



Statutory Planning Committee

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

Tuesday, 8 September 2015
9.00 am

Level 3, Room 3.23
One40 William Street
Perth



Tim Hillyard
WAPC Secretary

Please convey apologies to Olivia Peters on 6551 9688
or email committees@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 7529
held on Tuesday, 25 August 2015

Attendance

Members

Mayor Russell Aubrey	Local government representative
Ms Megan Bartle	WAPC appointee
Ms Sue Burrows	A/Director General, Department of Planning
Mr Martin Clifford	WAPC appointee
Mr Ray Glickman	WAPC appointee
Mr Stephen Hiller	WAPC appointee
Mr Ian Holloway	Professions representative
Ms Gail McGowan	Director General
Ms Elizabeth Taylor	Community representative (Presiding Member)

Officers

Ms Lindsay Baxter	A/Executive Director; Perth and Peel Planning
Mr Ben Harvey	Director, Policy and Research
Mr David MacLennan	A/Executive Director; Regional Planning and Strategy
Mr Cath Meaghan	Director; Wheatbelt
Ms Kylie Woods	Senior Legal Officer

Department of Planning

Presenters

Ms Sandra Eckert	Department of Lands (Item 6.1 for Item 11.1) and (Item 6.2 for Item 11.2)
Ms Sze-Hwei Yen	Department of Lands (Item 6.1 for Item 11.1) and (Item 6.2 for Item 11.2)

Committee Support

Ms Olivia Peters	Committee Support Officer - Department of Planning
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7529.1 Declaration of Opening

Due to the absence of the Chairman and in accordance with clause 3.6 of the Standing Orders 2009, a member was chosen to preside over the meeting.

**Ms McGowan nominated Ms Taylor.
Ms Taylor accepted the nomination.**

Resolved

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Moved by Mr Holloway, seconded by Mr Clifford

That Ms Taylor preside over the meeting of the Statutory Planning Committee in the absence of the Presiding Member.

The motion was put and carried.

The Presiding Member declared the meeting open at 8.58am, acknowledged the traditional owners and custodians of the land on which the meeting is taking place and welcomed Members.

7529.2 Apologies

Mr Eric Lumsden Chairman WAPC

7529.3 Members on Leave of Absence and Applications for Leave of Absence

Nil

7529.4 Disclosure of Interests

Nil

7529.5 Declaration of Due Consideration

No declarations were made.

7529.6 Deputations and Presentations

7528.6.1 Amendments to the Land Administration Act 1997: Intrusions into Crown Airspace; Determinable Freehold Title and Authorised Encroachments

Presenter Ms Sandra Eckert; Department of Lands
Ms Eckert made a PowerPoint presentation in support of the recommendation to the Committee and answered questions from members.

A copy has been placed on file.

7528.6.2 Amendments to Section 152 and 168 of the Planning and Development Act 2005

Presenter Ms Sandra Eckert; Department of Lands
Ms Eckert made a PowerPoint presentation in support of the

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recommendation to the Committee and answered questions from members.

A copy has been placed on file.

7529.7 **Announcements by the Chairperson of the Board and communication from the WAPC**

Ms McGowan advised that a PowerPoint presentation, on the Planning and Development (Local Planning Schemes) Regulations 2015, would be circulated to Members after the meeting.

7529.8 **Confirmation of Minutes**

7529.8.1 **Minutes of the Statutory Planning Committee meeting held on Tuesday, 11 August 2015**

Resolved

Moved by Mr Holloway, seconded by Mayor Aubrey

That the Statutory Planning Committee resolves:

- 1. To amend the minutes to reflect minor changes to the attendance list;*
- 2. That the minutes of the Statutory Planning Committee meeting held on Tuesday, 11 August 2015 as amended, be confirmed as a true and correct record.*

The motion was put and carried.

7529.9 **Statutory Items for Decision**

7529.9.1 **Proposed "Lifestyle Village" (Park Home Park) within the Jandakot Groundwater Protection Policy Area**

File 22-50166-1 and DAP/15/00734
Report Number SPC/887
Agenda Part G
Reporting Officer Manager, Metropolitan South East

Resolved

Moved by Ms McGowan, seconded by Mr Holloway

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That the Statutory Planning Committee resolves to recommend to the Joint Development Assessment Panel that the application for a Park Home Park at Lot 9007 Warton Road, Piara Waters be refused for the following reasons:

- 1. The proposal is contrary to State Planning Policy No. 2.3 - 'Jandakot Groundwater Protection Policy' and State Planning Policy No. 2.7 - 'Public Drinking Water Source Policy' as it is listed as an 'incompatible' land use within the Priority 2 water protection area. .*
- 2. The proposal does not meet the minimum separation distance required between the City of Cockburn Kennel and Cattery zone and the proposed development as defined by the Environmental Protection Authority's Guidance for the Assessment of Environmental Factors No. 3 Separation Distances between Industrial and Sensitive Land Uses.*
- 3. The proposal has not sufficiently addressed the noise impacts to the development as a result of the adjoining City of Cockburn Kennel and Cattery zone, the Jandakot Airport and Warton Road as a freight route.*
- 4. The proposal seeks primary access from Warton Road which has been identified as a primary freight route in the Statement of Planning Policy 5.4 - Road and Rail Transport Noise and Freight Considerations in Land Use Planning. Residential traffic movements associated with the development application as proposed will likely impact on the efficient movement of freight through this area.*
- 5. The proposed Park Home Park does not meet the requirements of the City of Armadale Town Planning Scheme No. 4 as it does not comply with the requirements of Part 5B of the Scheme for General Rural zoned land.*

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6. *The proposed Park Home Park would create an undesirable precedent for the same or other types of development within the P2 Priority area land zoned Rural - Water Protection as it is not in accordance with relevant provisions of Western Australian Planning Commission policy or Department of Water policy.*
7. *The land is zoned Rural - Water Protection in the Metropolitan Region Scheme. The purpose and intent of this zoning is to preserve the area's current rural use and density of development. The development proposes land use intensification and the introduction of non-rural activity in conflict with the zoning objectives.*
8. *Approval would be contrary to orderly and proper planning as the proposed development is inconsistent with the planning intentions for this locality and may prejudice any future strategic planning and/or development of the locality.*

The motion was put and carried.

7529.10 Policy Items for Discussion/Decision

NIL

7529.11 Confidential Reports

7529.11.1 Amendments to the Land Administration Act 1997: Intrusions into Crown Airspace; Determinable Freehold Title and Authorised Encroachments

File DP/11/02645
Report Number SPC/883
Agenda Part A
Reporting Officer Planning Director and Senior Legal Officer

THIS ITEM IS CONFIDENTIAL

7529.11.2 Amendments to Section 152 and 168 of the Planning and Development Act 2005

File DP/11/02645
Report Number SPC/884

Statutory Planning Committee

Minutes
of ordinary meeting 7529
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Agenda Part A
Reporting Officer Planning Director and Senior Legal Officer

THIS ITEM IS CONFIDENTIAL

7529.11.3 Planning and Development (Local Planning Schemes) Regulations 2015 – Review of Planning Bulletin 112/2015 and Approval of Structure Plan Forms

File DP/15/00045/1
Report Number SPC/886
Agenda Part A
Reporting Officer Director, Wheatbelt Region

THIS ITEM IS CONFIDENTIAL

7529.12 Stakeholder Engagements & Site Visits

Nil.

7529.13 Urgent Business

7529.13.1 Section 16.E

Ms McGowan advised that a large number of submissions have been received on the planning frameworks, analysis has been done and a special briefing will be arranged for Members of the SPC, WAPC and ICC. Ms McGowan encouraged Members to familiarise themselves with Section 16.E and provide feedback.

7529.13.2 Senior Management Meeting – September 2015

Ms McGowan requested a volunteer Committee Member to attend the next Senior Management Meeting (Scheduled for September 2015).

Mr Glickman offered to attend.

7529.13.3 Attending Officers at SPC Meetings

Mr Glickman requested that any officers attending the Statutory Planning Committee meetings be listed on the Running Sheets for meetings, to provide Members with advice on officers' position within DoP.

7529.13.4 Aged Persons

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Ms Taylor queried whether any actions have been taken regarding Committees setup for Aged Persons.

Mr Glickman advised that this had been awaiting the return of the Chairman, and he would now be liaising with Mr Lumsden.

7529.13.5 Process Following SPC Meetings

Ms Taylor queried the process following decisions made at the Statutory Planning Committee meetings and how these were then actioned.

Ms Burrows advised of the following process:

1. In relation to agenda items that are non-confidential, resolutions are published via the Minutes on the DoP website for public viewing; and
2. In relation to agenda items that are confidential, resolutions cannot be published externally and officers are not at liberty to disclose any details.

7529.14 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	Detailed Area Plan 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
7527.9.1	Proposed "Lifestyle Village" (Park Home Park) Within The Jandakot Groundwater Protection Policy Area	Report to be presented to the Committee on 'retirement villages' and the DOP's policy setting in regards to land use and the policy/merit discussion	TBA

7529.15 Closure

The next ordinary meeting is scheduled for 9.00 am on 8 September 2015.

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There being no further business before the Committee, the Presiding Member thanked members for their attendance and declared the meeting closed at 10.46am.

PRESIDING MEMBER _____

DATE _____

DRAFT

INDEX OF REPORTS

Item	Description
9	STATUTORY ITEMS FOR DECISION
<i>C</i>	<i>SUBDIVISIONAL / AMALGAMATIONS</i>
9.1	Endorsement of Subdivision Guide Plan - Lot 7 Dunkeld Drive, Herron - City of Mandurah
9.2	Approval to Lot 9500 Briggs Road Local Structure Plan (as modified)
9.3	Proposed Swanbourne Street Local Structure Plan for Final Endorsement
<i>G</i>	<i>DEVELOPMENTS / SUBDIVISIONAL / SURVEY STRATA</i>
9.4	Variation to Minimum or Average Lot Size Requirements for Subdivision of Dual-Coded Areas in City of Armadale
10	POLICY ITEMS FOR DISCUSSION/DECISION
	Nil.
11	CONFIDENTIAL REPORTS
<i>A</i>	<i>POLICY</i>
11.1	Burswood Station East – Interim Planning Policy
<i>B</i>	<i>LOCAL OR REGIONAL PLANNING SCHEMES / AMENDMENTS</i>
11.2	City of Subiaco Town Planning Scheme No. 4 – Amendment 27 - for Final Approval
11.3	City of South Perth – Local Planning Scheme No. 6 – Amendment 48 for Final Approval
11.4	City of Belmont - Town Planning Scheme No. 15 Amendment 1 - For Final Approval
11.5	City of Nedlands Draft Town Planning Scheme No. 3 - Request for Extension of Time to Undertake Modifications Prior to Advertising

- 11.6 City of Stirling - Local Planning Scheme Amendment 5 - For Final Approval
- 11.7 City of Stirling – Local Planning Scheme No. 3 – Amendment 55 for Final Approval
- 11.8 Shire of Kalamunda - Local Planning Scheme No. 3, Amendment No. 14 - For Final Approval
- 11.9 City of South Perth Town Planning Scheme No. 6, Amendment No. 45 - For Final Approval
- 11.10 City of Rockingham - Town Planning Scheme No. 2 - Amendment No.148 - for Final Approval
- 11.11 Ashburton North Strategic Industrial Area – Improvement Scheme No. 1 – For Consent To Advertise

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

- 11.12 Amendment No. 122 to the City of Mandurah Town Planning Scheme No. 3 - for Final Approval

ITEM NO: 9.1

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

WAPC OR COMMITTEE:	Statutory Planning Committee
REPORTING AGENCY:	Department of Planning
REPORTING OFFICER:	Planning Manager, Peel
AUTHORISING OFFICER:	Director, Peel
AGENDA PART:	C
FILE NO:	SPN/0757
DATE:	18 August 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:	85 days
APPLICATION TYPE:	Structure Plan
CADASTRAL REFERENCE:	Lot 7 (No. 225) Dunkeld Drive, Herron

RECOMMENDATION:

That the Statutory Planning Committee 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:

In July 2015, the Statutory Planning Committee deferred consideration of the proposed SGP in order to obtain more information regarding the inconsistency between the proposed SGP and Amendment 121 to the City of Mandurah Town Planning Scheme No.3 (TPS3) and the associated Southern Mandurah Rural Structure Plan (SMRSP), which were all approved at the March Council meeting. Accordingly, this report contains additional information under the heading 'Amendment 121 and the Southern Mandurah Rural Structure Plan' the fire management plan section of this report has been updated. The balance of this report is otherwise unchanged from the report presented to SPC in July 2015.

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 the Committee for consideration, due to recent legal advice regarding 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 removed by the Council.

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

BACKGROUND:

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

In April 2013, 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 under the *Environmental Protection and Biodiversity Conservation Act 1999* (EPBC). In October 2014, the Federal Department of the Environment determined that the proposed rural residential development was not a controlled action.

In February 2015, the WAPC refused a subdivision application over the site. This application was refused on the grounds that it was not consistent with *State Planning*

Policy No.2.5 - Land Use Planning in Rural Areas, the Lake Clifton-Herron Structure Plan and 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 of Mandurah 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, the Council also adopted Amendment 121 and the related SMRSP for final approval, which identifies the lot as Rural Residential. Under the SMRSP, 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 SMRSP 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 the Council, due to a concern that the Council's removal of these features may generate the need for the SGP to be reconsidered by the Federal Department of the Environment and may result in the need for environmental offsets.

LEGISLATION / STRATEGIC PLAN / POLICY:

Legislation

Section:

City of Mandurah Town Planning Scheme No 3

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 between 2 and 2.5 hectares in areas. 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 in size 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(s).

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.

No other submissions were received.

OFFICER'S COMMENTS:

Public Open Space (POS)

The POS shown on the advertised 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 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 would be more appropriate to enable the siting of building envelopes to be determined pursuant to a condition of subdivision approval. However, to ensure that use of 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 should not be 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 the Council modified the SGP after it was referred to the Federal Department of the Environment, the need for a new referral under the EPBC 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 Federal Department of the Environment appears to be low.

Bush Fire Management

The Department of Fire and Emergency Services has endorsed a Fire Management Plan (FMP). However, the endorsed FMP was based on the version of the SGP submitted to the City which included POS and two additional rural residential lots. Minor modifications to the FMP are required to reflect the modified SGP. Accordingly, Notation 6 should be modified to require the FMP be updated prior to subdivision.

Amendment 121 and the Southern Mandurah Rural Structure Plan (SMRSP)

The SGP is inconsistent with the recommendations of Amendment 121 and SMRSP, both of which were adopted by the Council in March 2015. For this reason the City of Mandurah's officers recommended the SGP be refused; however, the Council resolved to support a modified version of the SGP which allows for 14 lots, whereas the SMRSP provides for a lower lot yield of approximately 10 lots.

The Council's preferred approach to addressing the inconsistency between the SGP and the SMRSP is to support the SGP and associated subdivision application. This would provide the proponent with the opportunity to complete the subdivision within the approval period of any subdivision approval granted by the WAPC. Once the subdivision approval lapses the development standards of the SMRSP will be in place and apply to the site. This approach has regard for the existing development standards and recognises that the SGP was lodged with the City of Mandurah in April 2013.

Senior officers of the Department of Planning have reviewed Amendment 121 and formed the view that Amendment 121 is not consistent with the forthcoming *Planning and Development (Local Planning Schemes) Regulations* and the recently adopted structure plan framework. In this respect, Amendment 121 proposes to introduce provisions to TPS3 to facilitate the SMRSP acting as a de facto amendment to the local planning scheme. For this reason, it is considered Amendment 121 and the SMRSP should not be progressed in their current form. A report on Amendment 121 and the SMRSP will be presented to the SPC in the near future.

Given the above, it would be appropriate to consider the SGP in the context of the current planning framework.

Acoustic Consideration

The proponent has incorporated noise level contours on the SGP which are based on an Environmental Protection Authority 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 land zoned Rural and Rural Residential under TPS3, as the subject lot has dual zoning. As an SGP only has effect within the Rural Residential zone, it is recommended a notation be added to state that details on the SGP that relate to the Rural zoned portion of the site are indicative only.

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

ITEM NO: 9.2

Approval to Lot 9500 Briggs Road Local Structure Plan (as modified)

WAPC OR COMMITTEE:	Statutory Planning Committee
REPORTING AGENCY:	Department of Planning
REPORTING OFFICER:	Planning Officer, Metropolitan South-East
AUTHORISING OFFICER:	Planning Director, Metropolitan South
AGENDA PART:	C
FILE NO:	SPN/0329
DATE:	25 August 2015
REPORT CATEGORY:	Statutory
RECOMMENDATION OUTCOME:	1. Support
ATTACHMENT(S):	1. Location/Context Map 2. LSP Map 3. SPC Report 24 March 2015 4. WAPC Schedule of Modifications
REGION SCHEME ZONING:	Urban, Urban Deferred and Other Regional Road
LOCAL GOVERNMENT:	Shire of Serpentine Jarrahdale
LOCAL SCHEME ZONING:	Urban Development
LGA RECOMMENDATION(S):	Refusal
REGION DESCRIPTOR:	Metropolitan South-East
RECEIPT DATE:	15 July 2014
PROCESS DAYS:	252 days
APPLICATION TYPE:	Support to Local Structure Plan
CADASTRAL REFERENCE:	Multiple Lots bound by Thomas Road to the north, Briggs Road to the east, Eurythmic Road to the south and Malarkey Road to the west.

RECOMMENDATION:

That the Statutory Planning Committee resolves to:

- 1. approve the Lot 9500 Briggs Road Local Structure Plan, in accordance with clause 5.18.3.10 of the Shire of Serpentine Jarrahdale Town Planning Scheme No. 2, subject to the schedule of modifications as outlined in Attachment 4 - Schedule of Modifications; and***
- 2. advise the Shire of Serpentine Jarrahdale accordingly.***

SUMMARY:

On 24 March 2015 the Statutory Planning Committee considered a report on the Lot 9500 Briggs Road Local Structure Plan (LSP) and resolved to give "support in principle" subject to certain modifications.

Subsequently, the recommended modifications were referred to the Shire of Serpentine Jarrahdale (the Shire) which resolved that the modifications were not minor and, accordingly, required the LSP to be readvertised in accordance with Clause 6.18.3.14(a) of its Town Planning Scheme No. 2 (TPS 2).

Following readvertising, the Shire resolved not to adopt the LSP on the basis of concerns relating to the alignment of Malarkey Road which would allow traffic to flow towards the special rural and rural residential properties which are part of the Byford Trotting Complex. The LSP has therefore been referred to the WAPC by the Shire with a recommendation for refusal.

These issues have been addressed by the applicant and can be managed by appropriate road design. It is recommended that the Lot 9500 Briggs Road LSP be granted final approval subject to modifications.

BACKGROUND:

The Byford District Structure Plan (Byford DSP) covers an urban cell expected to accommodate 30,000-40,000 people when fully developed. Lot 9500 Briggs Road is situated approximately two kilometres north-west of the Byford Town Centre, and covers 29 hectares of land bound by Thomas Road to the north, Briggs Road to the east, Eurythmic Road to the south and Malarkey Road to the west. The land is predominantly cleared. There is an existing brick and tile homestead which is likely to be demolished.

The site is zoned 'Urban Development' under TPS 2 for which an LSP is required to be approved prior to subdivision and major development.

A LSP for Lot 9500 Briggs Road was lodged with the Shire on 5 June 2013. It was then advertised and determined by the Shire on 23 June 2014 subject to modifications. The Shire required the removal of the Neighbourhood Centre site from the LSP map/area and replacement with a 'Mixed Use' site of 5,000m². That modification became a matter of contention between the owners of the Lot 9500 Briggs Road LSP site and the adjoining Redgum Brook North LSP site. The contention was resolved, however, with the WAPC refusing the Redgum Brook North LSP and a subsequent appeal being withdrawn.

At the suggestion of the Department of Planning, modifications to the Lot 9500 Briggs Road LSP were undertaken by the applicant and depicted on a draft LSP plan. The modifications were aimed at a better road configuration, cell and lot layout and alignment of the multiple use corridor. In March 2015 the Shire deemed these modifications to be substantial enough to warrant re-advertising. Following re-advertising, the Shire is now generally supportive of the modified LSP, however, resolved to not adopt it for the following reason:

- (a) The proposed re-alignment of Malarkey Road will result in an increase in traffic volumes, traffic noise and have a negative impact on the existing equine uses in the vicinity of the existing trotting complex.

The LSP has now been referred to the WAPC for its determination in accordance with Clause 5.18.3.10 of TPS 2.

LEGISLATION / STRATEGIC PLAN / POLICY:

Legislation Shire of Serpentine Jarrahdale Town Planning Scheme No. 2
Section: Clause 5.18.3.10

Strategic Plan
Strategic Goal: By improving the planning system and delivering plans that more efficiently meet changing community demands, we will be supporting the development of effective local communities.
Outcomes: Planned local communities developing a sense of place.
Strategies: Develop connected and accessible communities.
Improve local planning service capability.

Policy
Number and / or Name: South Metropolitan Peel Sub-regional Planning Framework (draft)
Directions 2031 and Beyond
SPP 3.0 - 'Urban Growth and Settlement'
SPP 4.2 - 'Activity Centres for Perth and Peel'
SPP 5.4 - 'Road and Rail Transport Noise and Freight Considerations in Land Use Planning'
Liveable Neighbourhoods

GOVERNMENT AND CORPORATE IMPLICATIONS:

Nil.

CONSULTATION:

A modified Lot 9500 LSP was re-advertised in accordance with Clause 5.18.3.5 of TPS2 for a period of 21 days from 2 April 2015 to 22 April 2015. A total of fourteen (14) submissions were received, comprising one non-objection/support, six submissions raising concerns or providing comment and seven objections.

Issues raised primarily relate to local traffic concerns particularly in the proximity of the Byford Trotting Complex and the realignment of the Malarkey Road and San Simeon Boulevard intersection.

A number of elements are proposed to be modified in the Lot 9500 Briggs Road LSP, however, the alignment of San Simeon Boulevard remains the issue of primary contention. The report considered by the SPC in March 2015 dealt with the general assessment of the LSP and discussion on issues including local road system, the neighbourhood centre, urban water management and public open space. That report

was accepted by SPC as sufficient to give "support in principle". The report is at **Attachment 3** (SPC report 24 March 2015).

OFFICER'S COMMENTS:

Malarkey Road deviation

The original Lot 9500 Briggs Road LSP depicted Malarkey Road deviating into San Simeon Boulevard, which was generally consistent with the deviation as depicted on the Byford DSP (Refer **Attachment 2**: LSP Map June 2013). Under the Byford DSP, San Simeon Boulevard is the main north-south neighbourhood connector to the Byford Town Centre. As a result of the suggested LSP modifications, the alignment of San Simeon Boulevard now represents a further variation to the alignment.

A number of concerns regarding the alignment of San Simeon Boulevard were raised during re-advertising. Many of the concerns stated an objection to the removal of San Simeon Boulevard. This was a misinterpretation of the revised LSP map. San Simeon Boulevard has not been removed but has been realigned. The realignment has resulted in a four-way intersection at Ballawarra Avenue, San Simeon Boulevard and Malarkey Road.

The Shire's concerns the potential to negatively impact on the Byford Trotting Complex can be mitigated through appropriate intersection treatments and detailed design at the subdivision stage. Traffic flow through San Simeon Boulevard can be promoted in an east-west direction toward the Byford Town Centre through the provision of slip lanes, chicanes and local signage that will ensure local traffic is directed to the Byford Town Centre and is discouraged from taking a short-cut through the Byford Trotting Complex area to the south of Eurythmic Road. The establishment of San Simeon Boulevard as a key link to the Byford Town Centre will also reduce the reliance on access via other local roads to the south of the LSP area.

Further concerns and comments were raised surrounding the potential for increased traffic into the Byford Trotting Complex area due to the removal of the Malarkey Road deviation. Any increase in traffic along Malarkey Road south of Eurythmic Road as a result of future development within the LSP area was anticipated as part of the Byford DSP and is considered acceptable with appropriate management. The Byford DSP recommended traffic calming devices to be installed on both Malarkey Road and Briggs Road. Currently Briggs Road has two single lane angled slow points, whilst Malarkey Road does not contain traffic calming devices but follows a wide 'S' bend which acts as a calming mechanism in this location. It is envisaged that the future development of San Simeon Boulevard as the major transport linkage to the Byford Town Centre will limit traffic moving south along Malarkey Road.

Amended road treatment corner Malarkey and Thomas Roads

The provision of traffic lights at the intersection of Malarkey Road and Thomas Road is an item listed in the Byford Development Contribution Area (TPS2, Appendix 16A, DCA1). Since adoption of DCA1, however, revised traffic modelling forecasts have resulted in Main Roads WA requesting that a roundabout be accommodated at this intersection, rather than signalisation. This may have implications in terms of land take on affected corners, as a roundabout requires a larger amount of land. This

change is not considered to materially affect the intent or function of the LSP, and any traffic implications can be considered in detail at the subdivision stage.

In light of the above, it is recommended that the following modifications be undertaken:

- (a) The LSP Map to be updated to delete the public open space triangle at the intersection of Malarkey Road, Ballawarra Avenue and San Simeon Boulevard.
- (b) The new 'Movement' section in Part 1 of the LSP Text be updated to include a statement that the treatment of the intersection of Malarkey Road, Ballawarra Avenue and San Simeon Boulevard is to be resolved through detailed design at subdivision stage to the satisfaction of the Local Government and is to:
 - (i) Give prominence to seamless traffic flows from Malarkey Road into San Simeon Boulevard by:
 - discouraging through traffic south of San Simeon Boulevard; and
 - addressing any frontage issues to the existing residential lots along Malarkey Road.

It is also recommended that the Shire be advised to consider renaming the section of Malarkey Road north of San Simeon Boulevard to San Simeon Boulevard to prevent road user confusion.

It is understood that Shire officers indicated their support for WAPC's suggested modifications, noting that they would reinforce the importance of San Simeon Boulevard and, once constructed, will assist in reducing through traffic on Malarkey Road as a result of future urban development within the LSP site.

CONCLUSION

The key points relating to this report are as follows:

- (i) The Lot 9500 Briggs Road LSP, including the proposed modifications, is generally consistent with the Byford District Structure Plan and will enable the commencement of urban development in the locality as identified within the WAPC's strategic plans and policies;
- (ii) The Lot 9500 Briggs Road LSP (as modified) will provide a sufficient level of detail to support further progression towards subdivision;
- (iii) The Shire's concerns with the intersection of Malarkey Road and San Simeon Boulevard can be addressed at subdivision and the detailed design/engineering stage; and
- (ii) The Lot 9500 LSP (as modified) conforms with WAPC Policies, the Shire of Serpentine Jarrahdale Town Planning Scheme No. 2, Liveable Neighbourhoods, and the Byford District Structure Plan.

On the basis of the above assessment it is recommended that the Lot 9500 Briggs Road LSP be approved subject to the modifications outlined in **Attachment 4: WAPC Schedule of Modifications**.

ITEM NO: 9.3

Proposed Swanbourne Street Local Structure Plan for Final Endorsement

WAPC OR COMMITTEE:	Statutory Planning Committee
REPORTING AGENCY:	Department of Planning
REPORTING OFFICER:	Acting Manager, Metropolitan Central Planning
AUTHORISING OFFICER:	Director Metropolitan Central Planning
AGENDA PART:	C
FILE NO:	801-2-5-5
DATE:	24 August 2015
ATTACHMENT(S):	1. Location Plan 2. Zoning Plan 3. Aerial Photography 4. Structure Plan Map 5. Schedule of Submissions 6. Schedule of Modifications

RECOMMENDATION:

That the Statutory Planning Committee resolves to:

- 1. note the submissions received during the public consultation period;*
- 2. support the modifications as recommended by the City of Fremantle and as detailed in the attached schedule modifications (Attachment 6):*
- 3. endorse the Swanbourne Street Local Structure Plan subject to the modifications listed in 2. above; and*
- 4. advise the applicant and the City of Fremantle of its decision accordingly.*

SUMMARY:

- The City of Fremantle (the City) has forwarded a local structure plan known as the 'Swanbourne Street Local Structure Plan' (SS LSP) for Lot 1356 Swanbourne Street, Lot(s) 1737, 1186 - 1190 Knutsford Street and Lot(s) 1191, 1192, 1197 - 1200, 1207 - 1208, 1213 - 1215 and 1725 Amherst Street, Fremantle (**Attachment 1 - Location Plan**) for endorsement of the Western Australian Planning Commission (WAPC).

- The SS LSP seeks to facilitate redevelopment of the site in accordance with the operative local planning scheme provisions which requires coordinated planning of the site to guide future subdivision and development.
- The SS LSP provides for redevelopment of the site with a diverse density range allowing for a variety of dwellings including affordable housing ranging from R40 to R160 over four (4) 'development plan' areas.
- The site is ideally located for medium to high density living being in proximity and within walking distance to a range of commercial, educational, recreational and community facilities including the John Curtin College of the Arts, East Fremantle Primary School, White Gum Valley Primary School, South Street Local Centre and Watkins Street Neighbourhood Centre.
- Council resolved to adopt the SS LSP at its November 2014 ordinary meeting subject to modifications which require additional explanatory text to be included regarding additional development standards and requirements.
- The version of the SS LSP being considered by the Statutory Planning Committee represents the original structure plan which has not been modified in accordance with Council's recommendation.
- The SS LSP is consistent with Commission policy and practice and it is consequently recommended that the Commission endorses the structure plan as proposed.

BACKGROUND:

The proposed SS LSP has been prepared on behalf of LandCorp as a requirement of the Special Control 'Development Area' and the 'Development' zone in order to guide and facilitate the subdivision and development of the site for residential and recreational purposes.

The LSP applies to Lot 1356 Swanbourne Street, Lot(s) 1737, 1186 - 1190 Knutsford Street and Lot(s) 1191, 1192, 1197 - 1200, 1207 - 1208, 1213 - 1215 and 1725 Amherst Street, Fremantle (the site), of which ownership currently lies with the Western Australian Land Authority and the Public Education Endowment Trust.

The site is zoned 'Development' (Development Area 4) under the City of Fremantle Local Planning Scheme No. 4 (LPS4) (**Attachment 2 Zoning Plan**) and is approximately 8.9ha in area and located approximately one (1) kilometre east of Fremantle and approximately 500m directly west of the Royal Fremantle Golf Course and directly abuts onto the 'Stevens Reserve'.

All above ground structures with the exception of two (2) telecommunication antennae have been removed from the site. However, some of the infrastructure remnant of the previous use as a 'naval fuel storage depot' is still located underground.

The SS LSP is cognisant to the existing limestone outcrops and ridge line and incorporates the existing peppermint trees into the proposed open space and 'green

link'. The site has largely been remediated with the exception of one area which will on transfer of the land to LandCorp be further remediated to the DER specifications. (**Attachment 3 Aerial Photography**).

LEGISLATION / STRATEGIC PLAN / POLICY:

Legislation

Section:

Planning and Development Act 2005

Part 10, section 135 (Approval of WAPC required for subdivision)

Strategic Plan

Strategic Goal:

Planning

Outcomes:

Effective delivery of integrated plans

Planned local communities developing a sense of place

Strategies:

Develop integrated infrastructure and land use plans for the State

Implement State and regional planning priorities

Encourage innovation in the design of our

Communities

Policy

Number and / or Name:

Statement of Planning Policy No. 1 - *State Planning Framework (2006)*

Statement of Planning Policy No. 3 - *Urban Growth and Settlement*

Statement of Planning Policy No. 3.1 - *Residential Design Codes*

Directions 2031 and Beyond

Draft Central Metropolitan Perth Sub-regional Strategy

DETAILS:

The LSP proposes the site be developed as five (5) 'development precinct' areas primarily for residential purposes with density coding's varying from R40 to R160 as well as being developed in part for public open space which incorporates the limestone outcrops and ridges. The existing telecommunication antennae will be removed when development takes place, however, the police antennae does not fall within the site boundaries and cannot be relocated at this time.

A north-south road alignment will see the linking of Edmund Street with Chalmers Street serving as a collector road for the individual 'cell's' (**Attachment 4 Structure Plan Map**).

The purpose of providing a diverse range of densities is to primarily allow for a mix of housing typology when development takes place. The proposed development of the site is considered to be a long term process, as such the diverse density coding provides the ability to adapt to market demands at the time without having the need to recode and delay development.

The indicative minimum yield from the SS LSP will be approximately 306 dwellings with the target yield being approximately 470 dwellings.

GOVERNMENT AND CORPORATE IMPLICATIONS:

This proposal will assist in provision of a variety of housing stock to compliment targets identified in Directions 2031 and Beyond.

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

PLANNING FRAMEWORK

Analysis of proposal against policy framework

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

- Will increase residential development on the site and provide additional public open space to the locality.
- The proposal will improve an otherwise underutilised site and will represent efficient and optimal use of land.
- The site is in close proximity to compatible recreational, retail, medical and educational land uses.
- The proposal will be within a walkable distance to local amenities and public transport.
- The amenity of the surrounding residential neighbourhood will not be adversely compromised in terms of overshadowing, overlooking etc.
- The proposal represents a more intensive use of the site than the previously approved 'Swanbourne Street Development Area Structure Plan', allowing for increased diversity of housing typology will assist with the accommodation of people within their local community over all stages of life.
- The structure plan will assist in the achievement of optimal dwelling numbers for the locality, in accordance with draft central sub-regional strategy and Directions 2031.
- It will produce a more sustainable development outcome that previously existed on the site and optimises the number of dwellings in close proximity to public transport and local facilities.

CONSULTATION:

Prior to Council adopting the proposed LSP, community consultation was undertaken in the following format to gauge the community expectations and comments:

- Advertising in the local newspaper between 12 and 19 August 2014;
- Draft LSP was made available on the City's website for the duration of the consultation period;
- Notification letters to landowners within at least 100m of the site (approximately 800);

- Notification to various service agencies and government organisations;
- Notification letters to precinct groups, and
- An information session was held.

At the completion of the public comment period the City had received 26 submissions on the proposed Local Structure Plan with 9 of these objecting to the Local Structure Plan, 4 submissions in support of the LSP and 5 of no comment. A summary of the concerns raised in the submissions is listed below:

- Support for the POS and landscape design being sympathetic to the historical use of the site;
- Concern that the POS proposed is not big enough;
- The proposed POS is considered to be 'green fringe';
- More of the scarp should be retained;
- Building heights exceeding 3 - 4 storeys are too high;
- Concerns on the impact the increase in population and subsequent number of vehicles would have on the traffic;
- Safety, parking and aesthetic concerns with regard to interface of any proposed development with the Fremantle District Cricket Club, and
- Alternative land uses for the proposed site.

The submissions have been addressed individually in the schedule of submissions (**Attachment 5 Schedule of Submissions**). The main submission points are also considered in the Planning Comment section of this report and include:

- Building Height;
- Traffic, and
- Public Open Space.

OFFICER'S COMMENTS:

The intent of a structure plan is to provide a broad planning framework for the coordinated provision and arrangement of future land use, subdivision and development for the site. The subject LSP has been assessed by the DoP and is considered to contain an appropriate level of detail to fulfil the intent of a LSP.

The Local Structure Plan comprises three parts:

- Part 1 (Statutory Section) contains the provisions, requirements and standards of the structure plan.
- Part 2 (Explanatory Section) provides justification and clarification of the provisions contained within Part One but does not have any statutory effect.
- Part 3 (Appendices) contains all additional studies, investigations and technical reports that are required to inform the Local Structure Plan.

The SS LSP has the ability to provide 5.7ha in total of residential land with a range of dwelling density and typologies which will allow both social and economic flexibility, subject to the provision of internal road networks. The site's location in proximity to transport, recreation, community, educational and retail facilities as well as being located opposite to the Stevens Reserve, provides a location that naturally lends itself to the delivery of a variety of housing typologies that will cater for a range of households.

Density distribution will ensure a sensitive transition and integration between adjoining residential areas and the new development is achieved. The LSP proposes a density range of R40-R160 across the site resulting in a targeted yield of 470 lots. This is to allow flexibility at subdivision stage to achieve the best design outcome. The key elements and considerations of the SS LSP will be addressed below.

Precincts

The SS LSP proposed five (5) 'precincts':

Precinct 1, objective is to provide a minimum of 40 dwellings and proposes a density range of R40 - R80.

Precinct 2, objective is to provide a minimum of 65 dwellings and proposes a density range of R40 - R80 as well as a mixed use zone along Knutsford Street, which will contribute to a vibrant and active street front and provide employment opportunities.

Precinct 3, objective is to provide a minimum of 45 dwellings and proposes a density range of R60 - R100. It is considered the proposed density will provide an appropriate interface along Amerherst Street.

Precinct 4, objective is to provide a minimum of 123 dwellings and proposes a density of R80 - R160. It is considered the proposed density will provide an appropriate interface along the Stevens Reserve, existing residential development along Swanbourne Street.

Precinct 5, objective is to provide a minimum of 33 dwellings and proposed a density range of R80 - R160.

The overall objective of the various precincts is to provide an appropriate interface with the surrounding existing developments whilst also being compatible with the proposed developments within the SS LSP area. The density range will allow a variety of housing typologies which will meet the existing and future needs of the community. Further, the range will allow the provision of a density mix and built form character whilst at the same time responding to the various development precincts' environmental and topographical features.

Density

Directions 2031 aim to provide a high level spatial framework and strategic plan for Perth's future population growth. Directions 2031 indicate a target for an average density of at least 15 dwellings per gross urban zoned hectare to be achieved in new greenfield development on the urban front (i.e. urban fringe of the metropolitan area).

No objections were received regarding the proposed density, with one submission supporting a diversity of dwellings to accommodate low to high income groups.

The SS LSP area is located within the Central Metropolitan sub regional area and is not a greenfield development area but rather an infill development area. Directions 2031 recommend that the Central sub regional area should accommodate almost half of the future population growth (47% of the future growth) by way of infill development.

Most significantly, Directions 2031 states that planning will need to focus infill development on target locations for future growth such as in and around retail and employment centres, transit orientated developments and high frequency public transport corridors; and recommends that higher densities be promoted within areas that have close proximity to educational institutions, community facilities and services such as hospitals, medical centres and libraries.

The SS LSP site is in an ideal location for infill development and is located within 1 kilometre of the Fremantle Central Business District and 7 kilometres from the Murdoch and Garden City Activity Centres where all the necessary employment, retail, educational and community facilities are available. In addition, the site is within close proximity to the South Street Local Centre and the Watkins Street Neighbourhood Centre. The site is accessible via public transport and is in walking distance to primary and high schools and the Fremantle TAFE. It is therefore concluded that the site presents an opportunity to provide for higher density living close to existing amenities, facilities and services, including high frequency public transport and the Fremantle city centre.

Height

The height proposed by the LSP is to be measured from the street or public open space edge, and proposed to be between 17 and 20 metres maximum (indicative height of 4 and 5 storeys. A landmark building is also proposed in precinct 4 to a maximum height of 47m (indicative height of 13 storeys).

Submissions received noted that any development over 4 storey's will be out of character with the existing developments in the area, with 3 submissions objecting to the proposed indicative height of 13 storeys for the proposed landmark development.

The City supports the proposed height limitations but has identified potential difficulties in the measuring of the height during the design and assessment stages of development due to the varying topography of the site. In this regard it is recommended that the height limitations as proposed are retained in the proposed SS LSP, and that during the preparation of each precincts local development plan the height be measured using the Australian Height Datum (AHD) and the height then be capped accordingly.

It is considered the locality of the site being within close proximity to public transport, existing amenities, facilities and services presents an opportunity to provide higher density living without having a negative impact on the surrounding amenity. Further the typology of the site will contribute to the integration of the built form due to its

significant fall across the site from west to east with the POS proposed on the top of the ridge (western boundary).

The proposed landmark building with an indicative height of up to 13 storeys is proposed on the low lying area of precinct 4. The ultimate height of the building would be subject to the building meeting certain performance criteria, to be identified and included in the local development plan. It is noted that the inclusion of a 15% affordability component into the performance criteria is included in Part Two clause 4.3.2 - Building Height.

The Department considers the inclusion of such a performance criteria is onerous and difficult to control and would be detrimental to the development of the building. It is considered subject to the compliance with performance criteria to be contained within the local development plan will ensure the development will not detract from the character or amenity of the area. Further being located adjacent to Stevens Reserve the proposed landmark development will create passive surveillance opportunities over the reserve.

Concerns raised by the Fremantle District Cricket Club regarding the aesthetical appearance of the proposed development adjacent to the Stevens Reserve can be addressed in more detailed through the preparation of the Local Development Plan.

Traffic

A number of submissions raised concerns that the SS LSP will result in a population increase in the area and that this could result in an increase in traffic to the locality and that it would negatively impact on the existing neighbourhood road safety. To address this matter a Knutsford Street traffic and transport impact assessment study was undertaken, taking into consideration the higher aspirational dwelling yield (891 dwellings) rather than the targeted yield (470 dwellings). The study considered the potential impact on the local road network and concluded that:

- The predicted traffic flows would not be significant and can be accommodated within the existing road network without the need for upgrades to the local road system;
- All roads affected by the proposed redevelopment of the LSP will continue to operate appropriate to their function and the residential amenity of local streets will not be affected;
- All accesses are shown to perform with excellent levels of service during peak periods; and
- External intersections are not to be materially affected by the proposed development.

Public Open Space (POS)

The SS LSP has an area of approximately 8.9ha, and provides a POS area of 1.0416ha equating to 12.34% of the gross subdividable area.

The POS has incorporated significant environmental features (limestone ridge) and proposed the regeneration of bushland. The location of the POS is such that it will

serve both the new residents and the existing community. Further, the POS creates a green link between Stevens Street Reserve and Monument Hill.

The Department supports the location and percentage of POS that is proposed in the LSP and does not recommend the provision of any additional POS.

Statutory Considerations

The proposed SS LSP contains provisions that purport to override Local Planning Scheme No. 4 in the event of an inconsistency. The Planning and Development (Local Planning Scheme) Regulations 2015 are due to come into effect on 19 October 2015 and will prevent a structure plan from overriding the Scheme in the event of an inconsistency. Minor modifications to the statutory part are recommended to align with the new regulations.

COUNCIL MODIFICATIONS

In order to address some issues, and partly in response to certain matters raised in submissions, the City of Fremantle has recommended modifications as detailed below:

Part Two - Explanatory Information (Additional Text)

- a. Additional explanatory notes to be added to Part 2 of the LSP - '4.9 Playing Fields Interface'. The explanatory note is to address the following aspects through detailed planning and design:
 - i. Design guidelines being prepared in consultation with LandCorp, Fremantle District Cricket Club and the City of Fremantle specifying minimum design and construction standards to reduce or eliminate the potential impact of stray cricket balls, and

DoP Comment

The department supports the preparation of design guidelines at the local development plan stage to ensure the community aspirations are taken into consideration.

- b. A new section to be added to Part 2 - '5.6 Additional Scheme Amendment'. The explanatory note is to address the need for the City to do further investigations into the rezoning of Lot 2069 and 2070 (21 Knutsford Street), and their inclusion into the SS LSP.

DoP Comment

The incorporation of the two lots into the SS LSP will result in a better outcome for the area. The SS LSP has taken into consideration the potential for the inclusion of the two lots and can be modified without any implication to the overall SS LSP.

- c. Additional wording be included into Part 2, '5.4 Development Guidelines'. The explanatory note is to state that further consideration will be given to using an

Australian Height Datum (AHD) measurement or other more appropriate height measures to cap the maximum height of new buildings over the site at the design guidelines / local development plan(s) stage.

DoP Comment

To avoid any potential issues in the calculation of the height of buildings due to the typology of the site, the department supports the use of the AHD or other more appropriate method to calculate the height of the buildings.

CONCLUSION

The SS LSP is considered to satisfy the requirements of LPS4 for the preparation of structure plans and the WAPC Guidelines for the Preparation of Structure Plans. The SS LSP proposes to facilitate the provision of a range of residential development types and densities which will be well serviced by public open space.

It is considered that the development outcomes from the SS LSP would be consistent with strategic planning policy objectives of the State Government and also meet a number of the Council's own Strategic Plan objectives, notably in respect of providing greater diversity and affordability in housing supply to meet changing population needs.

It is therefore recommended that the SS LSP be endorsed subject to certain modifications, which should be incorporated into the SS LSP documentation prior to it being endorsed for final approval.

ITEM NO: 9.4

Variation to Minimum or Average Lot Size Requirements for Subdivision of Dual-Coded Areas in City of Armadale

WAPC OR COMMITTEE: Statutory Planning Committee

REPORTING AGENCY: Department of Planning
REPORTING OFFICER: Manager, Metro Planning South East
AUTHORISING OFFICER: Director, Metro Planning South East
AGENDA PART: G
FILE NO: N/A
DATE: 8 September 2015
REPORT CATEGORY: Policy
RECOMMENDATION OUTCOME: Approve
ATTACHMENT(S): Nil

RECOMMENDATION:

That the Statutory Planning Committee resolves to:

- 1. endorse the application of up to a five per cent variation to the minimum or average site area requirements in dual-coded areas within the Armadale Local Government municipality without a development application first being approved under the City of Armadale's TPS No. 4 where it considers that the subject application meets State policy criteria in relation to variations to site area requirements; is consistent with the intent of Clause 5.2.4(ii) of TPS4; and any approval will not negatively impact on the surrounding locality; and***
- 2. advise the City of Armadale accordingly.***

SUMMARY:

- Under Clause 5.2.4 the City of Armadale Town Planning Scheme No 4 (TPS4), a development application approval is a prerequisite to obtain the higher density code for subdivision in dual-coded areas within the City of Armadale (the City).
- Where applications seek the benefit of the higher coding but require a variation to meet the minimum or average site area requirements the City is not legally empowered to support any variations to the prescribed minimum or average site area requirements for development applications.

- The Statutory Planning Committee's support is sought for relevant Western Australian Planning Commission (WAPC) delegated officer to consider applications for density at a higher coding without a development application being approved by the local government where it considers that the subject application meets State policy criteria in relation to variations to site area requirements; is consistent with the intent of clause 5.2.4(ii) of TPS4; and any approval will not negatively impact on the surrounding locality.

BACKGROUND:

The Department has received a number of subdivision and survey strata applications in dual-coded areas within the Armadale local government area which seek the benefit of the higher coding but require a variation to meet the minimum or average site area requirements.

Under Clause 5.2.4 of TPS4, a development approval is a prerequisite to obtain the higher density code, however, the City is not legally empowered to support any variations to the prescribed minimum or average site area requirements for development applications.

When WAPC receives an application proposing the subdivision of lots at the higher code, it is often placed on deferral pending the provision of a development approval from the City. In instances where variations to site area are required, the City is obligated to recommend to the WAPC that the subdivision application be refused, and development applications are not supported.

The scheme provisions of TPS4 do not provide sufficient flexibility for the City to consider the merits of a proposal when providing advice to the WAPC on subdivision applications where variations to the site area are proposed. This places the WAPC in the situation of having to either refuse the subdivision application, or approve the application despite being contrary to TPS4.

It is proposed to develop a consistent approach to these applications in order to avoid the refusal of subdivision applications that may otherwise have merit - particularly given such applications provide for infill development within established metropolitan areas - while also providing a level of certainty for proponents and the City.

Accordingly the support to apply up to a five per cent variation to minimum or average site area requirements in dual-coded areas within the Armadale local government area without a development application first being approved under TPS4 where it considers that the subject application meets State policy criteria in relation to variations to site area requirements; is consistent with the intent of Clause 5.2.4(ii) of TPS4; and any approval will not negatively impact on the surrounding locality.

LEGISLATION / STRATEGIC PLAN / POLICY:

Legislation

Section:

Planning and Development Act 2005

Part 10 - Subdivision and development control

Strategic Plan

Objectives:	Planning
Performance Outcomes:	Effective delivery of land subdivision in infill areas
Strategic Imperatives:	Implement state and regional planning priorities

Policy

Number and / or Name:	WAPC Development Control Policy 2.2 - Residential Subdivision , Clause 3.2.3
	State Planning Policy 3.1 - Residential Design Code, Clause 5.1.1

DETAILS:

State policy

A minor variation of up to five per cent of the site area is able to be considered within prescribed situations under *State Planning Policy 3.1: Residential Design Codes* (R-Codes; WAPC 2013) and is also referenced in *Development Control Policy 2.2: Residential subdivision* (WAPC 2013). This is standard practice as part of assessments in single-coded areas.

- *State Planning Policy 3.1: Residential Design Codes*

The R-Codes set out minimum and average site areas requirements for dwellings at different residential density codes in Table 1. Design Principle 5.1.1: Site area, P1.2 (p. 17) sets out that the WAPC may consider varying the minimum site area by no more than five per cent to:

- facilitate the protection of an environmental or heritage feature;
- facilitate the retention of a significant element that contributes toward an existing streetscape worthy of retention;
- facilitate the development of lots with separate and sufficient frontage to more than one public street;
- overcome a special or unusual limitation on the development of the land imposed by its size, shape or other feature;
- allow land to be developed with housing of the same type and form as land in the vicinity and which would not otherwise be able to be developed; or
- achieve specific objectives of the local planning framework.

As such, the application of a variation to minimum lot sizes is not “as of right”, but considered on merit for individual applications. Any variations are made at the discretion of the WAPC, not the local government.

- *Development Control Policy 2.2: Residential Subdivision*

Clause 3.2.3 of DC 2.2 provides that, in established residential areas, the WAPC may consider approving subdivision or survey strata applications where variations to

minimum or average lot size requirements are proposed, subject to the following criteria:

- All lots in the subdivision meeting minimum lot size requirements;
- The variation reduces the lot size by no more than five per cent of the average specified in Table 1 of the R Codes;
- The subdivision demonstrates that the variation will have a beneficial outcome for the community and will have no adverse impacts; and
- Only one lot to be granted the five per cent variation.

With regard to average lot sizes, a variation not exceeding five per cent may also be supported, subject to the proposal creating a beneficial planning outcome.

City of Armadale Town Planning Scheme No. 4

TPS4 includes provisions for the City to consider development applications in dual-coded areas, stating:

“5.2.3 Where a dual code is depicted, the lower code is applicable to subdivision and development, unless a density bonus has been granted in accordance with Clause 5.2.4.

5.2.4 Notwithstanding 5.2.3 above, the City may permit development above the lower density code in the following circumstances subject to an Application for Planning Approval being granted by the City in accordance with Local Planning Policy 3.1 Residential Density Development...”

Clause 5.2.4 goes on to state that the higher density code will generally be supported:

(ii) where the proposal is located in close proximity to the following facilities:

(a) a public transport stop or station;

(b) a convenience shopping site;

(c) a recreational open space or other recreational facility; and

(d) a community facility.

These provisions do not provide the granting of a development application at the higher code “as of right” but rather treats it as a discretionary bonus to the base code, which requires a merit-based assessment by the City.

Clause 5.2.4 affords that the City “may” permit development above the lower density code subject to the granting of a development application.

Clause 5.2.5 provides the ability for the City to consider reductions to the minimum or average site area requirements of the R-Codes for Aged or Dependent Persons Dwellings or Single Bedroom Dwellings in dual-coded areas; however, it does not give discretion to the City to consider lot size variations for other land uses.

Planning and Development Act 2005

Section 138(2) of the *Planning and Development Act 2005* (PD Act) provides that:

"...in giving its approval [to subdivision] ... the Commission is to have due regard to the provisions of any local planning scheme that applies to the land under consideration and is not to give an approval that conflicts with the provisions of a local planning scheme".

However, section 138(3)(c) enables the WAPC to grant an approval that conflicts with the provisions of a local planning scheme if the conflict is considered minor, or if the approval is consistent with the general intent of the local planning scheme.

GOVERNMENT AND CORPORATE IMPLICATIONS:

Nil.

CONSULTATION:

The City was asked to comment on a draft internal practice note from the Department of Planning that attempted to establish an agreed protocol to the relevant scheme provisions with the intention of meeting the needs of both agencies. The City did not extend its support to the practice note primarily due to the conflict it would create with the scheme provisions.

The City also indicated that it is unsupportive of development applications on lots that seek both the five per cent variation and the density bonus as it considers such developments as receiving "a bonus on top of a bonus". It is also concerned with the potential streetscape and amenity issues that might arise if variations are frequently applied, leading to inconsistent development outcomes with smaller lots potentially having a negative impact.

It is important to note that a similar planning practice note is currently in place between the City of Gosnells and the Department regarding applications for subdivision seeking both the higher coding and lot size variation. Under this agreement the development and subdivision applications are assessed by local government and Departmental officers respectively. Once Departmental staff indicate their position regarding the five per cent variation, the City will issue its decision on the proposed development assessment.

OFFICER'S COMMENTS:

The City's inability to consider development applications in dual-coded areas that do not meet the minimum or average site area requirements has established unnecessary delays in the processing of subdivision applications, and has generated automatic recommendations of refusal irrespective of a proposal's merit.

An example of one such application is the proposed subdivision of Lot 552 Kara court Seville Grove from one 687m² lot into two lots of 300m² and 331m² and 56m² parcel of common property (WAPC ref: 166-15). The subject land is zoned 'Urban'

under the Metropolitan Region Scheme (MRS) and 'Residential' under TPS4 and has been coded Residential R15/25. The lot is located within a cul-de-sac which includes an existing survey strata subdivision.

The proposed subdivision seeks the application of the higher R25 coding. The proposal complies with the required minimum lot size (300m² required; 300m² proposed) but it is below the average lot size (350m² required; 343.5m² proposed) for the higher R25 density coding. Approval of the subdivision requires a 1.8 per cent variation to the average lot size.

The City has refused to allow the proponent to lodge a development application due to inconsistency with the R-Codes.

This proposal represents an example of the inflexibility of the TPS4 provisions to consider applications on merit. The lot in question is an irregular shape which does not lend itself to the strict application of the R-Codes, and would not create a detrimental development outcome on the site or surrounds. Such applications do not seek to maximise their development potential and will have the benefit of ensuring efficient use of residential zoned land in areas ripe for regeneration and densification.

The WAPC already has the ability to apply discretion to the minimum or average site area requirements as part of the subdivision application process. In order to ensure efficient processing of subdivision applications requesting this discretion, the Statutory Planning Committee's endorsement is sought to use section 138(3)(c) of the PD Act to consider the intent behind the relevant provisions of the scheme, namely cl. 5.2.4(ii), when considering such applications submitted under TPS4.

While this will result in a higher number of decisions that conflict with the City's recommendation of refusal, it will give greater certainty and consistency to what is currently a cumbersome and unwieldy set of provisions that inhibit the consideration of such applications on merit.

In light of the above, the Statutory Planning Committee's endorsement is sought for Departmental officers to apply up to a five per cent variation to minimum or average site area requirements in dual-coded areas of the Armadale local government area without a development application first being approved under TPS4 where it considers that the subject application meets State policy criteria in relation to variations to site area requirements; is consistent with the intent of Clause 5.2.4(ii) of TPS4; and any approval will not negatively impact on the surrounding locality.