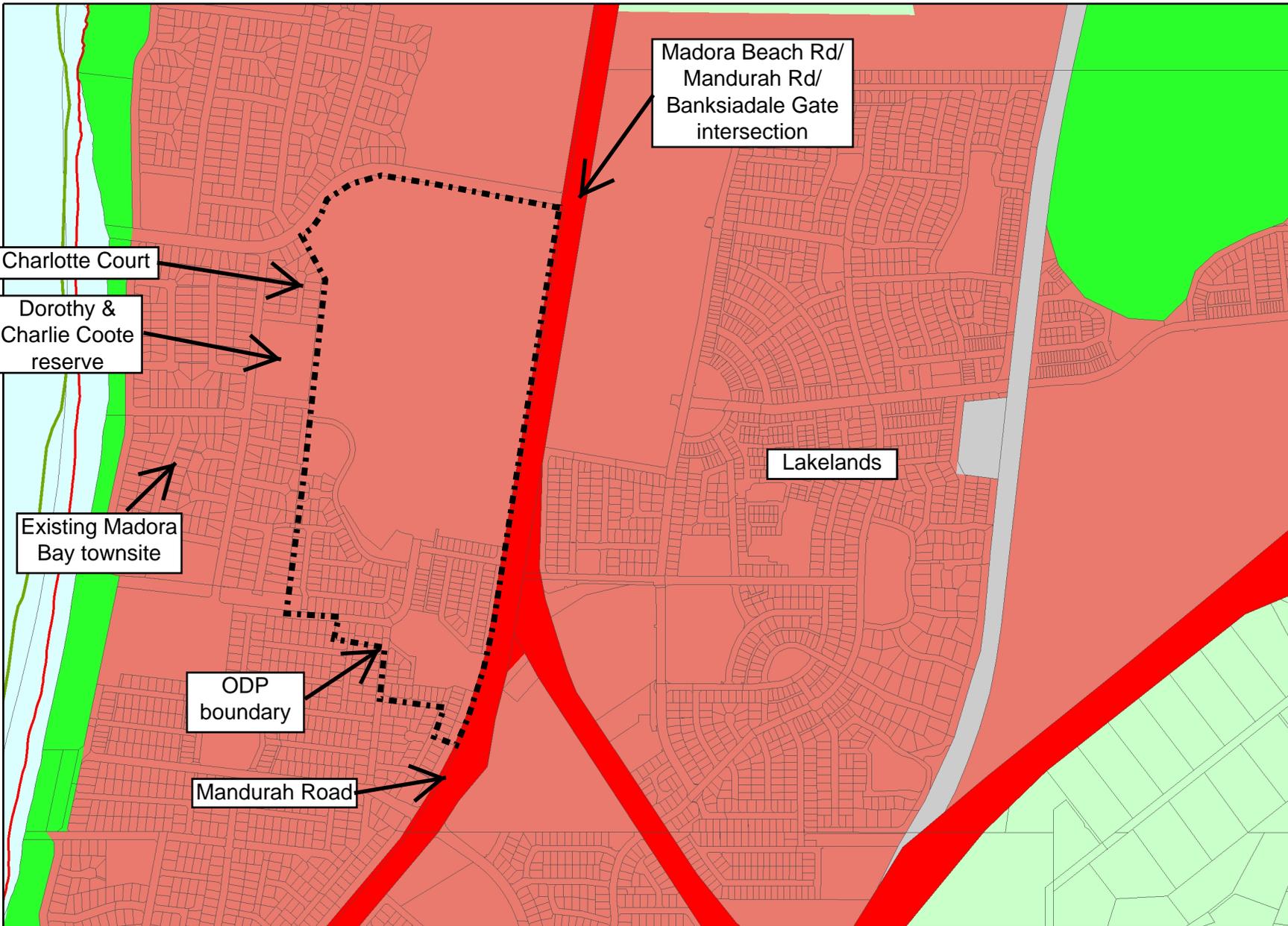
### **CONCLUSION:**

It is recommended that the ODP be approved, 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.

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Produced by: FUNCTIONALITY TO COME

Date produced: 06-May-2015

PlanViewWA Map

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[Link to viewer](#)



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## ITEM NO: 9.3

### Refusal of Outline Development Plan - Madora Bay North

<b>WAPC OR COMMITTEE:</b>	<b>Statutory Planning Committee</b>
REPORTING AGENCY:	Department of Planning
REPORTING OFFICER:	Planning Manager - Peel
AUTHORISING OFFICER:	Planning Director - Peel
AGENDA PART:	C
FILE NO:	SPN/0628
DATE:	26 June 2015
REPORT CATEGORY:	Statutory
RECOMMENDATION OUTCOME:	1. Refuse 2. Advise
ATTACHMENT(S):	1. Location Plan 2. Proposed Outline Development Plan 3. Advertised Outline Development Plan 4. Alternative (Community) Outline Development Plan 5. Outline Development Plan as modified by proponent 6. Schedule of Submissions
REGION SCHEME ZONING:	Urban, Regional Open Space
LOCAL GOVERNMENT:	City of Mandurah
LOCAL SCHEME ZONING:	Urban Development, Residential R12.5/25
LGA RECOMMENDATION(S):	Approval
REGION DESCRIPTOR:	Peel
RECEIPT DATE:	18 November 2014
PROCESS DAYS:	239 days
APPLICATION TYPE:	Outline Development Plan
CADASTRAL REFERENCE:	Lot 101 Mandurah Road, Madora Bay

#### RECOMMENDATION:

***That the Western Australian Planning Commission resolves to refuse to approve the Madora Bay North Outline Development Plan for the following reasons:***

- 1. the proposed configuration and distribution of POS does not produce the optimum outcome in terms of achieving functional and useable POS;***
- 2. the provision of a large proportion of public open space along the northern boundary of the site is not adequately justified and provides***

*only limited environmental benefit given that most of the vegetation on this land is mapped as being in a 'degraded' or 'completely degraded' condition;*

- 3. the proposed Mixed Use sites do not correspond with an existing zone under Town Planning Scheme No.3;*
- 4. the proposed variations to the land use permissibility provisions of the Commercial zone under Town Planning Scheme No.3 should be addressed via a proposed town planning scheme amendment rather than via an ODP provisions;*
- 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 the R12.5/20 in the ODP report but not on the ODP Map);*
- 7. the statutory section of the ODP report does not adequately set out the proponent's obligations in respect of upgrading the existing intersection of Madora Beach Road and Mandurah Road and constructing a new signalised intersection at Mandurah Road.*

#### **SUMMARY:**

On 10 March and 9 June 2015, the Statutory Planning Committee (SPC) deferred making a determination on the Outline Development Plan (ODP) to allow a site inspection, advice being obtained about the ability to approve an ODP subject to modifications and a meeting being held with the City of Mandurah regarding the ODP. All of these actions have been undertaken.

It is recommended that the proposed ODP (as adopted by Council) be refused, primarily due to reasons relating to the distribution, function and useability of proposed POS areas. The ODP is being presented to Committee for determination as there is no delegated authority to refuse an ODP.

#### **BACKGROUND:**

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

On the 8 May 2013, the Minister for Planning approved Peel Region Scheme Amendment 035/57: Madora Bay (North) (PRS Amendment 035/57) which transferred about 57 hectares of land from the Rural zone to the Urban zone under the Peel Region Scheme.

In its advice on PRS Amendment 035/57, the Environmental Protection Authority (EPA) advised that an east-west vegetation linkage should be considered and the

highest dune at the northern end of the site and remaining good vegetation should be retained in POS. The Office of Environmental Protection Authority has subsequently advised that the advertised ODP (**Attachment 3**) satisfactorily addresses the advice it provided on the PRS amendment.

On the 13 May 2014, the City of Mandurah Council adopted the ODP (**Attachment 3**) for advertising purposes.

On 28 October 2014, the City of Mandurah Council considered the submissions and adopted a modified version of the ODP for final approval (**Attachment 2**). The key differences between the advertised ODP and the version ultimately adopted by Council include a reduction in the width of the central POS area from 110 to 50 metres, the relocation of POS to the northern part of the site, the inclusion of 'Ecological Transect' linkage streets and the addition of Mixed Use zones adjacent to the foreshore reserve.

A report on the proposed ODP was presented to the Committee on 10 March 2015 recommending approval subject to modifications. At that meeting the item was deferred in order to:

1. clarify the legal position on the Western Australian Planning Commission's (WAPC) ability to modify an outline development plan;
2. carry out a site visit of the Committee to examine the key elements of difference between the various plans as presented by the deputations;
3. have a meeting between the WAPC and the City of Mandurah and its planners to discuss the observations from the site visit; and
4. to have the matter brought back to the WAPC for further consideration following the meeting with the City of Mandurah.

Legal advice has been obtained, which was provided to Committee members under confidential cover in June 2015.

In April 2015, Committee members undertook an inspection of the locality.

Mid-June 2015, the WAPC Chairman met with City of Mandurah officers to discuss the ODP.

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

<b>Legislation</b>	<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 Standard

<b>Legislation</b>	<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 site is 147.2 hectares in area, and is bound by Singleton to the north, Mandurah Road to the east, the existing Madora Bay townsite and Madora Beach Road to the south and the Indian Ocean to the west (**Attachment 1**).

The site has been used for grazing and most of the vegetation is in a degraded condition.

Key features of the proposed ODP include:

- residential land ranging from R25-R40;
- a foreshore reserve ranging in width from 145 to 240 metres;
- a primary school site;
- a commercial and mixed use R60 node designed to accommodate a local activity centre;
- a linear POS area located in the centre of the ODP area, approximately 450 metres long by 50 metres wide and various POS areas along the northern boundary of the subject land intended to provide an east-west ecological link; and
- a requirement for the preparation of local development plans (LDPs) for new lots adjacent to existing residential development in Madora Bay and Singleton.

## **GOVERNMENT AND CORPORATE IMPLICATIONS:**

The WAPC may be required to defend its decision at the State Administrative Tribunal should the proponent elect to appeal any refusal of the ODP.

## **CONSULTATION:**

During the advertising period 72 submissions were received. Six of these were from government agencies/local government, three from community groups, one from a State politician and 62 were received from the public. These submissions are summarised in (**Attachment 6** - Schedule of Submissions), together with Council's and the Department of Planning's comments.

Key issues raised in the submissions include:

- (a) distribution of public open space and the need for a POS buffer between Madora Bay and Singleton;
- (b) impact of additional traffic upon existing residential roads and neighbourhoods;
- (c) orientation of future commercial development at the beach-front; and

- (d) interface between existing and proposed residential areas in terms of lot level differences and privacy impacts.

One submission was received from a community group that prepared an alternative ODP (**Attachment 4** - Alternative ODP). The alternative ODP suggested a number of modifications to the ODP, including:

- replacing the central POS area with a smaller landscape feature park and establishing an 'ecological transect and landscape buffer' along the northern boundary of the site;
- creation of a central landscape boulevard from Mandurah Road to the Coastal Village;
- replacing the proposed village centre with a larger coastal village orientated towards the foreshore reserve; and
- the inclusion of a requirement stating that the ground levels and lot sizes of new residential development abutting existing residential areas should match existing ground levels and lot sizes.

In response to issues raised in the submissions, the proponent prepared a modified ODP (**Attachment 5** - ODP as modified by proponent). Key differences between this plan and the advertised version of the ODP were the inclusion of a mixed use zone, 'Ecological Transect' linkage streets and transitional density codings to existing residential areas in Madora Bay and Singleton.

Neither the alternative ODP prepared by the community nor the modified ODP prepared by the proponent were accepted by Council. Instead, the Council held a workshop to review the ODP and an outcome of the workshop was the preparation of a revised version of the ODP, which was then adopted by Council for final approval (**Attachment 2**).

## **OFFICER'S COMMENTS:**

### Environmental Considerations

The site is identified as a Peel Regionally Significant Natural Area in *Environmental Protection Bulletin: Swan Bioplan - Peel Regionally Significant Natural Areas* (Swan Bioplan). However, detailed vegetation surveys and analysis have found that the vegetation on site is generally degraded and have not identified any regionally significant remnant vegetation areas within the proposed residential areas shown on the proposed ODP. Also, the Office of Environmental Protection Authority has not raised any objections to the ODP.

The landscape assessment undertaken by the proponent for the subject land concluded that from publicly accessible viewpoints the features of the site are not of a scale and nature that contribute significantly to the district landscape character. Notwithstanding this, it is proposed to retain a prominent sand dune in the north-eastern corner of the site in POS, which is considered to be of local landscape significance.

The City of Mandurah requested that the WAPC consider the recommendations of the *City of Mandurah Biodiversity Strategy* (MBS) in its assessment of the ODP. The MBS was adopted by Council in November 2013 and forms part of the City of

Mandurah's proposed Local Planning Strategy, but has not yet been considered by the WAPC. Although the MBS recommends a biodiversity target of 9.0 hectares for the site, this is not a statutory requirement.

It is considered that the environmental features of the site do not warrant such a large proportion of the public open space being allocated to the northern portion of the ODP, as discussed further below.

### Public Open Space

A total of 13.75 ha or 12% of POS is proposed to be provided as POS. This does not include the proposed 20m wide landscape buffer strip along Mandurah Road and the proposed foreshore reserve of 21.2ha, which would be ceded free of cost.

The proposed ODP includes a central area of POS of approximately 2.24 hectares, with dimensions of approximately 450 metres long by 50 metres wide. By comparison, the advertised version of the ODP had a central POS area of 4.93 hectares, with dimensions of approximately 450 metres long by 110 metres wide.

The configuration of the central area of POS in the advertised version of the ODP is more desirable, as a larger and wider area of POS has greater overall functionality for recreation purposes and can provide a stronger visual and physical link between the beach node in the foreshore reserve and residential areas to the east.

The provision of an 'ecological transect and landscape buffer' along the northern boundary of the site, as proposed in the alternative ODP (**Attachment 4**) and reflected to a lesser degree in the ODP adopted by Council, is not supported for the following reasons:

- a more even distribution of public open space can be provided throughout the site if there is no east-west corridor along the northern edge of the site;
- although there is an opportunity to retain some good quality vegetation in an east-west corridor, most of the vegetation along the northern edge of the site is predominantly mapped as 'degraded' or 'completely degraded';
- the east-west corridor along the northern boundary of the site would terminate at Mandurah Road, which provides a significant barrier to wildlife movement beyond the subject land;
- a relatively narrow east-west corridor along the full length of the northern boundary of the subject land does not provide a significant visual break between the Metropolitan and Peel Regions when viewed from Mandurah Road;
- a more significant visual break between urban areas is provided by the land reserved Parks and Recreation and zoned Rural under the Metropolitan Region Scheme, located further to the north in Port Kennedy and Karnup; and
- retention of the prominent sand dune in the north-eastern corner of the site in public open space can be achieved by creating a smaller area of public open space.

In summary, it is considered that the proposed configuration and distribution of POS does not produce the optimal outcome in terms of achieving functional and useable

POS. It is also considered that there is insufficient justification for such a large proportion of the POS to be positioned along the northern boundary of the site.

### Intersections with Mandurah Road

The proposed development of the ODP area would result in a significant increase in traffic volumes in the local area. Implementation of the ODP would involve upgrading the existing Madora Beach Road/Mandurah Road intersection and constructing a new additional intersection with Mandurah Road to accommodate these increased traffic volumes.

Whilst these intersections are shown on the ODP map, the ODP report does not adequately set out the proponent's obligations in regard to the upgrading and/or construction of these intersections.

### 'Ecological Transect' Linkage Streets

The proposed ODP includes two 'Ecological Transect' linkage streets in the northern part of the site. The intent of these linkage streets is to provide a vegetation linkage between POS areas along the northern part of the site to create an east-west vegetation linkage.

Such a concept may provide some environmental benefits if it is associated with a wider street reserve that has sufficient space to incorporate a median strip landscaped with street trees, as trees located in a median strip are more likely to be retained than trees within street verges.

In this instance, the proposed Ecological Transect streets are not intended to include landscaped median strips. Accordingly, any environmental benefits arising from these streets will likely be minimal once the road is built and driveways have been established.

### Statutory Considerations

The ODP proposes a Mixed Use zoning over part of the site with an associated land use permissibility table included in the ODP text and seeks to assign an R60 density coding to the Mixed Use sites. However, there is no Mixed Use zone under TPS3.

The ODP also proposes to vary the permissibility of land uses possible within the Commercial zone through a provision in the ODP text, and seeks to assign an R60 density coding to the Commercial site.

There is emerging concern that provisions such as those outlined above may not be consistent with the *Planning and Development Act 2005* (PDA) as the authority to amend the provisions of a local planning scheme rests solely with the Minister for Planning. Accordingly, any provisions of a local planning scheme, structure plan or local development plan that aim to result in a *de facto* amendment to the local planning scheme (such as Table 2) are unable to be supported.

### Other Considerations

It is noted that the southern boundary of the ODP incorporates some land already zoned Residential R12.5/25 under the *City of Mandurah Town Planning Scheme No.3* (TPS3). Given that TPS3 states that an ODP can only have effect over land zoned Urban Development in the Scheme, it is not considered appropriate for a ODP to be created over residential zoned land.

### Legal Advice

It is recommended that the Committee have due regard to the legal advice circulated to Committee members in June 2015 when making its determination on the ODP.

In view of the legal advice, officers are no longer recommending that the ODP be approved subject to modifications that may be considered substantial.

### Options

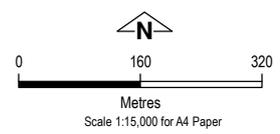
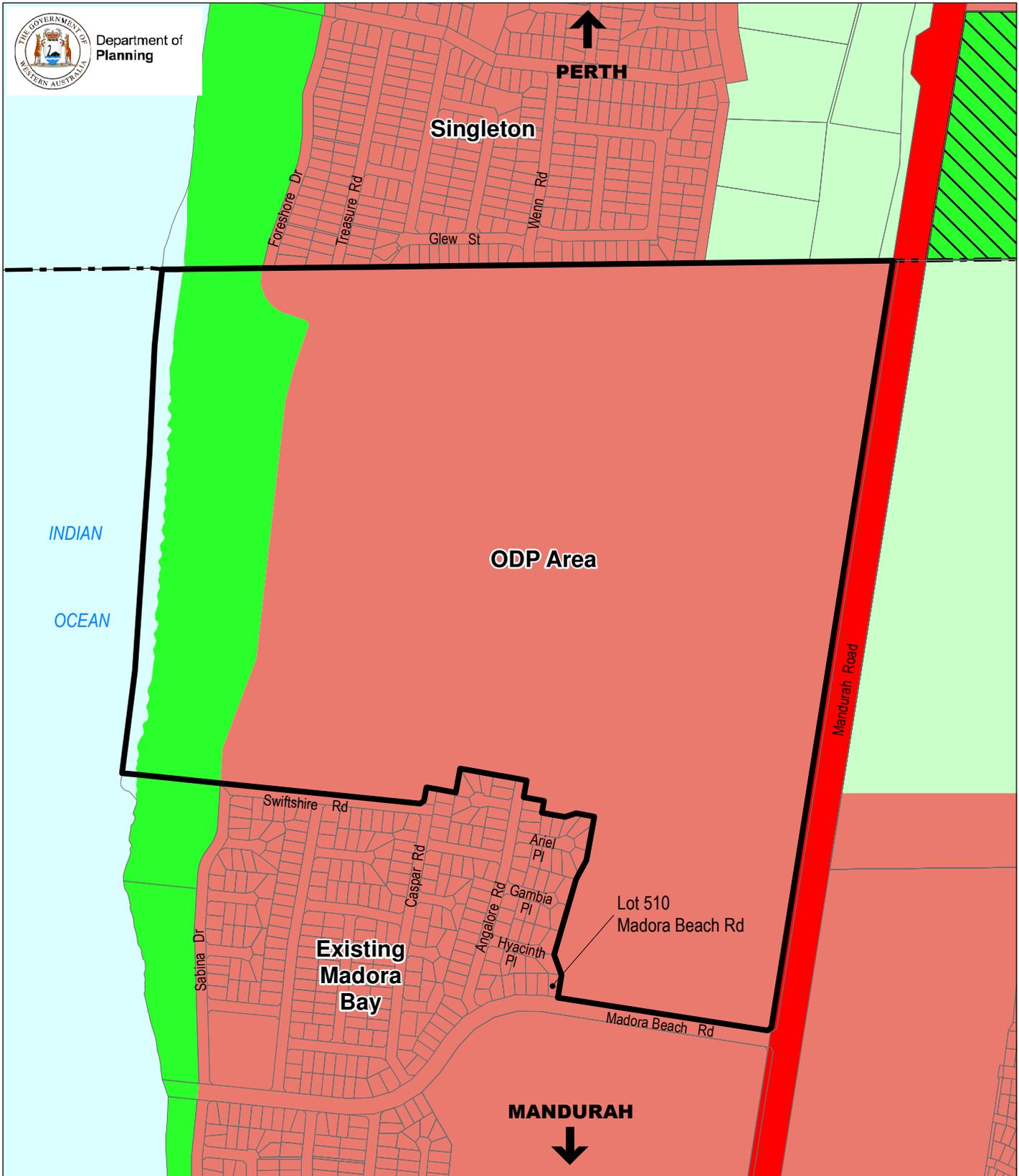
SPC may wish to consider the following options, together with the legal advice provided, in its further consideration to the ODP:

- (a) approve the ODP as submitted by Council, without modification;
- (b) approve the ODP subject to minor modifications; or
- (c) refuse to approve the ODP and specify reasons for the refusal.

Under any of the abovementioned options, the applicant would have a right of appeal against the WAPC's decision to the State Administrative Tribunal.

### **CONCLUSION:**

It is recommended that the ODP be refused for the reasons outlined in the recommendation.



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Department of Planning, WA  
On behalf of:  
Western Australian Planning Commission  
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Base information supplied by:  
Western Australian Land Information Authority  
LI 646-2014-3

**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

## ITEM NO: 9.4

### Modification of Frasers Landing Outline Development Plan

**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/0719  
DATE: 26 June 2015  
REPORT CATEGORY: Statutory  
RECOMMENDATION OUTCOME: Endorse, subject to modifications  
ATTACHMENT(S):  
1 Location Plan  
2 Current Outline Development Plan  
3 Advertised Outline Development Plan  
4 Schedule of Submissions  
5 Proposed Outline Development Plan  
6 Schedule of Modifications

REGION SCHEME ZONING: Urban  
LOCAL GOVERNMENT: City of Mandurah  
LOCAL SCHEME ZONING: Urban Development  
LGA RECOMMENDATION: Approval  
REGION DESCRIPTOR: Peel  
RECEIPT DATE: 13 April 2015  
PROCESS DAYS: 92  
APPLICATION TYPE: Local Structure Plan  
CADASTRAL REFERENCE: Lots 201-204, 220, 230, 8001, 8002, 8005 and 9001  
Wanjeep Street, Coodanup

#### RECOMMENDATION:

*That the Western Australian Planning Commission resolve to:*

- 1. approve the modified Frasers Landing outline development plan, subject to the attached Schedule of Modifications;*
- 2. advise the City of Mandurah of its decision;*
- 3. advise the City of Mandurah that the WAPC is no longer prepared to approve local structure plans which contain provisions that seek to vary the provisions of the local planning scheme, as this is considered to be inconsistent with the process set out in Part 5 of the Planning and*

***Development Act which relates to preparing and amending a local planning scheme.***

**SUMMARY:**

The City of Mandurah requests the Western Australian Planning Commission (WAPC) approve a modified Outline Development Plan (the ODP) for Frasers Landing (**Attachment 5**).

The updated ODP is being presented to the Committee for determination, having regard to legal advice obtained regarding the WAPC's ability to require modifications to an ODP that has been submitted for approval. This advice was distributed to Committee members in June 2015 under confidential cover. In addition, the residential density of the proposed development would be slightly lower than the target density set out in *Liveable Neighbourhoods*.

It is recommended that the ODP be approved, subject to the attached Schedule of Modifications (**Attachment 6**).

**BACKGROUND:**

In October 2006, the site was transferred from the Residential zone to the Urban Development zone in the City of Mandurah Town Planning Scheme No. 3 (TPS3). The provisions relating to the Urban Development zone require subdivision and/or development be consistent with an ODP adopted by the Council and approved by the WAPC.

In August 2006, the WAPC approved the Frasers Landing ODP, which applied to part of Lot 440 Wanjeep Street, Coodanup (**Attachments 1 and 2**).

In April 2014, the City of Mandurah adopted a modified version of the ODP for advertising purposes (**Attachment 3**). The modifications were intended to:

- (a) reduce the dwelling yield from 1250 to approximately 578 dwellings;
- (b) allow for the creation of freehold lots (rather than survey-strata);
- (c) reconfigure the internal road network; and
- (d) reduce the area of mixed use / commercial development.

The City of Mandurah received 14 submissions during the public advertising process, which were considered by the Council in August 2014 (**Attachment 4**). At that time, the Council adopted the ODP, subject to changes being made in response to matters raised through the consultation process. The changes required by the City of Mandurah included the requirement that a survey strata plan be used to create three of the undeveloped 'hamlets'.

In September 2014, the landowner/proponent requested the State Administrative Tribunal (SAT) review the City of Mandurah's decision, in particular the requirement for the undeveloped hamlets to be created via a survey strata plan. After mediation, the SAT invited the City of Mandurah to reconsider its decision.

In January 2015, the City of Mandurah reconsidered its decision, and resolved to adopt the modified ODP for final approval subject to modifications (**Attachment 5**).

As a result, it is no longer necessary for the undeveloped hamlets to be created via a survey strata plan.

On 13 April 2015, the City of Mandurah forwarded the modified ODP to the WAPC for its approval.

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

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

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

**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                *Structure Plan Guidelines*  
Name:                                *Directions 2031 and beyond*  
    *Liveable Neighbourhoods*  
    *State Planning Policy No. 3.1: Residential Design Codes*

## **DETAILS:**

The ODP affects approximately 52 hectares of land (the site), consisting of seven freehold lots (two of which are affected by a survey strata plan) and various road reserves. The site is located in Coodanup, approximately 3 kilometres southeast of Mandurah.

Key differences between the current and proposed ODPs include:

- (a) changes to the format of the ODP, so that it no longer comprises just a single plan and annotations but now contains Part One (Statutory Section), Part Two (Explanatory Section) and Part Three (Technical Reports);
- (b) replacing the Residential and Mixed Use Commercial land use classifications with Frasers Hamlets R50, Residential R20-R40 and Residential R30-R80;
- (c) including a table in Part One, setting out land use permissibility variations from the Residential zone under the local planning scheme for the abovementioned land use classifications;
- (d) adding a provision to enable refinement of the abovementioned residential density codes through the subsequent lodgement and approval of a residential density codes plan, which is intended to form part of the ODP once it has been approved;

- (e) adding provisions to require Local Development Plans (LDPs) be prepared for each lot created, with the intention that these plans may elaborate on or vary any land use and development provisions set out in TPS3, the ODP, local planning policies and/or *State Planning Policy 3.1: Residential Design Codes*; and
- (f) identifying part of the site as a Serpentine Investigation Precinct, and including a plan that highlights specific design outcomes to be achieved for this particular precinct.

## **GOVERNMENT AND CORPORATE IMPLICATIONS:**

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

## **CONSULTATION:**

### Council Advertising

The modified ODP was advertised for public comment from 8 May to 30 June 2014. During this period, the City of Mandurah received 14 submissions, of which:

- (a) two were received from state government agencies and service providers;
- (b) one was received from a local member of Parliament; and
- (c) 11 were received from the public - this includes a submission prepared on behalf of 30 landowners and a submission prepared on behalf of the developer.

The key issues raised in the submissions include:

- (a) the perceived loss of the overall concept and vision for Frasers Landing;
- (b) the perception that introducing freehold lots will lead to lower quality built form outcomes and will result in private open space areas being used by freehold lot owners; and
- (c) the potential impact of traffic on Birchley Road, including the position of a new T-junction opposite an existing house.

Each submission is summarised in the Schedule of Submissions (**Attachment 4**), which also contains the Council's comments and the Department of Planning's comments and recommendations.

### Modifications

Suggested modifications to Part 1 of the ODP were forwarded to the City of Mandurah and the proponent for their review and comment. In this respect:

- (a) The City of Mandurah advises that the modified ODP significantly reduces the extent of mixed use and commercial lots and, therefore, it is important to retain some retail function, particularly adjacent to open space areas. For this reason, the City of Mandurah does not support the removal of provisions which vary the land use permissibility provisions of TPS3.
- (b) The proponent:
  - (i) considers the proposed mechanism for updating the residential density codes plan to be unnecessarily bureaucratic and inconsistent with the approach taken within the Shire of Serpentine-Jarrahdale and the City of Wanneroo;

- (ii) advises that TPS3 contains no provisions relating to the preparation and adoption of local development plans and, therefore, these matters should be addressed by the ODP in the interests of transparency, particularly as the ODP has been contentious with local residents;
- (iii) is concerned by the proposed removal of provisions exempting certain local development plans from the requirement for advertising; and
- (iv) objects to the removal of land use permissibility tables and provisions, as these ensure that any non-residential development will be focused on the site of the proposed local centre.

## **OFFICER'S COMMENTS:**

### Residential Density

The modified ODP would lead to the creation of approximately 578 dwellings, compared to 1250 dwellings which could be created under the current ODP. If the area of the core conservation reserve is excluded from the dwellings per hectare calculation, the ODP would result in the development of approximately 14.3 dwellings per hectare of urban land. This is marginally less than the target of 15 dwellings per hectare of urban land set out in *Directions 2031 and beyond* and *Liveable Neighbourhoods*.

With regard to the above, it is reasonable to deduct the core conservation reserve from the overall area, as it is not 'normal' public open space (which would form part of the overall area calculation), but is a conservation area which the Commonwealth Government requires be protected.

### Introduction of Freehold Lots

Concerns raised in the submissions regarding the proponent's intention to introduce freehold lots to the estate are not material planning considerations (as discussed in the Schedule of Submissions). For this reason these concerns should be dismissed.

### Birchley Road Intersection

The current ODP shows the main road through the site forming a future 4-way intersection with Birchley Road and Durack Street; however, the proposed ODP proposes a T-junction located opposite the northwest corner of Lot 101 (No. 34) Birchley Road. The intersection is approximately in line with the existing driveway of the dwelling situated on Lot 101 (No. 34) Birchley Road and will need to be carefully designed in order to minimise any impacts upon the amenity of the existing house.

### Statutory Considerations

The following aspects of the ODP raise some concerns:

- (a) Land Use Permissibility Variations  
TPS3 does provide scope for an ODP to set out land use permissibility and this has been common practice within the City of Mandurah. However, there is emerging concern that this approach may not be consistent with the *Planning and Development Act 2005*, as the authority to amend the provisions of a local

planning scheme rests solely with the Minister for Planning. Accordingly, any provisions of a local planning scheme, structure plan or local development plan that result in a *de facto* amendment to the local planning scheme (such as Table 2) are unable to be supported.

- (b) Residential Density Codes Plan  
Clause 2.1 refers to a residential density codes plan and sets out a process by which such a plan is submitted and approved, resulting in a modification to the ODP. However, TPS3 does not contain provisions that enable a residential density code plan to amend the content of an ODP and it is not considered appropriate for a local structure plan to be introducing a means by which the plan can be modified. It would be more appropriate for the refinement of residential densities within the R20-R40 and R30-R80 coded areas to occur via a minor modification to the ODP, with the residential density code plan being used simply as a basis for requesting such a modification.
- (c) Local Development Plans  
Clause 2.2 refers to LDPs having the ability to expand on or vary any land use and development standards set out in TPS3, the ODP, local planning policies and/or *State Planning Policy 3.1: Residential Design Codes*. However, the local planning scheme does not provide for an LDP to have these statutory functions. In addition, it is not considered appropriate for an ODP to be setting out the process and means by which LDPs come into effect. Although it is acknowledged that TPS3 is silent in terms of setting out the procedure for the adoption and approval of LDPs, it would be more appropriate to address this matter through an amendment to TPS3, rather than allowing individual structure plans to set out the procedural requirements for LDPs.
- (d) Table 3 (Timing of Further Reporting and Management Plans)  
Table 3 lists 21 reports and management plans that are to be prepared, specifies when such reports are to be submitted and whether they require approval from the WAPC or the City of Mandurah. It is not considered necessary or appropriate for Table 3 to be included in the ODP, as reporting requirements of this nature are set out in Schedule 10 to TPS3.
- (e) Retail Node  
The potential retail location on the ODP and the related allowance for 2000 square metres of retail floor space is incongruous with the residential base coding of the site. It is not considered appropriate for the ODP to identify and allow for land uses that are prohibited in the residential zone.

As a result of the above concerns, it is recommended that Tables 2 and 3 be removed from the ODP and Section 2 of the ODP be rewritten, as set out in the attached Schedule of Modifications. In summary, the recommended modifications will have the following consequences:

- (a) land use permissibility for all precincts will be determined via reference to the Residential zone of TPS3, with no variations specified in the ODP text;
- (b) the refinement of residential density codes within the R20-R40 and R30-R80 precincts will require the residential density codes plan to be approved by the

City of Mandurah and the WAPC as a minor modification to the ODP prior to subdivision applications being determined;

- (c) the ability for an LDP to expand or vary land use and development provisions of the ODP, the scheme, Local Planning Polices and *State Planning Policy 3.1: Residential Design Codes* is deleted;
- (d) provisions relating to the processing of LDPs and the statutory implications of LDPs are deleted; and
- (e) references to potential retail and commercial uses are deleted.

#### Other Considerations

It is recommended that the Committee have due regard to legal advice obtained in respect of the WAPCs ability to require modifications to an ODP that has been submitted for approval.

In addition to the matters discussed above, some minor administrative modifications are recommended as set out in the Schedule of Modifications (**Attachment 6**). These modifications aim to remove duplication, update references to strategic planning and state planning policies.

#### **CONCLUSION:**

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



## ITEM NO: 9.5

### Endorsement Victoria Quay Commercial Precinct Plan and Fremantle Station Precinct Plan

<b>WAPC OR COMMITTEE:</b>	<b>Statutory Planning Committee</b>
REPORTING AGENCY:	Department of Planning
REPORTING OFFICER:	Senior Planner Metropolitan Planning Central
AUTHORISING OFFICER:	Director, Metropolitan Planning Central
AGENDA PART:	C
FILE NO:	DP/12/011990/1
DATE:	29 June 2015
REPORT CATEGORY:	Statutory
RECOMMENDATION OUTCOME:	1. Endorse 2. Recommend
ATTACHMENT(S):	1. Integrated Indicative Development Plan 2. Location Plan 3. Aerial View 4. MRS Plan 5. Development Concepts 3D Imagery 6. Victoria Quay Land Use 7. Victoria Quay Urban Structure 8. Victoria Quay Built Form Design 9. Fremantle Station Land Use 10. Fremantle Station Urban Structure 11. Fremantle Station Built Form Design 12. Fremantle Station Public Transport
REGION SCHEME ZONING:	Port Installations, Railways and Public Purpose - Special Use
LOCAL GOVERNMENT:	City of Fremantle
LOCAL SCHEME ZONING:	Public Purposes
LGA RECOMMENDATION(S):	Endorsement
REGION DESCRIPTOR:	Metropolitan Central
RECEIPT DATE:	16 September 2014
PROCESS DAYS:	287 Days
APPLICATION TYPE:	Precinct Plan (Structure Plan)
CADASTRAL REFERENCE:	Victoria Quay West, Pioneer Park and Fremantle Railway Station

## **RECOMMENDATION:**

***That the Western Australian Planning Commission resolves to:***

- 1. Endorse the Victoria Quay Commercial Precinct Plan and the Fremantle Station Precinct Plan, subject to the following modifications:***
  - i) A Regulatory Section to be included within each Precinct Plan to summarise key development requirements including urban structure, land use, public open space, built form design/building heights, pedestrian and cycling, public transport, access and parking and heritage protection, and to be prepared in consultation with the Department of Planning and the City of Fremantle.***
  - ii) The Regulatory Section to refer to the requirements of the Signage and Way Finding Strategy (endorsed by the WAPC as part of the Fremantle Waterfront Project) and the Victoria Quay Signage Guidelines 2010.***
  - iii) The Regulatory Section to stipulate that traffic studies will be a requirement of future development applications.***
  - iv) The Regulatory Section to stipulate that the proposed new rail crossing is subject to the approval of the Office of Rail Safety.***
  - v) The Regulatory Section to stipulate that future development applications will be assessed against State Planning Policy 5.4 Road and Rail Transport Noise and Freight Considerations in Land Use Planning.***
  - vi) The Regulatory Section to stipulate the requirement for an Implementation Plan to be prepared prior to the lodgement of development applications, that addresses staging and the process and responsibilities for delivery of the relevant elements, including funding arrangements, with a key commitment to delivering key public realm infrastructure.***
  - vii) The Implementation Plan to address the requirements of Fremantle Ports, Fremantle City Council, the Public Transport Authority and the State Heritage Office.***
  - viii) Development can proceed before the preparation of the Implementation Plan, if it can be demonstrated it will not impact on the delivery of the Implementation Plan.***
  - ix) Building heights to be consistently referred to in storeys or in metres.***
  - x) Discretionary Performance Criteria to reference the need to preserve the Fremantle Ports Administration Building as the landmark building in terms of height and scale, for the waterfront.***

**2. Advise the City of Fremantle and the Fremantle Ports Authority of its decision accordingly.**

**SUMMARY:**

The key points of this report are:

- Fremantle Ports (FPA) has forwarded the Victoria Quay Commercial Precinct Plan and the Fremantle Station Precinct Plan to the Western Australian Planning Commission (WAPC) for endorsement.
- A Precinct Plan has also been prepared over Pioneer Park but this does not require the approval of the WAPC and will be determined by the City of Fremantle.
- The Precinct Plans relate to the land at the eastern end of Victoria Quay, which is reserved for Public Purposes-Special Uses under the (Metropolitan Region Scheme MRS) and vested in the Fremantle Port Authority.
- The Victoria Quay Commercial Precinct Plan specifically proposes to provide for up to 30,000m<sup>2</sup> net lettable area (NLA) of commercial, office and entertainment floorspace in a range of new buildings extending in height from 1 to 10 storeys interspersed with public realm areas and public open space.
- The Fremantle Station Precinct Plan specifically proposes to facilitate the redevelopment of the precinct to include a new entry to the railway station from Queen Street, relocation of the bus interchange, new development parcels and the extension of the station building to accommodate retail, commercial and entertainment uses as well as a new forecourt to the station building. The Precinct Plan also provides for decked car parking in proximity to the station.
- The outcomes proposed by the Precinct Plans are generally consistent with those contemplated by the Fremantle Waterfront Masterplan, as endorsed by the WAPC in 2002.
- The Precinct Plans have been prepared to provide an assessment framework for future development applications and outline specific requirements in relation to land use, design, public realm and open space, car parking, height, setbacks and active frontages/streetscapes.
- Any subsequent development applications will be subject to the MRS development approval process and will be assessed against the requirements of the Victoria Quay Commercial Precinct Plan and the Fremantle Station Precinct Plan.

**BACKGROUND:**

Planning to regenerate the west end of Victoria Quay, being the non-operational area of the Port, commenced in the 1990s with the preparation of the Fremantle Waterfront Masterplan, which was endorsed by the WAPC in October 2001.

Implementation of the plan commenced with the construction of the Maritime Museum in 2002, followed by the O'Connor ferry landing, Peter Hughes Drive and the recent refurbishment of the B Shed and E Shed for commercial and entertainment uses.

Endorsement of the Fremantle Waterfront Masterplan was followed by an amendment to the MRS, approved by the WAPC and Minister for Planning in September 2002 and which changed the reservation of Victoria Quay from Port Installations to Public Purposes-Special Use. MRS Amendment 1039 was progressed in order to facilitate the proposed redevelopment of the Fremantle Waterfront and Victoria Quay for community, commercial and entertainment uses with a view to creating a world class tourist destination and expanding on the maritime theme that is Fremantle.

Development approval was granted to ING by the WAPC in March 2009 for a commercial development. The development approval was not implemented and has since lapsed. Subsequently, Fremantle Ports appointed the Waterfront Working Group to review the ING proposal and to consider new development opportunities for the Victoria Quay the Commercial Precinct. This review has resulted in the preparation of the Victoria Quay, Fremantle Station and Pioneer Park Precinct Plans. The project has been led by Fremantle Ports, with input from the Public Transport Authority, Department of Planning, the City of Fremantle and the community.

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

<b>Legislation</b>	<i>Metropolitan Region Scheme</i>
Section:	Part II Reserved Land
<b>Strategic Plan</b>	
Strategic Goal:	Planning
Outcomes:	Effective Delivery of Integrated Plans
Strategies:	<ul style="list-style-type: none"> <li>• Develop integrated infrastructure and land use plans for the State</li> <li>• Implement State and Regional planning priorities</li> <li>• Encourage innovation in the design of our communities</li> </ul>
<b>Policy</b>	
Number and / or Name:	State Planning Policy No. 1 - <i>State Planning Framework</i> State Planning Policy 5.4 - <i>Road and Rail Transport Noise and Freight Considerations in Land Use Planning Directions 2031 and Beyond</i> State Planning Policy 4.1 - <i>Activity Centres Perth and Peel</i> State Planning Policy 2.6 - <i>State Coastal Planning Policy</i>

#### **DETAILS:**

The following 'vision' has guided the preparation of the Precinct plans:

*"To open the way for revitalising the Victoria Quay Commercial Precinct, the Fremantle Railway Station area and Pioneer Park as a vibrant and*

*inviting quarter of Fremantle, embracing its heritage, achieving enhanced connections between the waterfront and the city centre and enabling sustainable economic, social and environmental outcomes.”*

The Precinct Plans aim to create:

- An integrated urban form providing connections between the Fremantle CBD, the Victoria Quay waterfront and Fremantle Railway Station (**Attachment 1 Integrated Indicative Development Plan**).
- Redevelopment of unutilised areas for commercial, retail, office, entertainment and community uses.
- Well designed and high quality urban spaces that are safe, inclusive, inviting and reflect the character of the place.
- New buildings that are sustainable, creative and which respond sensitively to the unique character of Fremantle and its working port.
- Creative and adaptive re-use of the existing heritage fabric of the area in line with -State Heritage Office requirements.
- A re-designed bus interchange that will create a welcoming and civic entrance to the City, and a high quality urban space at the heart of all three precincts.
- Shared streets that allow pedestrians and cyclists to feel safe and maximise connectivity between all three precincts.

### **Location and Site Characteristics**

The Precinct Plans relate to the non-operational area of the Fremantle Port, being Victoria Quay. The Victoria Quay Commercial Precinct generally covers the land to the north of the railway line from Peter Hughes Drive to the water's edge, and the land east of the E-Shed Markets including the C Shed, D Shed, CY O'Connor Centre, Old Police Station Building, Old Waiting Room and the decommissioned railway tracks and surrounding bitumised area. The Fremantle Railway Station Precinct includes the railway reserve, railway station, the old oil store (to the west of the station), the bus interchange and parking area, the bitumised parking area adjacent to Elder Street and the pedestrian overpass that extends from the Elder Street parking area to the Fremantle Passenger Terminal (**Attachment 2 Location Plan**).

The Precinct Plans cover land vested in the Fremantle Ports, PTA and the Fremantle City Council and cover a total area in the order of 10 hectares. The Victoria Quay Precinct covers an area of 3.75 hectares and the Fremantle Station Precinct, an area of 6.4 hectares.

Immediately to the west of the precincts is the west end of the Fremantle Waterfront, which accommodates the Maritime Museum, Ferry Terminal, E-Shed Markets and the Fremantle Ports Administration Building.

Both the Victoria Quay Commercial Precinct and the Fremantle Railway Station have excellent physical attributes including being flat, cleared sites that are well serviced and well located to provide for connections with the Fremantle CBD (**Attachment 3 Aerial View**).

The land is reserved under the MRS for Public Purpose - Special Uses and abuts the Fremantle Port, which is reserved for Port Installations (**Attachment 4 MRS**

**Reservation Plan).** Fremantle Station and Victoria Quay are situated immediately north of the Fremantle city centre and west of the Round House and Maritime Museum.

### **Victoria Quay Commercial Precinct Plan**

The Victoria Quay Commercial Precinct Plan aims to facilitate an integrated, coordinated approach to future development at the western end of Victoria Quay and to integrate these with the existing Fremantle Waterfront commercial and entertainment uses which include the B-Shed Ferry Terminal, E-Shed Markets and Ports Authority Building (**Attachment 5 Development Concepts 3D Imagery**).

#### **Use and Yield**

Victoria Quay is closely located to the Fremantle Ports operations area which accommodates port related activities that generate noise, dust and vibration. As a result Victoria Quay Commercial Precinct can only be developed with non-sensitive land uses such as commercial and entertainment uses, and uses that are not sensitive to port activities, such as residential and other uses that will interfere with the operations of the port. The Precinct Plan therefore proposes commercial and entertainment uses.

The Precinct Plan lists permitted land uses within the Precinct and land uses that are only permitted where they have primary frontage to a street or public realm area (i.e. retail, entertainment and community uses). The range of uses proposed in the Commercial Precinct is intended to encourage activation of the port area by increasing its usage with daytime and evening activities (**Attachment 6 Victoria Quay Land Use**).

#### **Urban Structure**

The primary points of entry to the Victoria Quay Commercial Precinct are Peter Hughes Drive and the Elder Street underpass, from the northwest; and Cliff Street, adjacent to the Ports Authority Administration Building, from the south west. The Precinct Plan proposes to retain and visually improve (through landscaping and signage) these landmark entries.

The existing pedestrian overpass which extends from the Elder Street car park, over the railway line to the Fremantle Passenger Terminal, is to be retained. A second pedestrian overpass is also proposed to connect the railway station and the Commercial Precinct and will be subject to further planning and the approval of the Office of Rail Safety. The pedestrian overpasses and an at-grade crossing, just outside of the Precinct, provide for connection between the waterfront and the City Centre, which are otherwise separated by the railway line (**Attachment 7 Victoria Quay Urban Structure**).

The Precinct Plan proposes to retain and redevelop existing heritage buildings and to construct a number of new buildings to accommodate in the order of 30,000m<sup>2</sup> NLA as summarised below:

- Retention of C Shed, Fremantle Railway Station, CY O'Connor Centre/Amenities Building, Old Police Station Building, Old Waiting Room Building, remnant railway tracks and the old oil store.
- Five development sites located between the C Shed and Peter Hughes Drive and the railway line to accommodate five new buildings.
- Ground floor and decked parking areas incorporated into the design of the new buildings in lieu of open expanses of parking, as currently dominates the Precinct.

## **Built Form**

The Precinct Plan details the built form design for each of the new buildings and has designed these in response to the existing and unique building scales that currently prevail within Victoria Quay and the adjacent streets. The Built form design acknowledges the significance of the existing Ports Administration Building, which is a 10 storey tower design and a landmark building, which should remain the dominant building in the Precinct. The built form design also acknowledges the waterfront linear cargo sheds and other heritage buildings and proposes that the design and scale of new buildings, respects the existing built form and retains vistas to the Port and the waterfront. The new buildings are summarised below and in **Attachment 8**

### **Built Form Design:**

- Podium/ Tower Type building (T1), located at the eastern end of the Commercial Precinct, behind the railway station and incorporating the proposed pedestrian overpass. This building will have a podium height of 2 storeys and a tower up to 10 storeys, setback to reduce visual dominance.
- Active Frontage Type building (T3), an extension to the CY O'Connor Centre. This will be a low-rise building of 2 to 3 storeys and will comprise active frontages and uses on the ground floor.
- Low-Rise Type buildings (T2), adjacent to the heritage Police Station building extending to a height of 2 to 3 storeys.
- Podium Low-Rise Type building, immediately east of the E-Shed Markets. This building will have a 2 - 3 storey podium and a low rise tower extending to 6 storeys, setback from the street edges and public spaces.

The building envelopes for the new development sites have been located so as to retain view corridors and visual connection between the City Centre and the Port and in particular views to the waterfront and Railway Station. The proposed urban form will provide for low scaled buildings in the heart of the precinct where most street level activity will take place with the higher buildings being at the western and eastern edges of the Precinct.

The Precinct Plan also specifies building setbacks, awning and facade requirements and specifies which uses are required to have active frontages including retail, dining and entertainment uses. In addition the Precinct Plan specifies building entrance requirements, building materials, passive cooling elements, servicing, signage and environmental performance. Future development applications will be assessed against these requirements.

## **Public Realm/Open Space**

The Precinct Plan has addressed the arrangement of streets, paths and open spaces and the activation of street frontages through building design and the commercial use of public space. The Precinct Plan proposes a primary urban space with commercial alfresco use to be located between the heritage C and D shed buildings and over the disused rail tracks between C shed and the heritage buildings. An additional public space will be provided to the west of C-Shed which will look onto the water and to the Ferry Terminal.

Two pedestrian lanes are proposed between the new buildings and are intended to provide a connection between the primary urban space and Peter Hughes Drive. A sheltered public space will also be provided at the rear of the heritage buildings and will open into the new buildings. The remaining bitumen area between C and D Sheds and the heritage buildings will be retained as an open space to provide a scale and context to the existing and proposed buildings.

## **Heritage Value Protection**

The Precinct Plan has had due regard to heritage conservation and identifies buildings to be retained including the Old Police Station building, C Shed, the old Waiting Rooms building, the CY O'Connor Centre and old toilet and the remaining disused rail tracks. Future Development Applications will need to accord with these requirements.

## **Additional Performance Criteria**

The Precinct Plan includes additional performance criteria for design, pedestrian amenity, environment, heritage, and parking adaptability and aims to generate sustainable, community benefits by encouraging a higher standard of development, over and above the development controls discussed above. By meeting the additional performance criteria, floor area yield, building height and car parking requirements may be relaxed and additional development bonuses given.

## **Fremantle Station Precinct Plan**

The Fremantle Station Precinct Plan focuses on the retention of the heritage listed station building and relocation of the bus interchange to the east of the station, in order to enhance views to the station. The plan proposes to create a large forecourt area at the front of the station and a public space to the west of the station, which will extend to the proposed new pedestrian overpass and to provide a key linkage between the Port waterfront area and the station and City Centre.

## **Use and Yield**

The Precinct Plan proposes commercial, retail and civic uses in a range of new and existing buildings. A new entry to the station via Queen Street is a major component of the plan along with the development of a new bus interchange and decked parking facilities. The Precinct Plan also proposes the development of entertainment uses such as restaurants/cafes at the front of the station in the new forecourt area (**Attachment 9 Fremantle Station Land Use**).

## Urban Structure

The primary point of entry to the Fremantle Station Precinct is from the north east and via Beach Street. This entry will be reinforced as part of the Precinct Plan, with a combination of streetscaping, landscaping and signage. The Precinct Plan proposes to retain view corridors by locating new building envelopes, sensitively, to ensure existing views are not obscured. The Precinct Plan proposes to retain the existing station building and the old oil store, located to the west of the station and to construct a number of new buildings, all which will accommodate commercial and entertainment activities (**Attachment 10 Fremantle Station Urban Structure**).

## Built Form

The Precinct Plan details the built form design for each of the new buildings and has designed these in response to the existing and unique building scales that currently prevail within the Station Precinct and the adjacent streets. The new buildings are summarised below:

- a free standing building encompassing the site of the Old Oil Store which will be a maximum of three stories high.
- A westerly extension to the Railway Station building in the form of a single storey building with active frontages to the adjacent key public space and proposed at-grade pedestrian crossing.
- A relocated bus interchange and parking area (eastwards to increase the visual exposure to the Railway Station building and a redesigned at-grade bus interchange with additional height up to 4 storey's to accommodate parking for commuters, staff and private individuals.
- A small free-standing building up to 3 storeys high on the eastern side of the Railway Station and to connect with the proposed pedestrian overpass, which will extend over the railway reserve and connect two new development sites.
- Two new buildings fronting Beach and Elder Street with maximum heights of three storeys and with vehicle entries to decked car parking from Elder and Beach Street.

The building heights proposed in the Railway Station Precinct will ensure the dominance of landmark buildings such as the Railway Station and Ports Administration building are maintained by providing for low scaled buildings on either side of the existing Railway Station building. The Precinct Plan also specifies building setbacks, awning and facade requirements and specifies which uses are required to have active frontages. In addition the Precinct Plan specifies building entrance requirements, building materials, passive cooling elements, servicing, signage and environmental performance. Future development applications will be assessed against these requirements (**Attachment 11 Fremantle Station Built Form Design**).

The Precinct Plan also recognises the heritage value of certain buildings and features and proposes to retain the following:

- Railway Station Building; and
- Old Oil Store to the west if the Station.

The Precinct Plan has had due regard to heritage conservation and identifies heritage assets to be retained and future Development Applications will need to accord with these requirements.

### **Public Realm/Open Space**

The Precinct Plan proposes two major open space and public realm areas being, the Railway Station Forecourt which will extend from the Station entrance southwards to Elder Street and the public space that will connect the city centre and railway station to the proposed second at-grade pedestrian crossing.

### **Public Transport, Access and Parking**

Existing vehicle access to the bus interchange and railway station is via Market Street and Elder Place. The Precinct Plan proposes to relocate the interchange eastwards in order to minimise the visual impact on the Station building (**Attachment 12 Public Transport**). The plan also proposes to improve pedestrian safety and use of the space at the front of the station building and redevelop this large area as an attractive and multi-functional forecourt area. Access to the new bus interchange will be from Queen Street and will avoid bus movements in front of the main part of the Railway Station, subject to the following:

- Redesign of Queen and Cantonment Street;
- Construction of right turn pockets at the intersections of Phillimore Street and Elder Place turning into Market Street, Queen Street and the bus interchange;
- Queen Street (between Cantonment Street and the entry to the bus interchange) should be designed to be bus only; and
- Installation of traffic calming measures where required.

The relocation of the bus interchange entrance to Queen Street, will impact on the existing park and ride bays that are located adjacent to the existing interchange and will need to be located further eastwards and possibly above the bus interchange.

### **PLANNING FRAMEWORK**

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

- Will increase entertainment, recreation, office and commercial development on the site and allow for a small scale range of other compatible uses (State Planning Policy 1 - State Planning Framework and State Planning Policy 3 - Urban Growth and Settlement);
- The proposal will improve an underutilised site and will facilitate efficient and optimal use of land (State Planning Policy 3 - Urban Growth and Settlement);
- The site is in close proximity to compatible recreational, retail, employment and educational land uses (Liveable Neighbourhoods, Directions 2031);
- The proposal will be within a walkable distance to local amenities and public transport (State Planning Policy 4.2 - Activity Centres); and
- It will produce a more sustainable development outcome that previously existed on the site and optimises the use of unutilised land on the waterfront, adjacent

to the CBD and in close proximity to public transport and local facilities (Central Metropolitan Perth Sub-Regional Strategy and State Planning Policy 4.2).

## **GOVERNMENT AND CORPORATE IMPLICATIONS:**

The adoption of the Precinct Plans will assist in delivering the Victoria Quay Commercial and Fremantle Station Precinct as envisioned under the Fremantle Waterfront Masterplan.

There will be no financial or expenditure implications for the WAPC of the Department of Planning in the implementation of the structure plans.

## **CONSULTATION:**

### **Community Engagement**

The Fremantle Ports, City of Fremantle and Public Transport Authority had regular meetings and communication with the project partners, the consultant team and the Victoria Quay Waterfront Stakeholder Reference Group. The reference group comprised representatives from:

- Relevant state agencies (planning, heritage)
- Business and interest groups (Chamber of Commerce, National Trust, Notre Dame University)
- Community groups (Fremantle Society, Fremantle History Society, FICRA)
- Victoria Quay stakeholders (Victoria Quay Taskforce, business operators).

There were also a number of opportunities for community input including a 2 day urban design forum and community open days to view and comment on the final draft plans.

The City's further 21 day advertising period closed on 27 November 2014. The draft precinct plans were advertised for comment via the City's website, local newspaper and by communication with local precincts and other stakeholders who had participated during preparation of the draft plans.

No submissions were received.

### **Agency Consultation**

The Department of Planning sought referral comments from all relevant government and servicing agencies as summarised and discussed below;

- **PTA** - PTA has endorsed the Fremantle Station Precinct Plan and does not require further comment on other Precinct Plans.
- **Fremantle Ports** support and have led the preparation of the Precinct Plans.

- **SHO** recommend preparation of design guidelines for public spaces and this is supported for inclusion in the Regulatory/Planning Framework Section (either in the form of referring to design guidelines/components of the plan) or separately adopting the components of the plan as Design.
- **Fremantle City Council** considered the Plans on 3 December 2015 and resolved to support the Precinct Plans subject to the following:
  - \* Preparation of an implementation plan to address staging, delivery funding etc will be recommended as part of a Schedule of Modifications that will accompany the WAPC's endorsement of the Plans either in the form of a MOU and be listed in the Regulatory/Planning Framework Section (which outlines core planning requirements i.e land use permissibility, heights etc);
  - \* Provision of improved access for ship passengers through the Precinct Plan areas and into the city area. Note comments from CODA but consider the Precinct Plan could require the implementation of the Signage Strategy within the Precinct areas and this will be recommended for inclusion in the Regulatory/Planning Framework Section;
  - \* Modifications to address building height requirements and to stipulate height in metres is supported at this stage and will be recommended for inclusion in the Regulatory/Planning Framework Section, agree that a maximum cap is not appropriate and the design criteria will determine the maximum building height.
  - \* Support a statement being included that there is no intended upgrade to the Market Street bus entry;
  - \* Development Site 1- inclusion or endorsement of the Design Guidelines will guide the future development of this and other sites and additional guidelines or development plans are not considered necessary;
  - \* Support for future investigations into the continuation of the raised pedestrian crossing to connect with other sites and the city centre is supported WAPC but not relevant to the subject Precinct Plans.
- **Department Environmental Regulation** – No comments.
- **Department of Transport** - recommend a noise and vibration and a traffic impact assessment be carried out and will be required to accompany future development applications as will be listed in the Regulatory/Planning Framework Section. DoT also advises a closure of the existing at-grade rail crossing may be required in lieu of the new at-grade proposed crossing.
- **Western Power** request an easement to protect existing or planned infrastructure and this is supported and will be required at Development stage.
- **Water Corporation** - The Corporations interests relate to the Waste Water Treatment Olan tans associated buffer but this falls outside of the subject precincts.

No major issues have been raised by any of the agencies that cannot be addressed through modifications to the Precinct Plan. The Department supports the majority of the agency recommendations with the exception of the City of Fremantle's request to

upgrade the passenger terminal. This is not supported because it is outside of the Precinct Plan areas and there is no nexus to require such an upgrade.

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

The Precinct Plans are not required to adhere to any structural requirements, such as the WAPC's Structure Plan Preparation Guidelines of 2012, because of the land being reserved and under the control of the Metropolitan Region Scheme. The Precinct Plans are therefore in a format that is not easily recognised and is not structured in such a way to provide for easy development assessment. Modifications are therefore recommended, to require the inclusion of a statutory or regulatory section to list all of the specific development controls including height, setbacks and access.

It is generally considered that the precinct plans for the Victoria Quay Commercial Precinct and the Fremantle Station Precinct satisfy the requirements of the Metropolitan Region Scheme. The proposed Precinct Plans are consistent with the Public Purpose-Special Uses Reservation, the Precinct plans respect the orderly and proper planning of the locality and will preserve heritage amenities and vista's and introduce new development sites and open spaces that will enhance the amenities available to the public.

The plans reinforce the need for the project partners (City of Fremantle, Fremantle Ports and Public Transport Authority) to continue with their partnership to identify funding opportunities and an appropriate delivery model to expedite implementation of the plans.

The key issue of concern is the need for an agreement on, and commitment to, the coordinated implementation and funding of works contemplated by the precinct plans, especially those involving the station precinct, which links Victoria Quay to the city centre and contains essential development elements with respect to transport infrastructure, public realm improvements and connectivity. It is considered and recommended that the implementation plan should be negotiated and agreed by the parties prior to commencement of any development.

Modifications are recommended generally to address the following:

- Inclusion of a regulatory or statutory section, which includes all the development requirements including parking, height and setbacks and which refers to the requirements of the previously endorsed Victoria Quay Signage Guidelines 2010;
- The regulatory section to stipulate the requirement for traffic studies to accompany major development proposals;
- The need to stipulate the requirements for an Implementation Plan that will address the staging, funding and delivery of various elements of the Precinct Plans with a view aim being to deliver key public realm areas and infrastructure; and
- Reference to building heights over the precinct Plans to be consistent and referred to in storeys or metres; and

## **CONCLUSION:**

The Victoria Quay Commercial and the Fremantle Station Precinct Plans are suitable for WAPC endorsement, subject to the recommended Schedule of Modifications. Once modified, the Precinct Plans will generally provide a basis for future development applications to be approved, subject to the recommended modifications being carried out.

The Precinct Plans will generally provide the adequate controls to ensure the precinct Plans are delivered as intended.

The Precinct Plans are consistent with State government policy direction and constitutes an efficient use of appropriately located urban land and is recommended for endorsement subject to modifications.

## ITEM NO: 9.6

### Endorsement Westfield Innaloo Detailed Area Plan

<b>WAPC OR COMMITTEE:</b>	<b>Statutory Planning Committee</b>
REPORTING AGENCY:	Department of Planning
REPORTING OFFICER:	Senior Planner Metro Planning Central
AUTHORISING OFFICER:	Director Metro Planning Central
AGENDA PART:	C
FILE NO:	SPN/0572
DATE:	29 June 2015
REPORT CATEGORY:	Statutory
RECOMMENDATION OUTCOME:	1. Endorse
ATTACHMENT(S):	1. MRS Location Plan 2. Aerial View 3. Detailed Area Plan Area 4. Precinct Areas 5. Site Layout 6. Building Heights Plan 7. Facade Types 8. Land Use Plan 9. Road and Site Layout Plan 10. Staging Plan 11. Schedule of Submissions 12. Schedule of Modifications
REGION SCHEME ZONING:	Central City Area
LOCAL GOVERNMENT:	City of Stirling
LOCAL SCHEME ZONING:	Development
LGA RECOMMENDATION(S):	Endorsement
REGION DESCRIPTOR:	Metropolitan Planning Central
RECEIPT DATE:	10 April 2015
PROCESS DAYS:	49 days
APPLICATION TYPE:	Detailed Area Plan / Structure Plan
CADASTRAL REFERENCE:	Lots 4, 31 and 101 Scarborough Beach Road, Lots 84 and 204 Oswald Street and Lots 202 and 203 Ellen Stirling Boulevard

## **RECOMMENDATION:**

***That the Statutory Planning Committee resolves to:***

- 1. endorse the Westfield Innaloo Detailed Area Plan, subject to the schedule of modifications (in Attachment 12) in consultation with the Department of Planning and the Local Government;***
- 2. advise the City of Stirling of its decision accordingly.***

## **SUMMARY:**

- The City of Stirling has forwarded the *Westfield Innaloo Detailed Area Plan* for endorsement by the Western Australian Planning Commission's (WAPC) as required under clause 6.11.7 (g)(v) of the City's Local Planning Scheme No. 3 (LPS 3).
- The Detailed Area Plan has been prepared in accordance with the requirements of the City of Stirling Local Planning Scheme No. 3 (LPS 3). The scheme requires the preparation of a Detailed Area Plan, prior to the commencement of development.
- The Detailed Area Plan has also been guided by the draft Stirling City Centre Structure Plan however this is pending the adoption of the Western Australian Planning Commission in the coming months. It would have been preferred that the draft Structure Plan would have been considered by the WAPC in conjunction with the Detailed Area Plan but significant structural issues have been identified with the draft Structure Plan and are currently being addressed by the City of Stirling.
- Endorsement of the draft Structure Plan is not required to progress the Detailed Area Plan and LPS 3 has the head of power for the WAPC to determine the Detailed Area Plan.
- Endorsement of the Detailed Area Plan will not prejudice the finalisation and implementation of the draft Structure Plan. In addition the major objectives envisaged by the draft Structure Plan have been met in the subject Detailed Area Plan.
- The purpose of the Westfield Innaloo Detailed Area Plan is to guide development over the existing SCentre Group landholdings comprising Westfield Innaloo Shopping Centre and the Innaloo Megacentre only. The Detailed Area Plan sets a broad framework, provides guidance and built from control upon which future Development Applications will be assessed.
- The Detailed Area Plan has been endorsed by the Council, subject to modifications and is generally supported by the Department of Planning (DoP) for the purpose of progressing the Westfield Innaloo Development Application, subject to some minor modifications being made to the document.

## **BACKGROUND:**

The subject Detailed Area Plan has been prepared under the City of Stirling LPS No. 3. LPS No. 3 was recently amended (Amendment No. 1) to introduce a Special Control Area for the Stirling City Centre, a Development Area, Development Zone and Development Contribution Area. Amendment No. 1 also introduced statutory controls for the preparation and determination of detailed area plans.

Planning for the Stirling City Centre, including the Westfield and Megacentre sites has been ongoing for some 20 years. The preparation of the Detailed Area Plan has resulted from collaboration between the City of Stirling, the Western Australian Planning Commission (WAPC), Department of Transport, Westfield and other major government and non-government stakeholders. The subject Detailed Area Plan is the first statutory document that will be approved and will facilitate commencement of the redevelopment of the area.

As detailed in the summary, a draft Structure Plan has been prepared for the Stirling City Centre which has been endorsed by Council and forwarded to the WAPC for endorsement. Significant issues however, have been identified with the draft Structure Plan and discussions with the City staff have concluded that further work is required prior to it being endorsed by the WAPC. Notwithstanding this, LPS 3 provides a head of power for the determination of a detailed area plan in the absence of a Structure Plan and the issues associated with the Structure Plan do not affect the operation of the Detailed Area Plan.

Ideally, the Structure Plan would have been endorsed prior to or in conjunction with the subject Detailed Area Plan however the Department has assessed that there is no risk in determining the Detailed Area Plan without the endorsement of the draft Structure Plan. In addition and as outlined in the summary, LPS No. 3 provides a head of power for the determination of the Detailed Area Plan.

The Detailed Area Plan needs to be endorsed within a specified timeframe, being July 2015. This is to enable a Development Assessment Panel application for the redevelopment of Westfield Innaloo and the Megacentre to be determined within the required statutory timeframes. The Detailed Area Plan is due to be determined by the Development Assessment Panel at its meeting in July.

As a background to the subject Detailed Area Plan and the above mentioned Development Application, SCentre Group worked with the WAPC, City of Stirling and Department of Transport on the potential acquisition of government land adjacent to the centre, to facilitate the provision of regional infrastructure and to potentially increase the area of land that could be developed as part of the Westfield development. These investigations were undertaken via a Memorandum of Intent with the WA Planning Commission and were ultimately responsible for the preparation of a Westfield Formal Proposal. The Westfield Formal Proposal is not proceeding at this time due to a review of the transport infrastructure by the Department of Transport. This review is likely to be ongoing with recommendations anticipated at the end of 2015.

The subject Detailed Area Plan has therefore only been prepared over the land owned by Westfield, land containing the BP Service Station and surplus road reserve

associated with Scarborough Beach Road. The Detailed Area Plan will provide for the redevelopment of Westfield Innaloo and the Megacentre as well as any redevelopment of the BP service station, future intersection upgrades (Liege Street and Scarborough Beach Road) and residential development north of Oswald Street.

#### LEGISLATION / STRATEGIC PLAN / POLICY:

<b>Legislation</b>	<i>Planning and Development Act 2005</i>
Section:	Part 10
<b>Strategic Plan</b>	
Strategic Goal:	Planning
Outcomes:	<ul style="list-style-type: none"> <li>• Effective Delivery of integrated plans</li> <li>• Planned local communities developing a sense of place</li> </ul>
Strategies:	<ul style="list-style-type: none"> <li>• Develop integrated infrastructure and land use plans for the State</li> <li>• Implement State and regional planning priorities</li> <li>• Encourage innovation in the design of our communities</li> </ul>
<b>Policy</b>	
Number and / or Name:	<ul style="list-style-type: none"> <li>• Statement of Planning Policy No. 1 - State Planning Framework</li> <li>• State Planning Policy 4.2 Activity Centres Perth and Peel</li> <li>• Directions 2031 and Beyond</li> <li>• Draft Central Perth Metropolitan Perth Sub-regional Strategy</li> </ul>

#### DETAILS:

##### The Detailed Area Plan

The Westfield Innaloo Detailed Area Plan comprises land owned solely by SCentre Group and comprising the following lots as identified in **Attachment 1 MRS Location Plan, Attachment 2 Aerial View and Attachment 3 Detailed Area Plan**:

- Lot 4, Lot 101 and Lot 31 Scarborough Beach Road;
- Lot 50 and Lot 204 Oswald Street; and
- Lot 202 and Lot 203 Scarborough Beach Road.

Westfield Innaloo and the adjoining Megacentre (northern side of Oswald Street) are major economic drivers within the Stirling City Centre. The area contained in the Detailed Area Plan comprises some 12 hectares of land and is set to become one of the metropolitan areas major hubs of commercial and mixed use activity.

The Detailed Area Plan straddles Oswald Street. The southern portion is currently occupied by Westfield Innaloo, an almost exclusively retail destination that incorporates major retail outlets such as Kmart, Coles, Target and Woolworths. The

southern portion also includes the BP Service station site on Scarborough Beach Road and a section of surplus road reserve associated with Scarborough Beach Road. The northern portion of the Detailed Area Plan is occupied by the Innaloo Megacentre which includes the Spud Shed and a number of retail outlets. The Detailed Area Plan also includes Oswald Street.

Both Westfield and the Megacentre together form a major retail destination in the Central sub region of Perth. While both centres are currently performing strongly, they are both predominantly designed without internalised activities, and do not integrate or interface well with surrounding development or streets.

This Detailed Area Plan, amongst other things, provides additional detail in relation to the potential built form, spatial layout, land uses, and street interfaces. The Detailed Area Plan also includes Mandatory Development Controls, which any future Development Applications will be assessed against.

### Site Layout

The Detailed Area Plan relates to the Southern Precinct of the draft Stirling City Centre Structure Plan (**Attachment 4 Precinct Areas**) and proposes the following:

- Land between Scarborough Beach Road and Oswald Street to form the retail core, with areas north of Oswald Street taking on a mixed use focus with opportunities for additional retail development north of Oswald Street;
- Possible construction of a private link road between Oswald Street and Ellen Stirling Boulevard (**Attachment 5 Site Layout**) to assist in servicing residential areas and to allow for road closures in the Town Square;
- Construction of a Town Square at the south-west portion of the Ellen Stirling Boulevard/ Oswald Street intersection so as to easily integrate with the Westfield shopping centre and will facilitate its activation and commercial success; and
- Alternatively if major retail expansion occurs on the northern portion of the Detailed Area Plan area, the Town Square could be positioned on the north-west area of the intersection.

Section 5.4 of the Detailed Area Plan outlines the responsibility for construction, and the proposed ownership of the square. The Town Square will form part of the Stage 1 Development Application. The site layout of the Detailed Area Plan is supported by the Council and by the DoP and no modifications are recommended in this regard.

### Building Height

**Attachment 6 - Building Height** illustrates indicative building height ranges. The heights range from 2 - 5 storeys to 2 - 20 storeys. In determining the appropriate heights at the Development Application stage, consideration will be given to the overriding principle, being to concentrate the activity and built form on Ellen Stirling Boulevard as a priority and Oswald Street as a secondary option. The ability to construct higher buildings will provide opportunities for mixed use development and a modification is recommended to provide for additional building height along Scarborough Beach Road also.

The Building Height Plan accommodates two areas; either side of Oswald Street, where landmark buildings could be constructed or, which could frame the town square, and provide major entry statements. The Building Heights Plan allows for buildings to extend to 20 storeys on these sites.

Given the dominance of the shopping centre structure and complications of varied vertical distribution of land uses in this area of the Detailed Area Plan, additional height in some areas is considered appropriate and could accommodate diversified uses, in place of different uses being spread across the whole Detailed Area Plan area. Accordingly additional height is recommended to facilitate residential development and achievement of the dwelling and density targets.

### Urban Typologies / Frontage Types

The built form strategy for the Detailed Area Plan area is for development control to be largely based on proposed interface types with surrounding development and will ensure that adjacent development interacts with its surroundings. The Detailed Area Plan defines four different façade types (**Attachment 7 Façade Types**), each responding to the different site and locational characteristics of that frontage, while recognising the realities of major commercial operations like shopping centres, and the need to concentrate activity in dedicated spaces.

A number of standards apply to each façade type, including ground level treatments, setbacks, awnings, car parking and ideal land uses. It should be noted that façade types should be interpreted as 'minimums'. Each area with a street frontage has been allocated a façade type and future Development Applications will be assessed against this. The Urban Typologies and Façade Types are supported and will provide adequate controls for future Development Applications to be assessed against.

### Land Use

The Stirling City Centre Structure Plan identifies two different overarching Land Use Sectors and seven Land Use Categories, which have corresponding land use permissibility's (**Attachment 8 Land Use Plan**). Modifications are recommended however to require Figure 7 - Land Use to be amended to provide detailed land use breakdown and to identify the location of specific land uses (residential, mixed use, commercial, office, public realm etc). A modification is also recommended that this plan be amended to identify specific locations for residential development.

### Land Use Requirements and Yields

The draft Structure Plan specifies the following for the Southern Precinct;

- The minimum commercial land use floor spaces shall be provided and requires the provision of 173,497m<sup>2</sup> of commercial floorspace to be provided within the Southern Precinct; and
- The minimum dwelling targets shall be delivered on all development and requires a minimum dwelling target of 1360 dwellings and a preferred dwelling target of 2100 dwellings.

SCentre Group's landholdings comprise approximately 36% of the developable land in the Southern Precinct, which equates to approximately 500 dwellings across the subject site. The dwellings will be distributed across the SCentre Group's landholdings and the land fronting Scarborough Beach Road. Given the requirements of shopping centre structures, and the intent to concentrate commercial activities to the south of Oswald Street, the Westfield Innaloo Detailed Area Plan area's main residential component is allocated to the north of Oswald Street with provision for additional high rise residential in areas to the south of the commercial centre. A modification to the Detailed Area Plan is required to ensure the delivery of residential dwellings/units at the appropriate stages and will be discussed in the Officer Comment Section.

It is expected that development in the Detailed Area Plan area will accommodate at least 100,000m<sup>2</sup> NLA of retail floorspace (from approximately 50,000sq.m currently) and 30,000m<sup>2</sup> of non-retail commercial floorspace. It is considered that the land use requirements and yields, identified in the Structure plan, have been met.

### Transport, Access and Parking

Access to and from Westfield Innaloo is provided via a range of crossovers from a number of streets. As the centre evolves, access points should be consolidated where feasible, or be modified and designed so as to reflect the intended role of the street in question, and the intent for creating a city centre.

Most significantly, the Detailed Area Plan will facilitate significant road improvements, which form part of the Development Application, which is due to be determined by the Development Assessment Panel Application and includes the following:

- Scarborough Beach Road and Odin Road – right turn lane on Scarborough Beach Road to be extended by 40 to 50 metres to improve traffic flow on Scarborough Beach Road westbound;
- Modification to the Scarborough Beach Road and Liege Street intersection to allow for a greater range of movements, including left and right-in turns from Scarborough Beach Road, as well as exit movements in all directions and will expand access/egress to and from the centre and relieve traffic pressure on Ellen Stirling Boulevard and other roads;
- Retention of median islands in Scarborough Beach Road to provide for safe pedestrian passage;
- Extension of the right turn from Ellen Stirling Boulevard to Oswald Street and installation of new pedestrian facilities, this will improve access to the town square and bus stops;
- Creation of a new Sarich Court connection to Ellen Stirling Boulevard, which will reduce pressure on Cedric Street, and also allow for pedestrian and cycle connections from Osborne Park to the train station;
- Creation of a new third right turn lane from Ellen Stirling Boulevard into Cedric Street for bus movements and will assist in improving bus travel times and efficiency;
- Construction of a 310 metre long bus priority lane on Cedric Street and the extension of the existing left turn lane providing access to the Mitchell Freeway northbound on-ramp and will improve bus travel times and allow

traffic headed to the freeway to bypass congestion on the Cedric Street bridge deck and

- Duplication and signalisation of the left turn lane onto Cedric Street and will involve the removal of one of the right turn lanes and will minimise the impact of congestion on the freeway.

The owners have been working extensively with a Transport Working Group to determine what road upgrades are required to facilitate the expansion of the commercial centre and the above improvements have been agreed to by all parties. Public transport facilities will also be improved with new bus stop facilities proposed on either side of Ellen Stirling Boulevard adjacent to the town square, south of Oswald Street.

As shown on **Figure 9**, a new private link road is proposed on the Megacentre site between Oswald Street and Ellen Stirling Boulevard. The purpose of this road is to minimise the impact of loading facilities and car park entries on the external road network. All loading areas and car park areas on the Megacentre site will be serviced by this road. When the residential portion of the Detailed Area Plan is developed, this road will be utilised.

### General Provisions

The Detailed Area Plan contains General Provisions in Part 4 and these provisions apply to all development within the Detailed Area Plan area unless specifically stated otherwise. The provisions promote and encourage high quality innovative design solutions within the locality of the Westfield Innaloo.

The Detailed Area Plan is intended to be predominately performance based and the provisions provide specific design objectives that must be achieved, with flexibility applied to the design intent. Some mandatory controls have been included, requiring the inclusion of important design elements for developments to achieve the objectives.

The City may refuse an application for development where it has not demonstrated that it can meet the objectives of the Detailed Area Plan. Each application for development approval will be assessed on an individual basis and the approval of a particular development will not set a precedent for other developments. The General Provisions are supported by the DoP and provide sufficient detail to assess future Development Applications against.

### Staging

**Figure 10 Staging Plan** shows the proposed staging of the Detailed Area Plan. Stage 1 is intended to provide for the core retail development expansion and the development of the town square. Stage 2 would involve sleeve development around Ellen Stirling Boulevard and the possible reconstruction of this road. Stage 3 includes the balance of the land in the northern portion of the site and would comprise a mixed use development and Stage 4 would involve the redevelopment of the land at the corner of Scarborough Beach Road and Ellen Stirling Boulevard.

The delivery of the residential component at the appropriate stages is the key consideration in relation to staging and will be discussed in the officer comment section of the report.

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

Nil.

#### **CONSULTATION:**

The Detailed Area Plan was advertised for public comment for a period of 21 days from the 20 January 2015 to the 9 February 2015 by the City of Stirling. During the advertising period a total of eight submissions were received with one objecting to the Detailed Area Plan and seven in support of the Detailed Area Plan. A summary of the submissions along with comments from the City and the DoP are contained in **Attachment 11 - Schedule of Submissions**.

The main points raised in the submissions are summarised below:

- location of transport stops;
- pedestrian and cycling network and access to the centre;
- bike parking and end of trip facilities in the centre;
- vehicle access and car parking in the centre;
- water efficiency;
- the need for traffic impacts to be addressed prior to the commencement of any development;
- the need for infrastructure upgrades;
- developer contributions; and
- interface with surrounding development.

The most significant issues raised in the consultation period relate to developer contributions and traffic impacts. A developer contribution plan is not required for the Detailed Area Plan for the Southern Precinct and cost contributions have already been made under an earlier scheme being Town Planning Scheme No. 38, which provided the funding for the construction of Ellen Stirling Boulevard. A traffic assessment forms part of the Development Application and will be implemented as part of the development process and in addition, a modification to the Detailed Area Plan is recommended to require a traffic assessment for high trip generation land uses, in accordance with the requirements of State Planning Policy 4.2 - Activity Centres Perth and Peel.

The City of Stirling has recommended a number of modifications, which are supported by the Department, that respond to the outcome of the public advertising period. These modifications will form part of the Final Schedule of Modifications for the subject Detailed Area Plan.

## **OFFICER'S COMMENTS:**

### Statutory Context and Head of Power to Determine the Detailed Area Plan

The land the subject of the Detailed Area Plan is contained in the Stirling City Centre Special Control Area of LPS No. 3. The land is also zoned Development under the scheme.

Clause 6.11.4 of LPS No. 3 states that for the purpose of promoting a high standard of development within the Stirling City Centre, the Council shall adopt a Structure Plan for the Stirling City Centre Special Control Area. The City of Stirling has endorsed the Structure Plan in accordance with this clause.

Clause 6.11.4 also states that notwithstanding the provisions of the scheme, development with a Nett Lettable Area (NLA) greater than 2000m<sup>2</sup> shall not be approved within the Stirling City Centre Special Control Area until a Detailed Area Plan for the lot or lots on which the development is proposed has been adopted.

These scheme controls require that Detailed Area Plans enhance, elaborate or expand the details or provisions contained in the structure plan. The Scheme requires the preparation of a Detailed Area Plan for the lot or lots on which the development is proposed, prior to the commencement of subdivision or development.

Clause 6.11.7 (a) (i) requires that all Detailed Area Plans within the Southern Precinct contain a portion of residential uses so as to ensure that the minimum residential targets for the Southern Precinct are met.

### Compliance with Local Planning Scheme No. 3

As detailed above, the scheme requires that each Detailed Area Plan shall contain a portion of residential development to ensure the minimum dwelling targets can be identified.

The Westfield Innaloo Detailed Area Plan provides for residential development however not as part of the first stage of development, which is isolated to the redevelopment of the commercial facilities. The Detailed Area Plan however, specifies that the staged provision of residential dwellings and non-retail commercial floorspace will occur concurrently with major retail development and specifies that residential development must be provided and substantially commenced or occupied prior to the occupation of that retail development.

Whilst not in strict compliance with the scheme, it is considered that the Mandatory Development Controls that form part of the Detailed Area Plan and which stipulate the amount of residential and short stay floorspace to be provided, will ensure the staged provision of residential dwellings and will ensure that the dwelling targets are met. A modification is recommended to strengthen these controls

LPS No. 3, Clause 6.11.4, provides the head of power to determine the Detailed Area Plan in lieu of a Structure Plan being endorsed. Secondary to this, approval to the Detailed Area Plan will not impact on the delivery of the Structure Plan or other Detailed Area Plans for other Precincts.

## Compliance with the Draft Structure Plan

The preparation of the Detailed Area Plan has also been guided by the Stirling City Centre Structure Plan, which covers a large area extending from Karrinyup Road in the north to Jon Sanders Drive in the south and from Odin Road and Liege Street in the west and to King Edward Road, Telford Crescent and Cedric Street in the east. The Structure Plan has been divided into six precincts and identifies the land comprising the Westfield Innaloo Detailed Area Plan as being included in the Southern Precinct.

The Southern Precinct is located in the southern area of the Structure Plan, straddles Scarborough Beach Road and is proposed to be characterised by the following:

- Mixed Use development with an emphasis on shopping;
- A street based shopping environment with possible future light rail along Ellen Stirling Boulevard which will include the redevelopment of the existing shopping centre;
- High Density residential development; and
- Light rail with high-quality pedestrian environment lined with active ground floor uses within mid-rise mixed use developments.

LPS 3 provides the statutory controls for the assessment and determination of the Detailed Area Plan. This can occur without the adoption of the Structure Plan, although, it is recommended that the following assessment make reference to the intent of the Structure Plan, which is unlikely to change, when endorsed by the WAPC in the future.

## Activity Centre Analysis

State Planning Policy 4.2 guides the development of activity centres across the metropolitan area. Stirling City Centre is a Strategic Metropolitan Centre under SPP 4.2. An activity Centre Structure Plan has not been prepared for Stirling City Centre and rather a District Structure Plan, being the draft Stirling City Centre Structure Plan has been prepared. It is therefore recommended that future Detailed Area Plans and Development Applications address the requirements of SPP 4.2.

The assessment of the Detailed Area Plan against SPP 4.2 is summarised below and against the objectives listed in SPP 4.2.

Objective One To Distribute activity centres to meet different needs and enable employment, goods and services to be accessed efficiently and equitably by the community. It is assessed that the range of retail and other uses existing and proposed in the Detailed Area Plan and redevelopment of Westfield Innaloo is consistent with that expected of a strategic metropolitan centre.

Objective Two Apply the activity centre hierarchy as part of a long term and integrated approach by public authorities and private stakeholders to the development of economic and social infrastructure. It is assessed that the Detailed Area Plan and the proposed expansion of Westfield and the Megacentre has

followed an extensive planning process which has resulted in Stirling being identified as a major destination for investment and intensification.

Objective Three Plan activity centres to support a range of retail and commercial premises and promote a competitive retail and commercial market. It is assessed that the Detailed Area Plan and the proposed expansion of Westfield Innaloo will expand the retail offering and offers a reasonable level of competition to other centres. SPP 4.2 does not require the preparation of a Retail Sustainability Assessment for major development proposals within strategic metropolitan centres. The proposed Detailed Area Plan and redevelopment will provide the catchment with a full range of goods and services that are anticipated for a strategic metropolitan centre.

Objective Four Increase the range of employment in activity centres and contribute to the achievement of sub-regional employment self-sufficiency targets. It is assessed that the Detailed Area Plan will provide for the redevelopment of the core retail precinct and the delivery of increased employment opportunities.

Objective Five Increase the density and diversity of housing in and around activity centres to improve land efficiency, housing variety and support centre facilities. It is assessed that whilst the Detailed Area Plan does not provide residential development as part of the first stages of redevelopment, it does provide for the delivery of a residential component in other stages and with the setting aside of a significant parcel of land on the Megacentre site, specifically for residential development in the future. It is recommended that Stage 1 proceed without a residential component to act as a catalyst for the redevelopment of the area. Following stages 2, 3 and 4 should demonstrate progress towards the dwelling targets for the area.

Objective Six To ensure activity centres provide sufficient development intensity and land use mix to support high frequency public transport. It is assessed that the Detailed Area Plan will increase the scale of the centre as with the range of used. The Detailed Area Plan proposes low parking rates, an interface of the centre with main public transport stops and will also support transit use in the future.

Objective Seven Maximise access to activity centres by walking, public transport and reducing car trips. It is assessed that the Detailed Area Plan area benefits from its proximity to the Stirling train Station and Scarborough Beach Road, which carry train and bus services.

Objective Eight Plan activity centre development on a legible street network and quality spaces. It is assessed that the Detailed Area Plan proposes high quality streets and public spaces and will provide a focal point for the centre itself and the wider activity centre. The existing street structure is supported and enhanced thorough bringing built form of a significant scale to most of the streets that the centre fronts.

It is the assessment of the Department, that whilst the Detailed Area Plan has not been predicated by an Activity Centre Structure Plan, the Detailed Area Plan in itself, in conjunction with the proposed Development Application meets all of the requirements of State Planning Policy 4.2.

A modification is however recommended that the Detailed Area Plan include some detail on the Activity Centre requirements and that the Development Application include a more detailed Activity Centre Analysis.

### Council Modifications

In response to submissions made during the advertising of the Detailed Area Plan the Council has recommended a number of modifications as summarised below:

- Bus stop locations on Ellen Stirling Boulevard are now shown.
- Pedestrian access points are now shown.
- Text now reflects that access to the centre will be by a variety of modes and predominantly non-car modes.
- The need for additional plans for full parking management (both private and public parking), and travel demand management, are now included.
- A section on development contributions for local road upgrades in accordance with the draft Structure Plan is now included. This will ensure that approval of development applications will be made subject to contributions for local road upgrades.
- Detailed Area Plan now includes a discussion on Liege Street and Scarborough Beach Road upgrade.
- Building requirements included for the residential component of the development

The DoP has assessed the modifications as recommended by Council and supports these and has included them in **Attachment 12 Schedule of Modifications**.

### Additional Modifications

An assessment of the Detailed Area Plan has identified the need for additional minor modifications to ensure the objectives of the draft Structure Plan and the Southern Precinct are met and in some cases to give the document more statutory weight. A summary of the additional modifications are listed below:

- Modify Section 3.1.1 Mandatory Development Controls to specify a maximum building height along the edges of the town square. This modification is recommended to compliment the Mandatory Development Controls which specify a minimum building height along the edge of the square being 6 metres. Figure 5 specifies a maximum building height up to 20 metres however no mid-range building in height is stipulated for sensitive development such as that adjoining the square. To ensure the 'village atmosphere' is not compromised by building height, a maximum building height adjacent to the square is recommended (i.e. 12 metres).
- Modify section 3.1 Mandatory Development Controls to provide more guidance for the proposed upper level walkways, including the height, road clearance and land use on the bridges. This is considered necessary to control the use and impacts of these walkways.
- Clarify the location and density of residential dwellings in the future.
- Clarify parking ratios for the Core Area and recognise the whole Detailed Area Plan area as part of the core area.

- Modify section 3.6 to stipulate that a Transport Assessment SHALL be required with relevant DA's, to ensure consistency with State Planning Policy 4.2 Activity Centres for Perth and Peel.
- Modification to Figure 7 to specify specific land uses (residential, mixed use, commercial, office, public realm etc).
- Figure 7 or an alternate figure to identify locations for residential development and where/how the dwelling targets will be achieved.
- Recommend the location of high rise residential along the Scarborough Beach Road/Ellen Stirling Boulevard Development Area (Figure 4).
- Recommendation that residential is delivered in Stages 2, 3 and 4 and a residential staging plan is required to demonstrate how this will occur and when dwelling targets will be delivered.
- Recommend the building height focus be modified to locate higher buildings closer to and along Scarborough Beach Road to maximise views to CBD, over Herdsman etc and to create potential for a landmark entry to the Precinct.
- Recommend flexibility in the design and size of the Town Square rather than specifying 850m<sup>2</sup>.

**Attachment 12 - Schedule of Modifications** contains the full list of modifications as recommended by the Department of Planning. The modifications have been discussed with the City of Stirling and the applicants and are generally agreed to.

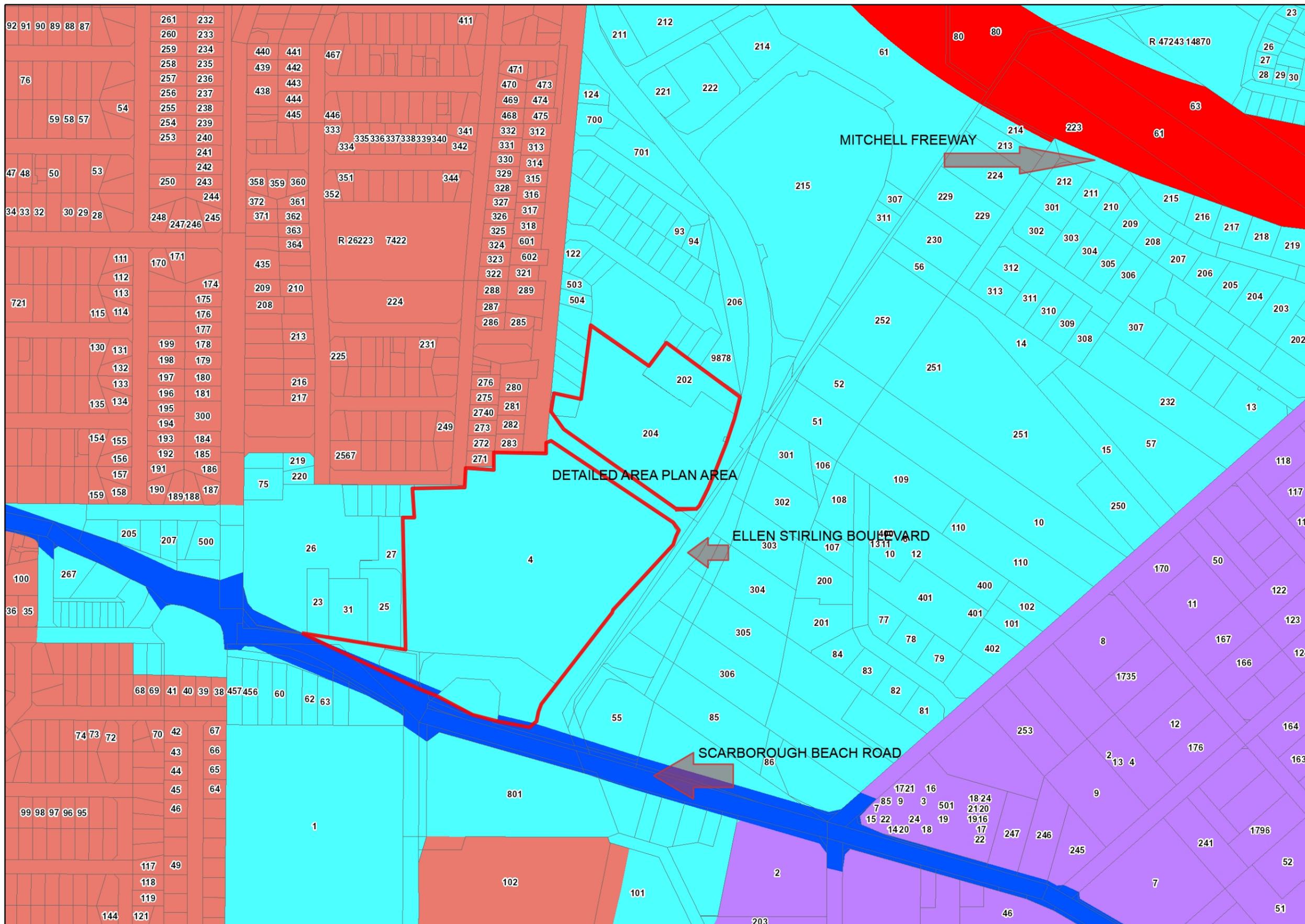
## **CONCLUSION:**

The Westfield Innaloo Precinct Detailed Area Plan is the outcome of collaborative planning undertaken by the City in partnership with various State Government agencies, including extensive community consultation over the period of its development through the former Stirling Alliance, the community and Westfield. The proposed Detailed Area Plan provides a model for the growth of the Westfield Innaloo area that is aligned with and supports the draft Stirling City Centre Structure Plan.

Modifications that are recommended to the Detailed Area Plan address the submissions received by the City of Stirling and, particularly in relation to bus stop locations, site access (including pedestrian access points, and access via various modes of transport), parking management plans, and development contributions for local road upgrades, residential building requirements, and environmental requirements.

The Westfield Innaloo Detailed Area Plan is generally consistent with the requirements of LPS No. 3 and the draft Stirling City Centre Structure Plan. The recommended modifications will ensure full compliance with the statutory requirements. Endorsement of the Detailed Area Plan will facilitate the first five stages of redevelopment including the redevelopment of the commercial core and Westfield Innaloo and the Megacentre, construction of a Town Square, construction of a possible link road from Oswald Street to Ellen Stirling Boulevard and the staged supply of residential and short stay dwellings and accommodation. This will assist in meeting the aspirations of the Activity Centres framework for Perth and the infill housing targets promoted for the Central sub region.

- Legend**
- Local Government Area
  - Cadastre (View 1)
  - Region Scheme Boundary
- Region Scheme Zones and Res**
- Central city area
  - Industrial
  - Other regional roads
  - Primary regional roads
  - Urban



**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.

# ATTACHMENT 1 MRS LOCATION PLAN

INTERNAL USE ONLY

Internal Spatial Viewer  
[Link to website](#)



1: 5,610  
at A3

Projection: WGS 1984 Web Mercator Auxiliary Sphere

Produced by: FUNCTIONALITY TO COME

## ITEM NO: 9.7

### Subdivision to Create Two Lots for Residential Purpose at Lot 450 No. 27 Wrexham Street, Bicton

**WAPC OR COMMITTEE:** Statutory Planning Committee

REPORTING AGENCY: Department of Planning  
REPORTING OFFICER: Planning Officer - Metropolitan Planning Central  
AUTHORISING OFFICER: Director - Metropolitan Planning Central  
AGENDA PART: G  
FILE NO: 151607  
DATE: 18 June 2015  
REPORT CATEGORY: Statutory  
RECOMMENDATION OUTCOME: 1. Approve  
ATTACHMENT(S): 1. TPS Zoning and Location Plan  
2. Plan of Subdivision  
3. Draft LPS 6 Scheme Map 3  
4. Bicton Locality Map  
REGION SCHEME ZONING: MRS: Urban  
LOCAL GOVERNMENT: City of Melville  
LOCAL SCHEME ZONING: Residential R17.5  
LGA RECOMMENDATION(S): Refusal  
REGION DESCRIPTOR: Perth Metro Central  
RECEIPT DATE: 18 March 2015  
PROCESS DAYS: 92  
APPLICATION TYPE: Subdivision  
CADASTRAL REFERENCE: Lot 450 Wrexham Street, Bicton

**RECOMMENDATION:**

***That the Western Australian Planning Commission resolves to approve the application for subdivision of Lot 450 Wrexham Street as shown on the plan date stamped 18 March 2015 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 proposed lots 1 and 2 at the time of subdivision approval being demolished and materials removed from the lots. (Local Government).***
- 2. The land being filled, stabilised, drained and/or graded as required to ensure that:***

- a) *Lots can accommodate their intended development; and*
  - b) *finished ground levels at the boundaries of the lots the subject of this approval match or otherwise coordinate with the existing and/or proposed finished ground levels of the land abutting; and*
  - c) *storm water is contained on-site, or appropriately treated and connected to the local drainage system. (Local Government)*
3. *Suitable arrangements being made with the local government for the provision of vehicular crossovers to service the lots shown on the approved plan of subdivision. (Local Government).*
  4. *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 lots shown on the approved plan of subdivision. (Western Power).*
  5. *Arrangements being made with the Water Corporation so that provision of a suitable water supply service will be available to the lots shown on the approved plan of subdivision. (Water Corporation).*
  6. *Arrangements being made with the Water Corporation so that provision of a sewerage service will be available to the lots shown on the approved plan of subdivision. (Water Corporation).*
  7. *The provision of easements for existing or planned future water, sewerage and/or drainage infrastructure as may be required by the Water Corporation being granted free of cost to that body. (Water Corporation).*

**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 Condition 4, Western Power provides only one underground point of electricity per freehold lot.*
3. *In regard to Conditions 5, 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 67 of the Water Agencies (Powers) Act 1984 will be prepared by the Water Corporation to document the specific requirements for the proposed subdivision.*

## SUMMARY:

The key points relating to this report are as follows:

- The application proposes the subdivision of Lot 450 Wrexham Street, Bicton (the subject site) to create two (2) residential lots;
- The City of Melville does not support the application due to the proposed variation to the average site area requirement and minimum frontage requirement as per the Residential Design Codes 2013 (R-Codes);
- The application has been referred to the Statutory Planning Committee (SPC) for determination to due to the non-compliance with the average site area requirement which is beyond the scope of the delegation from the Western Australian Planning Commission (WAPC) to officers of the Department; and
- The interim policy position adopted by the Statutory Planning Committee in December 2014 that permits variations to the WAPC's Development Control Policy No. 2.2 '*Residential Subdivision*' where specified criteria are met does not apply in this instance. The application does not satisfy the applicable criteria by way of a variation to the frontage requirement of Table 1 of the R-Codes.

## LEGISLATION / STRATEGIC PLAN / POLICY:

### Legislation

Section:

*Planning and Development Act 2005*

Part 10

### Strategic Plan

Strategic Goal:

Planning

Outcomes:

Effective Delivery of Integrated Plans

Strategies:

Implement State and Regional Planning Priorities

### Policy

Number and / or Name:

Proposal complies with WAPC policies unless discussed in Planning Assessment Section

## INTRODUCTION:

The subject land is zoned 'Living Areas' with a density coding of R17.5 under the City of Melville (the City) Community Planning Scheme No. 5 (CPS 5) and 'Urban' pursuant to the Metropolitan Region Scheme (MRS), (**Attachment 1** - TPS Zoning and Location Plan).

The application proposes to subdivide one (1) residential lot into two (2) single dwelling lots each with proposed areas of 506m<sup>2</sup> and with lot frontages of 10.06 metres. An existing dwelling is to be demolished and removed from the site, (**Attachment 2** - Plan of Subdivision).

## CONSULTATION:

The City recommends refusal as the proposed subdivision does not comply with the average lot size requirements and minimum street frontage requirements for R17.5 lots, in accordance with the Residential Design Codes (R-Codes). However, despite this objection the City has provided a number of recommended conditions should the Commission be minded to approve the application.

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

All recommended conditions have been assessed and where deemed fair, relevant and reasonable they have been imposed. The conditions are also consistent with the Model Standard Conditions Schedule 2012.

## COMMENTS:

The application is presented to the Statutory Planning Committee due to the average site area of the proposed lots requiring a variation 11.38% in lieu of a maximum of 5%, as prescribed under the R-Codes and WAPC Development Control policy 2.2 *Residential Subdivision* (DC 2.2) and also given it proposes a lot frontage of 10.06m in lieu of a minimum of 12m as prescribed under Column 5 of Table 1 of the Residential Design Codes 2013.

### Average Lot Size Variations

The application is consistent with the minimum (500m<sup>2</sup> required, 506m<sup>2</sup> achieved), however, it not consistent with the average lot size requirement of (571m<sup>2</sup> required, 506m<sup>2</sup> achieved). This equates to a proposed average lot size variation of 11.38%.

Clause 3.2.3 of WAPC Policy 2.2 supports green title and survey-strata subdivision applications that seek variations to lot sizes below the minimum and/or average lot sizes subject to the following criteria:

- i) All lots in the subdivision meet the minimum lot size requirements;*
- ii) The variation reduces the average lot size of the overall subdivision by no more than 5% of the average lot size specified in Table 1 or elsewhere in the R-Codes; and*
- iii) The variation has been demonstrated by the applicant to have a particular beneficial outcome for the community, or the Commission forms the opinion that it will have a particular beneficial outcome for the community.*

As mentioned the proposal meets the minimum site area requirement of the R17.5 coding and despite the proposal representing a departure from the requirements of Clause 3.2.3 of DC 2.2, (as it proposes a variation greater than 5% to the average site area requirement) the proposed subdivision is considered to have a number of beneficial outcomes as follows:

- i) Will allow for the creation of lots that meet the minimum lot size required by the R-Codes and achieves direct frontage access to a constructed public road;
- ii) Assists with using residential land to its best advantage by enabling an additional lot to be created;
- iii) Provides a wider choice of residential lot sizes in the locality;
- iv) Makes best use of existing infrastructure and services located in close proximity to the proposal site;
- vi) Will contribute towards the dwelling targets of the draft *Central Metropolitan Sub-regional Strategy and Directions 2031* which specifies an additional draft housing target of 1,000 dwellings within the Melville municipality by 2031.

It is the applicants view that the subdivision of the subject lot will have little or no detrimental impact on the amenity of the immediate area, given the substantial number of properties within close proximity that are already developed to the density proposed by this application.

The WAPC has previously granted approval to survey-strata subdivide the subject land into two lots plus a common property access leg on 23 February 2005. The application was submitted prior to 31 December 2004 and as such, Clause 3.1.3 A3 (iv) of the Residential Design Codes 2002 was applied. This clause required Grouped Dwellings in areas coded R17.5 to have an average site area of 500m<sup>2</sup> as per Table 1 of the Residential Planning Codes 1991. The proposal complied with that requirement (506m<sup>2</sup> provided).

A desktop review of the surrounding locality reveals a number of subdivided lots within close proximity of the subject site, a sample of which follows:

<b><i>Battleaxe Subdivision</i></b>	<b><i>Side by side subdivision</i></b>
99 Harris Street (cnr Wrexham St) Wrexham St: No's 2,6,10,11,16,17, 38 & 43 Pembroke St: No's 6, 8, 21, 23, 25, 34, 38, 45, 48 & 56 28 Beach Street Coldwells Street: No's 4, 8, 10, 11, 12, 17, 24, 25, 28, 29, 30, 32, 33, 37, 40, 43, 45, 50 & 54	29 Wrexham Street 45 Wrexham Street 11 Pembroke Street 13 Pembroke Street 28 Pembroke Street 50 Pembroke Street Coldwells Street: No's 3, 5, 7, 14, 23, 36, 44 & 48

Whilst the majority of these lots were created under an earlier version of the R-Codes, it is considered, nonetheless, that these previous subdivisions depict an identifiable character in the vicinity which is a component that should be considered in the assessment of this application. Further, it is noted that an almost identical

application was approved by the Statutory Planning Committee on 13 May 2014 at Lot 145 Clive Street, Bicton.

It is now well established that in infill situations, such as the subject application, compliance with the average lot size is less critical providing minimum site area requirements have been achieved. This is the case in this instance. It has been concluded that average site area requirements are more relevant for green field sites where a large number of lots are being proposed.

Therefore, it is considered that there are sufficient grounds to support the application for the following reasons:

- The proposal accords with State level policy (which supports the strategic increase in density and infill of existing urban land) and the general intent of CPS5 which enables subdivision at the R17.5 density code in this location;
- It is likely that a future built form will adopt modern building techniques;
- The proposed lots would be consistent with the character of the area and would not appear incongruous;
- The proposed lots will regular in shape and capable of development;
- The subject site is well located to benefit from a number of bus routes and is also well connected to recreational amenity space and the Swan River; and
- The proposal would not be detrimental to the amenity of the locality, the character of the area nor would it be contrary to orderly and proper planning.

#### City of Melville Draft Local Planning Scheme No. 6

The City of Melville's draft Local Planning Scheme No. 6 (LPS 6) has been lodged with the WAPC for endorsement. The subject land is proposed to retain the existing R17.5 density coding under LPS 6 (**Attachment 3** - Draft Scheme Map 3).

#### Lot frontage variation

In addition to a variation to average lots size requirements, the application also proposes a variation to the minimum frontage requirements. The proposed lots achieve frontages of 10.06m in lieu of a 12m minimum frontage requirement of the R17.5 coding as specified in Table 1 of the Residential Design Codes 2013.

Clause 3.2.1 of the Commission's policy DC 2.2 - 'Residential Subdivision' states:

*"Generally the minimum lot size and frontage requirements of the relevant code will form the basis for the subdivision of residential land".*

The Commission has previously approved subdivision applications involving variations to the minimum frontage requirements of the R-codes, such as WAPC ref: 140191, Lot 156 Kinnane Place, Attadale (also within the City of Melville) which was approved 31 July 2009. This application achieved lot frontages of 9.5m on land also subject to an R17.5 coding. Similarly, in that case, the City did not support the application and the Commission granted approval on the basis that it was considered that the proposal would not impact on the streetscape character.

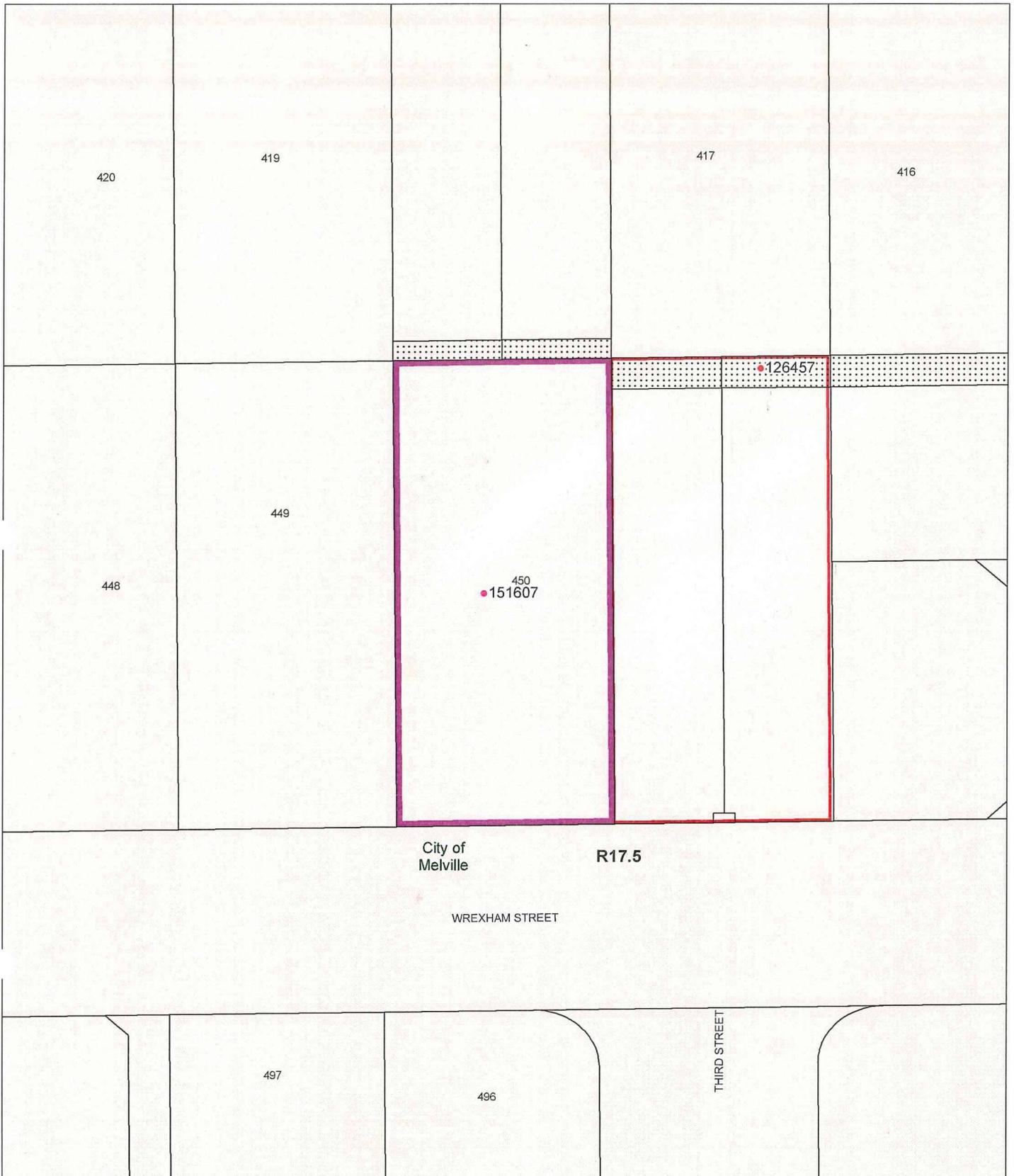
In this case the subject site is situated in a locality that is characterised by a variety of frontage widths and dwelling form, including frontage width of 10m or less. Attachment 4 indicates the extent of similar subdivisions in the locality. Accordingly the specific character of the area is considered to prevail over the general provisions of DC 2.2 to the extent that it applies to lot frontage.

### **CONCLUSION:**

The proposed lots meet the minimum lot size requirements, they will be of a regular shape and could be readily developed using modern building techniques.

It is appropriate to support the variation of 11.38% to the average site area requirement on the basis that it has been previously established by the SPC that average lot size requirements are not critical in infill situation such as this. Similarly, variations to lot frontage requirements have previously accepted by the WAPC, when circumstances permit and there is appropriate merit in the proposal.

Accordingly, conditional approval is recommended.

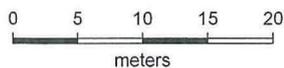


**LOCATION PLAN**

**Subdivision Application 151607**

Decision: **Outstanding**

Printed: **19/03/2015**



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

**Legend**

**Subdivision Applications**

- Outstanding
- Refused

Local government boundary

**Existing Zones and Reserves**

- Living areas
- R Code Boundaries



Department of Planning



Western Australian Planning Commission



Referrals and Easements

Easements



**ATTACHMENT 1**