



Statutory Planning Committee

Notice is hereby given that meeting 7532 of the Statutory Planning Committee will be held on:

**Tuesday, 13 October 2015
9.00 am 72**

Level 3, Room 3.23, 140 William Street Perth

This meeting is not open to members of the public



**Tim Hillyard
WAPC Secretary**

**Committee
Secretary:**

Arlene Doherty
6551 9692
committees@planning.wa.gov.au

**Attendance by
Department of
Planning officers:**

Only Executive Directors and committee support staff to be present unless attendance of others is specifically requested or approved by the Chair or Director General. Executive Directors and Commission support staff will be responsible for providing feedback on items to staff.

Statutory Planning Committee

Tuesday, 13 October 2015, 9.00am

ITEM	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.	Announcements by the Chairperson without discussion	
7.	MINUTES	
7.1	Confirmation of minutes – Meeting No. 7531 on 22 September 2015	
8.	DEPUTATIONS AND PRESENTATIONS	Estimated Time
9.	STATUTORY ITEMS FOR DECISION	Report Writer/Notes
9.1	Endorsement of Subdivision Guide Plan – Lot 7 Dunkeld Drive, Herron – City of Mandurah	Cameron Bulstrode
9.2	Endorsement of a Local Structure Plan for Lot 9001 Forrest Street and River Road, Boddington	Cameron Bulstrode
9.3	Shire of Northampton Amendment 1 Kalbarri Townsite Strategy – Consent to Advertise	Johan Gildenhuys
9.4	Town of East Fremantle Local Planning Strategy – Submitted for Consent to Advertise	Lee O'Donohue
9.5	Application for Planning Approval for a Stairway at Lot 200 Bindaring Parade Claremont	Matthew Selby
9.6	Development: Proposed Rural Shed – Lot 14 Gngara Road, Henley Brook	Kym Petani
9.7	Proposed Reduction in Boundary Setback for Rural Shed – Lot 116 (No. 1510 Padbury Avenue, Millendon	Kym Petani
10.	POLICY ITEMS FOR DISCUSSION / DECISION	Report Writer/Notes
	NIL	
11.	CONFIDENTIAL ITEMS	Report Writer/Notes
11.1	Residential Subdivision and Development on Lots Less than 100m2	Ben Harvey
11.2	City of Cockburn – Consolidation of Town Planning Scheme No. 3	Lee O'Donohue
11.3	City of Mandurah Town Planning Scheme No.3 – Amendment 121 – for Final Approval	Cameron Bulstrode
11.4	City of Subiaco Town Planning Scheme No.4 – Amendment 23 - for Final Approval	Lee O'Donohue
11.5	City of Swan – Local Planning Scheme No.17 – Amendment No.121 – Proposed Additional Use Multiple Dwellings, Guilford Hotel Site, James St, Guildford	Lee O'Donohue
11.6	Town of Cambridge – Local Planning Scheme No.1 Amendment 31 – for Final Approval	Lee O'Donohue

11.7	Endorsement of Modification to Ellenbrook Town Centre Development Plan	Kym Petani		
11.8	Amendment No.69 to the Shire of Carnarvon Town Planning Scheme No.10 – for Approval	Johan Gildenhuys		
11.9	City of Karratha Draft Local Planning Strategy – Consent to Advertise	David MacLennan		
11.10	City of Stirling – Local Planning Scheme Amendment 53 – for final Approval	Lee O’Donohue		
11.11	Shire of Irwin Local Planning Strategy – Consent to Advertise	Johan Gildenhuys		
11.12	Shire of Northampton Horrocks Beach Local Planning Strategy – for Final Endorsement	Johan Gildenhuys		
11.13	City of Albany, Subdivision to Create to Create 4 Lot(s) for Conservation Purpose			
12.	STAKEHOLDER ENGAGEMENT AND SITE VISITS			
13.	URGENT OR OTHER BUSINESS			
14.	ITEMS FOR CONSIDERATION AT A FUTURE MEETING			
	Item No	Report	Request	Due date
	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
	7531.14.1	SAT Applications	The Members are to be advised of the current applications before SAT and requests for reconsideration. The current exercise of delegated authority is to be reconsidered at the next Committee's Policy meeting.	27 October 2015
15.	MEETING CLOSURE – NEXT MEETING TUESDAY 27 OCTOBER 2015 AT 9:00AM			

Information for SPC Members

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.

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.

Statutory Planning Committee

Minutes
of ordinary meeting 7531
held on Tuesday, 22 September 2015

Attendance

Members

Mr Eric Lumsden
Mayor Russell Aubrey
Ms Megan Bartle
Ms Sue Burrows
Mr Martin Clifford
Mr Ray Glickman
Mr Stephen Hiller
Mr Ian Holloway
Ms Gail McGowan
Ms Elizabeth Taylor

WAPC Chairman (Presiding Member)
Local government representative
WAPC appointee
WAPC appointee
Regional Minister's nominee (Deputy)
WAPC appointee
WAPC appointee
Professions representative
Director General, Department of Planning
Community representative

Officers

Mr Cameron Bulstrode
Mr John Gildenhuis
Mr David MacLennan
Ms Lee O' Donohue
Ms Marion Thompson

Ms Vanessa Crisp

Department of Planning

Planning Director
Planning Manager
A/Executive Director
Planning Manager Schemes and Amendments
Urban Development Co-ordinator
Strategy Policy and Projects
Executive Assistant WAPC

Observers

N/A

Presenters

Ms Kareena May
Mr Michael Johnson
Mr Michael Voros
Ms Jacinta Dowsing
Mr Andrew Fowler –Tutt

The Spatial Group planning & design – Item #6.1
Landowner – Item #6.1
Herbert Smith Freehills – Item #6.2
Dowsing Concrete – Item #6.2
Shire of Kalamunda – Item #6.3

Committee Support

Ms Wendy Willey

Committee Support Officer - Department of Planning

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7531.1 Declaration of Opening

The Presiding Member declared the meeting open at 9 am, acknowledged the traditional owners and custodians of the land on which the meeting is taking place and welcomed Members.

7531.2 Apologies

Nil.

7531.3 Members on Leave of Absence and Applications for Leave of Absence

Nil.

7531.4 Disclosure of Interests

Member/Officer	Minute No.	Page No.	Nature of Interest
Ms Sue Burrows	7531.11.2		Impartiality

Resolved

Members agreed

In accordance with clause 6.10(7) of the Standing Orders 2009, members of the Statutory Planning Committee agreed that the Ms Burrows, who has disclosed an impartiality interest, is permitted to participate in discussion and voting on the item 7531.11.2.

The motion was put and carried.

Dissent from Mr Lumsden.

7531.5 Declaration of Due Consideration

All members indicated that they had received and considered the agenda items before the meeting.

7531.6 Deputations and Presentations

7531.6.1 Item 9.1 – Endorsement of Local Structure Plan for Lot 9001 Forrest Street and River

Presenter	Ms Kareena May, The Spatial Group Planning & Design Mr Michael Johnson, Landowner
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Ms May gave an overview of the proposal and advised the Committee that their client is eager for the Committee's support for the development.

7531.6.2

Item 11.2 - Shire of Kalamunda – Local Planning Scheme Amendment No.68 For Final Approval

Presenter Mr Michael Voros, from Herbert Smith Freehills
Ms Jacinta Dowsing, from Dowsing Concrete

Mr Voros informed the Committee that the Shire of Kalamunda's Local Planning Scheme Amendment No. 68 is not supported and summarised the reasons why the process was considered to be invalid.

7531.6.3

Item 11.2 - Shire of Kalamunda – Local Planning Scheme Amendment No.68 For Final Approval

Presenter Mr Andrew Fowler-Tutt, from Shire of Kalamunda

Mr Fowler-Tutt expressed the Shire's support of the Scheme Amendment No. 68.

7531.7 **Announcements by the Chairperson of the Board and communication from the WAPC**

Nil.

7531.8 **Confirmation of Minutes**

7531.8.1

Minutes of the Statutory Planning Committee meeting held on Tuesday, 8 September 2015

At the SPC meeting of 8 September 2015 the members considered item 11.11, titled "Ashburton North Strategic Industrial Area – Improvement Scheme No.1 – for Consent to Advertise".

The members were advised prior to today's meeting that an error was made when drafting the recommendation for the abovementioned item and accordingly resolution 1 needs to be amended to refer to *Section 81 of the Planning and Development Act 2005 and 48A of the Environmental Protection Act 1986*.

Resolved

Moved by Mr Clifford, seconded by Ms Bartle

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That the minutes of the Statutory Planning Committee meeting held on Tuesday, 8 September 2015, as amended, be confirmed as a true and correct record of the proceedings.

The motion was put and carried.

7531.8.2

Modification of Frasers Landing Outline Development Plan

Resolved

Moved by Ms Taylor, seconded by Mr Lumsden

That the Statutory Planning Committee confirms it's out of session resolution as follows:

The Statutory Planning Committee resolved to:

- 1. approve the Frasers Landing outline development plan, subject to the following modification to clause 2.2.6 to read as follows;*

2.26 A Local Development Plan may be used to elaborate or expand development provisions of the Outline Development Plan, the Scheme, Local Planning Policies and the Residential Design Codes.

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

The motion was put and carried.

7531.9 Statutory Items for Decision

7531.9.1

Endorsement of a Local Structure Plan for Lot 9001 Forrest Street and River Road, Boddington

File SPN/0684

Agenda Part C

Reporting Officer A/Planning Manager, Peel Planning

Officer's Recommendation

That the Statutory Planning Committee resolve to:

1. endorse the structure plan for Lot 9001

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Forrest Street and River Road, Boddington,
subject to the attached Schedule of
Modifications; and

2. advise the Shire of Boddington of its
decision.

The Committee discussed the content of the report and information provided by the deputation and it was agreed that the main concerns were, whether the Water Corporation is aware and informed on the current issues.

The Committee accepted the position put by the proponent with regard to the adequacy of the Spring Survey work and the positioning of the water tank.

Resolved

Moved by Ms Taylor, seconded by Mr Clifford

That the Statutory Planning Committee resolves to defer the endorsement of the Local Structure Plan for Lot 9001 Forrest Street and River Road, Boddington in order to seek further advice from the Water Corporation of their knowledge on the current proposal.

The motion was put and carried.

7531.9.2

Subdivision to Create 12 Lots for Residential and Service Commercial (Restricted) Purposes - Lot 6 Gordon Road Greenfields

File 151664
Agenda Part C
Reporting Officer Planning Manager, Peel

Resolved

Moved by Ms McGowan, seconded by Ms Taylor

That the Statutory Planning Committee resolves to approve the application for the subdivision of Lot 6 Gordon Road, Greenfields as shown on the plan date-stamped 30 March 2015 subject to the following conditions and advice:

CONDITIONS:

1. *Engineering drawings and specifications are to be submitted, approved, and subdivisional*

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works undertaken in accordance with the approved plan of subdivision, engineering drawings and specifications, to ensure that those lots not fronting an existing road are provided with frontage to a constructed road(s) connected by a constructed road(s) to the local road system and such road(s) are constructed and drained at the landowner/applicant's cost.

As an alternative, and subject to the agreement of the Local Government the Western Australian Planning Commission (WAPC) is prepared to accept the landowner/applicant paying to the local government the cost of such road works as estimated by the local government and the local government providing formal assurance to the WAPC confirming that the works will be completed within a reasonable period as agreed by the WAPC. (Local Government)

- 2. Engineering drawings and specifications are to be submitted, approved, and subdivisional works undertaken in accordance with the approved plan of subdivision, engineering drawings and specifications, for the provision of shared paths through and connecting to the application area in accordance with the approved Lot 6 Bortolo Drive, Greenfields Outline Development Plan. The approved shared paths are to be constructed by the landowner/applicant. (Local Government)*
- 3. The land being filled, stabilised, drained and/or graded as required to ensure that:*
 - a) lots can accommodate their intended use; and*
 - b) finished ground levels at the boundaries of the lot(s) the subject of this approval match or otherwise coordinate with the existing and/or*

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proposed finished ground levels of the land abutting; and

- c) stormwater is contained on-site, or appropriately treated and connected to the local drainage system. (Local Government)*

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

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

- 5. The proposed public open space reserve(s) shown on the approved plan of subdivision being shown on the diagram or plan of survey (deposited plan) as reserve(s) for recreation and vested in the Crown under Section 152 of the Planning and Development Act 2005, such land to be ceded free of cost and without any payment of compensation by the Crown. (Local Government)*

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

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'This lot is in close proximity to the Gordon Road Wastewater Treatment Plant and may be adversely affected by virtue of odour emissions from that facility.' (Western Australian Planning Commission)

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

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

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

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

10. A restrictive covenant, to the benefit of the local government pursuant to section 129BA of the Transfer of Land Act 1893 (as amended) is to be placed on the certificate of title for the proposed balance lot advising of

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the existence of restriction of use of the land. Notice of this restriction is to be included on the diagram or plan of survey (deposited plan). The restrictive covenant is to state as follows:

'No development shall occur that produces wastewater exceeding 540 litres per day per 2000 square metres unless connected to a reticulated sewerage service.'

- 11. Arrangements being made to the satisfaction of the Western Australian Planning Commission and to the specification of Western Power for the provision of an underground electricity supply to the lot(s) shown on the approved plan of subdivision. (Western Power)*
- 12. The transfer of land as a Crown reserve free of cost to Western Power for the provision of electricity supply infrastructure. (Western Power)*

ADVICE:

- 1. In regard to Condition 1, the landowner/applicant is advised that the road reserves, including the constructed carriageways, laneways, truncations, footpaths/dual use paths and car embayments, are to be generally consistent with the approved plan of subdivision.*
- 2. The landowner/applicant and the local government are advised to refer to the Institute of Public Works Engineering Australia Local Government Guidelines for Subdivisional Development (current edition). The guidelines set out the minimum best practice requirements recommended for subdivision construction and granting clearance of engineering conditions imposed.*
- 3. In regard to Condition 8, the*

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landowner/applicant shall make arrangements with the Water Corporation for the provision of the necessary services. On receipt of a request from the landowner/applicant, a Land Development Agreement under Section 83 of the Water Services Act 2012 will be prepared by the Water Corporation to document the specific requirements for the proposed subdivision.

- 4. In regard to Condition 10, this condition applies to the land designated as Service Commercial - Restricted in the Lot 6 Bortolo Drive Greenfields Outline Development Plan.*
- 5. In regard to Condition 11, Western Power provides only one underground point of electricity supply per freehold lot.*

The motion was put and carried.

7531.10 Policy Items for Discussion/Decision

Nil.

7531.11 Confidential Reports

7531.11.1 City of Swan Local Planning Scheme No. 17 – Amendment 125 for Final Approval
File TPS/1566
Agenda Part B
Reporting Officer Manager, Schemes and Amendments

THIS ITEM IS CONFIDENTIAL

7531.11.2 Shire of Kalamunda - Local Planning Scheme Amendment No. 68 for Final Approval
File TPS/1413
Agenda Part B
Reporting Officer Planning Manager – Schemes and Amendments

THIS ITEM IS CONFIDENTIAL

7531.11.3 Residential Lot Construction Cost Analysis
File DP/14/00437
Agenda Part D
Reporting Officer Director, Office of Land and Housing Supply

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THIS ITEM IS CONFIDENTIAL

- 7531.11.4 City of Kalgoorlie Boulder - Local Planning Scheme Amendment 88 - for Final Approval**
File TPS/1428
Agenda Part E
Reporting Officer Statutory Planning Manager, Central Regions

THIS ITEM IS CONFIDENTIAL

- 7531.11.5 Shire of Three Springs Local Planning Scheme No. 2 - Approval Subject to Modifications**
File 853/3/16/2
Agenda Part E
Reporting Officer A/Statutory Planning Manager, Central Regions

THIS ITEM IS CONFIDENTIAL

- 7531.11.6 State Administrative Tribunal: Invitation to Reconsider Conditions of Approval to Subdivide Lots 2 and 3 Lakes Road, Greenfields, to Create 20 Residential Lots**
File 151450
Agenda Part G
Reporting Officer Planning Manager, Peel Planning

THIS ITEM IS CONFIDENTIAL

7531.12 Stakeholder Engagement & Site Visits

Nil.

7531.13 Urgent Business

Nil.

7531.14 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 Plan Report	Area Establishment report to be presented to the Committee.	TBA

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- | | | | |
|------------------|------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|
| 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 |
| 7531.14.1 | SAT Applications | The Members are to be advised of the current applications before SAT and requests for reconsideration. The current exercise of delegated authority is to be reconsidered at the next Committee's Policy meeting. | 27 Oct. 2015 |

7531.15 Closure

The next ordinary meeting is scheduled for 9:00 am on 13 October 2015.

There being no further business before the Committee, the Presiding Member thanked members for their attendance and declared the meeting closed at 10.33 am.

PRESIDING MEMBER _____

DATE _____

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9.2	Endorsement of a Local Structure Plan for Lot 9001 Forrest Street and River Road, Boddington
<i>D</i>	<i>GENERAL ITEMS / OTHER MATTERS</i>
9.3	Shire of Northampton Amendment 1 Kalbarri Townsite Strategy – Consent to Advertise
9.4	Town of East Fremantle Local Planning Strategy – Submitted for Consent to Advertise
<i>G</i>	<i>DEVELOPMENTS / SUBDIVISIONAL / SURVEY STRATA</i>
9.5	Application for Planning Approval for a Stairway at Lot 200 Bindaring Parade Claremont
9.6	Development: Proposed Rural Shed - Lot 14 Gnangara Road, Henley Brook
9.7	Proposed Reduction in Boundary Setback for Rural Shed - Lot 116 (No. 151) Padbury Avenue, Millendon
10	POLICY ITEMS FOR DISCUSSION/DECISION
	NIL.
11	CONFIDENTIAL REPORTS
<i>A</i>	<i>POLICY</i>
11.1	Residential Subdivision and Development on Lots Less than 100m ²

B *LOCAL OR REGIONAL PLANNING SCHEMES / AMENDMENTS*

- 11.2 City of Cockburn – Consolidation of Town Planning Scheme No. 3
- 11.3 City of Mandurah Town Planning Scheme No.3 - Amendment 121 – for Final Approval
- 11.4 City of Subiaco Town Planning Scheme No. 4 - Amendment 23 – for Final Approval
- 11.5 City of Swan - Local Planning Scheme No. 17 - Amendment No. 121 - Proposed Additional Use Multiple Dwellings, Guildford Hotel Site, James St Guildford
- 11.6 Town of Cambridge - Local Planning Scheme No. 1 Amendment 31 – for Final Approval

C *SUBDIVISIONS / AMALGAMATIONS*

- 11.7 Endorsement of Modification to Ellenbrook Town Centre Development Plan

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

- 11.8 Amendment No. 69 to the Shire of Carnarvon Town Planning Scheme No. 10 – for Approval
- 11.9 City of Karratha Draft Local Planning Strategy - Consent to Advertise
- 11.10 City of Stirling - Local Planning Scheme Amendment 53 – For Final Approval
- 11.11 Shire of Irwin Local Planning Strategy - Consent to Advertise
- 11.12 Shire of Northampton Horrocks Beach Local Planning Strategy – for Final Endorsement

G *DEVELOPMENTS / SUBDIVISIONAL / SURVEY STRATA*

- 11.13 City of Albany, Subdivision to Create 4 Lot(s) for Conservation Purpose

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:	22 September 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:	117 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 Subdivision Guide Plan that relate to Rural zoned land are indicative only.**

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

SUMMARY:

In September 2015, the Statutory Planning Committee deferred consideration of the proposed Subdivision Guide Plan (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 City of Mandurah has forwarded a 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:

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

The SGP is inconsistent with the proposed 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.

The Department of Planning have reviewed Amendment 121 and formed the view that Amendment 121 is not consistent with the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations) and the recently adopted structure plan framework. More specifically, Amendment 121 proposes to introduce provisions to TPS3 to allow the SMRSP to function like the provisions of a local planning scheme and prevail over the scheme in the event of any inconsistency. Under the Regulations a structure plan has 'due regard' status but is not able to function in the same way as the provisions of a local planning scheme. Accordingly, it is considered Amendment 121 and the SMRSP should not be progressed in their current form. A report on Amendment 121 has been prepared for the consideration of the SPC at its meeting on 13 October 2015.

Given Amendment 121 and the SMRSP are inconsistent with the Regulations and structure plan framework, it would be appropriate to consider the SGP in the context

of the current planning framework. In this respect, the proposed lot sizes in the SGP are consistent with the recommended 2 hectares minimum and 5 hectares average lot sizes specified in the *Lake Clifton - Herron Structure Plan*, which was endorsed by the WAPC in 2009. Furthermore, the proposed SGP takes into consideration the relevant site, environmental and bushfire risk management issues or constraints pertaining to the land and, therefore, there is sufficient planning merit to support the proposed SGP.

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.

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.

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

Endorsement of a Local Structure Plan for Lot 9001 Forrest Street and River Road, Boddington

WAPC OR COMMITTEE: Statutory Planning Committee

REPORTING AGENCY:	Department of Planning
REPORTING OFFICER:	Planning Manager (Peel region)
AUTHORISING OFFICER:	Planning Director (Peel region)
AGENDA PART:	C
FILE NO:	SPN/0684
DATE:	28 August 2015
REPORT CATEGORY:	Statutory
RECOMMENDATION OUTCOME:	Endorse
ATTACHMENT(S):	1 Location Plan 2 Aerial Photography 3 Current Structure Plan 4 Schedule of Submissions 5 Proposed Structure Plan 6 Schedule of Modifications
REGION SCHEME ZONING:	Not Applicable
LOCAL GOVERNMENT:	Shire of Boddington
LOCAL SCHEME ZONING:	Special Use
L.G.A. RECOMMENDATION:	Approval
REGION DESCRIPTOR:	Peel
RECEIPT DATE:	15 August 2014
PROCESS DAYS:	406 days
APPLICATION TYPE:	Structure Plan
CADASTRAL REFERENCE:	Lot 9001

RECOMMENDATION:

That the Statutory Planning Committee resolve to:

- 1. endorse the structure plan for Lot 9001 Forrest Street and River Road, Boddington, subject to the attached Schedule of Modifications; and***
- 2. advise the Shire of Boddington of its decision.***

SUMMARY:

The Committee considered the structure plan modifications at its meeting of 22 September 2015. At that meeting, the Committee deferred its determination of the structure plan modifications until the Water Corporation had been consulted in respect of the proposed 9900m² rural-residential lots. The Water Corporation has

recently been consulted and has advised that it has no objection to the proposed 9900m² lots.

The Shire of Boddington has advertised and adopted modifications to the structure plan for Lot 9001 Forrest Street and River Road, Boddington, and has requested the Western Australian Planning Commission (WAPC) endorse those modifications.

Following the Council's adoption of the structure plan modifications, the proponent and officers of the Shire of Boddington and Department of Planning have reached agreement on various, additional, modifications. The Shire of Boddington has subsequently provided written advice confirming that it supports the additional modifications to the structure plan.

The structure plan is being presented to the Committee for its consideration as it is proposed that standard lot size requirements for rural-residential lots be varied, and the creation of under-sized lots supported. It is recommended the outline development plan be endorsed as it is generally consistent with WAPC policy and the local planning framework.

BACKGROUND:

In March 2014, the Council considered a request to modify the existing structure plan. The Shire of Boddington has advertised the modified structure plan and, in July 2014, the Council considered the submissions received (Attachment 4¹) and resolved to request the WAPC endorse the modified structure plan (Attachment 5).

LEGISLATION / STRATEGIC PLAN / POLICY:

Legislation	<i>Shire of Boddington Town Planning Scheme No. 2</i>
Appendix:	4 Special Use Zone
Special Use Area:	1 Portion of Lot 8016 Bannister-Marradong Road, Boddington
Development Standard:	2 <i>"The preparation, approval and administration of the Structure Plan (and any relevant Detailed Area Plan) shall be in accordance with Clauses 7.2.5 - 7.2.15 of the Scheme."</i>

Legislation	<i>Shire of Boddington Town Planning Scheme No. 2</i>
Part:	VII Special Control Areas
Section:	7.2 Development Areas
Clause:	7.2.2 Purpose of Development Areas

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

¹ The schedule of submissions does not include comments, recommendations or determinations from the Shire of Boddington, as no schedule of submissions was prepared for the Council's consideration. However, a full copy of each submission was attached to the report considered by the Council.

Policy

Number and / or *Structure Plan Guidelines*

Name: *State Planning Policy No. 3.1: Residential Design Codes*
draft State Planning Policy No. 3.7: Planning for Bushfire Management

DETAILS:

The Boddington townsite is located approximately 76 kilometres east of Mandurah, and 110 kilometres southeast of Perth.

The site abuts the eastern edge of the Boddington townsite, is approximately 333 hectares in size and contains large areas which have been cleared of vegetation.

The structure plan identifies areas for potential residential, special residential and rural-residential development. It also identifies a site for a potential, future, lifestyle village/caravan park, a community purpose site (potential showground/pony club site) and public open space.

In total, the proposed structure plan would facilitate the creation of approximately 900 lots and a lifestyle village/caravan park which the Shire of Boddington estimates could accommodate approximately 2500 people.

GOVERNMENT AND CORPORATE IMPLICATIONS:

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

CONSULTATION:

The proposed structure plan was available for public comment for six weeks during May/June 2014, with nine submissions received during this period. Of the submissions received, one submission objected to the proposed structure plan while the remaining eight provided comment without raising objections.

A summary of each submission is set out in Attachment 4, which also contains the Department of Planning's comments and recommendations. The schedule of submissions does not include comments, recommendations or determinations from the Shire of Boddington, as no schedule of submissions was prepared for the Council's consideration. However, a full copy of each submission was attached to the report considered by the Council.

OFFICER'S COMMENTS:Residential Development

The proposed structure plan proposes large areas of residential development to an R20/R40 density; however:

- (a) existing development in the Boddington townsite is typically of a lower density (for example, R12.5 to R15);

- (b) there is unlikely to be any significant demand for medium (R30 or R40) density residential lots in Boddington; and
- (c) the creation of slightly larger lots would allow for development which better responds to the site's topography.

For these reasons, it is recommended the structure plan be modified to reduce the area identified for residential development to an R20/R40 density.

It is also recommended the density applicable to other areas of proposed residential development be increased slightly (from R10 to R12.5 and R12.5 to R15).

The Shire of Boddington and the proponent raise no objections to the proposed modifications.

Movement Network

The structure plan (both the current and proposed versions) include a road which runs east-west through the centre of the site and connects the Boddington townsite with River Road, which abuts the eastern boundary of the site. It is recommended this road be slightly realigned to provide a direct connection to Mitchell Crescent, as connecting to Mitchell Crescent would:

- (a) improve the connection between the Boddington townsite and rural-lifestyle areas to the east; and
- (b) rationalise the intersections with Mitchell Crescent.

The Shire of Boddington and the proponent raise no objection to the proposed modification.

Potable Water Infrastructure

Both the existing structure plan and the proposed structure plan identify a site for a proposed water tank which would be used to provide a reticulated potable water supply to the proposed development. However, the location of the proposed water tank means that the tank can only be used to service development located less than 265 metres above the Australian height datum - any development at a greater elevation will need to be provided with an onsite potable water supply. To maximise use of the proposed potable water infrastructure, the proposed water tank should be moved to a more-elevated site.

The Shire of Boddington and the proponent raise no objections to the proposed modification. However, the proponent advises that extending the reticulated potable water network is likely to be quite costly, as there are no operating subsidies for lots between one and four hectares in size. For this reason, the proponent has requested the WAPC support the creation of rural-residential lots between 9900 square metres and one hectare in size.

This would represent a minor departure from the WAPC's rural land use planning policies, which define rural-residential as a sub-set of rural living, with land parcels from one to four hectares in size. It is recommended the WAPC support the proponent's request as the proposed variation:

- (a) is quite minor (one per cent);
- (b) would facilitate the creation of lots with access to a reliable reticulated potable water supply;
- (c) would facilitate the more-efficient use of infrastructure;
- (d) would not set a widely applicable precedent; and
- (e) is supported by the local government.

The proposed inclusion of 9900m² rural-residential lots was (in addition to other issues) raised in communications with the Water Corporation in late-January 2015. In responding to that communication the Water Corporation provide detailed comments on other matters; however, no comment was provided in respect of the 9900 square metre rural-residential lots.

More recently, the Water Corporation was asked to comment on this specific aspect of the structure plan modification and, in response, the Water Corporation advises that it has no objections to this specific aspect of the proposal and that the decision to have 9900m² rural residential lots in a town planning matter and not a servicing matter.

Consistency with the Local Planning Framework

The local planning scheme requires structure plans be consistent with the local planning scheme and states that where there is an inconsistency, the local planning scheme prevails. This notwithstanding, the proposed structure plan contains:

- (a) land use permissibility variations which conflict with the local planning scheme; and
- (b) provisions relating to land uses that could only be approved if the abovementioned land use permissibility variations were to be given effect.

It is recommended the abovementioned variations and provisions be deleted from the structure plan, to ensure that the local planning scheme and structure plan are consistent.

The Shire of Boddington and the proponent raise no objection to the proposed modifications.

The proposed structure plan is generally consistent with the local planning strategy which identifies parts of the site as suitable for urban expansion, special residential and rural-residential development. The distribution of these land uses in the local planning strategy is generally reflected in the proposed structure plan. However, following further planning investigations the structure plan proposes some (minor) reconfiguration of the spatial arrangement of these land use proposals.

It is worth noting that the structure plan is also consistent with the Shire of Boddington's draft local planning strategy. This has been adopted by the Shire of Boddington, for advertising purposes, but is being assessed by the Department of Planning and has not yet been considered by the WAPC.

Bushfire Risk

Bushfire risk mapping prepared for the Shire of Boddington in 2012 indicates that there is a moderate or extreme risk of bushfire across a large proportion of the site. To demonstrate that this risk can be appropriately addressed and mitigated, the proponent has prepared a bushfire risk management plan. Although not yet finalised, the Shire of Boddington and Department of Fire and Emergency Services have both advised that the bushfire risk management plan is sound and only requires minor modifications.

The proposed structure plan includes bushfire risk management provisions which relate to (but do not directly reference) the *Planning for Bushfire Protection Guidelines 2001*. These guidelines were superseded in 2010 and it is anticipated that new guidelines will be released later this year. For this reason, the provisions should be modified to be compatible with both the current (2010) guidelines and the forthcoming guidelines, which both use similar terminology.

The Shire of Boddington and the proponent raise no objection to the proposed modification.

Planning Regulations

The proposed structure plan is closely aligned with the WAPC's current *Structure Planning Guidelines* (released in 2012) and, therefore, assumes a statutory role not provided for in the *Planning and Development (Local Planning Schemes) Regulations 2015*. However, the proposed modifications would also ensure that the structure plan could better fulfil the non-statutory role set out in the regulations, which will come into operation on 19 October 2015.

Other Considerations

It is recommended that minor modifications be made to the structure plan, to clarify several provisions and remove text which unnecessarily duplicates standard WAPC policy requirements. The Shire of Boddington and the proponent raise no objections to the proposed modifications.

Overall, the proposed modifications are not significant enough to warrant readvertising the structure plan.

Conclusion

The Shire of Boddington and the proponent raise no objections to the proposed modifications, which improve the structure plan's ability to respond to local conditions and provide greater consistency with the current planning framework and the regulations.

On this basis, and as the modified structure plan would be generally consistent with WAPC policy and the local planning scheme, the proposed structure plan should be endorsed, subject to modifications.

ITEM NO: 9.3

Shire of Northampton Amendment 1 Kalbarri Townsite Strategy – Consent to Advertise

WAPC OR COMMITTEE: Statutory Planning Committee

REPORTING AGENCY: Department of Planning
REPORTING OFFICER: Manager - Statutory Planning, Central Regions
AUTHORISING OFFICER: A/Executive Director Regional Planning and Strategy
AGENDA PART: E
FILE NO: DP/15/00172
DATE: 16 September 2015
REPORT CATEGORY: Statutory
RECOMMENDATION OUTCOME: 3. Certify
4. Advise
ATTACHMENT(S): 1. Locality Map
2. Strategy Amendment Map
3. Draft Browne Farm Structure Plan Map

RECOMMENDATION:

That the Statutory Planning Committee resolves to:

- 1. certify that the Shire of Northampton - Amendment 1 Kalbarri Townsite Strategy is consistent with regulation 12A(3) of the Town Planning Regulations 1967 (as amended);***
- 2. grant consent to advertise the Shire of Northampton - Amendment 1 Kalbarri Townsite Strategy in accordance with regulation 12B of the Town Planning Regulations 1967 (as amended).***

SUMMARY:

Regulation 12B of the *Town Planning Regulations 1967 (as amended)* (the Regulations) requires certification of the draft Shire of Northampton - Amendment 1 Kalbarri Townsite Strategy (Strategy Amendment) by the WAPC prior to the commencement of advertising. Department of Planning (DoP) officers have been liaising closely with the Shire since April 2015 in its preparation of the Strategy Amendment documentation. The proposed rural living areas are generally consistent with SPP 2.5 Land Use Planning in Rural Areas, SPP 3 Urban Growth and Settlement and the requirements of the Regulations.

BACKGROUND:

The Kalbarri Townsite Strategy (the Strategy) was endorsed by the WAPC in December 2011 in accordance with the *Town Planning Regulations 1967 (as amended)* and is therefore considered a Local Planning Strategy. It is now proposed to amend the Strategy to accommodate revised landowner aspirations for affected landholdings.

Since April 2015 Department of Planning officers have been liaising with the Shire to clarify current land use intentions in broad terms and to identify key considerations for future subdivision and development. A revised version of the Strategy Amendment has now been resubmitted for consideration by the WAPC for certification and consent to advertise in accordance with the Regulations.

The submitted documents were accompanied by proposed Amendment 11 to Town Planning Scheme No. 9 which includes affected landholdings in the Urban Development zone and the draft Browne Farm Structure Plan. Neither Amendment 11 nor the Structure Plan require the WAPC's consent to advertise.

LEGISLATION / STRATEGIC PLAN / POLICY:

Legislation	<i>Planning and Development Act 2005</i>
Section:	Part 5 Local Planning Schemes
Legislation	<i>Town Planning Regulations 1967</i>
Section:	12A and 12B

Strategic Plan

Objectives:	1. Manage Growth - Create world class liveable cities, towns and regions with diverse choices for communities to thrive and prosper.
Performance Outcomes:	PO 5 Improved planning for regional communities
Strategic Imperatives:	1.3 Effectively plan for strong and resilient regional communities.

Policy

Number and / or Name:	SPP 1	State Planning Framework
	SPP 2.5	Land Use Planning in Rural Areas
	SPP 3	Urban Growth and Settlement

DETAILS:

The proposed Strategy Amendment involves revision of the "Kalbarri Townsite Strategy - Schedule of Proposed Land Use" at section 2.3 of the Strategy, as it applies to the currently identified "Port Kalbarri Precinct." Affected landholdings include Lot 9502 and 9505 George Grey Drive, Kalbarri which have a total area of approximately 260ha. These lots are located on the southern approach to the town of Kalbarri which lies approximately 3.5km to the north (**Attachment 1**). The proposed changes to the Strategy Map are at **Attachment 2**.

The proposed textual changes to the Strategy can be described as follows:

- Change the name of the Port Kalbarri Precinct to Browne Farm and Surrounds.
- Change the landuse intent for the former PK2 (proposed BF2) planning area from medium term residential to rural living with rural smallholdings (10-20ha lots) as an interim subdivision pattern, facilitating rural residential (1ha lots) in the longer term.
- Include a new planning area (BF3) to accommodate tourism development or short stay residential eg. caravan park.
- Update the Technical Appendix to revise description of Port Kalbarri.

Attachment 3 includes the draft Structure Plan that accompanies the proposed Strategy Amendment and illustrates the proponent's current plan for subdivision and development that would be accommodated by the above mentioned changes to the Strategy.

GOVERNMENT AND CORPORATE IMPLICATIONS:

The proposed Amendment to the Strategy will update and facilitate improvement of the local planning framework.

CONSULTATION:

In reviewing the draft Strategy Amendment, the Shire has consulted with DoP officers. The proposal is to advertise the draft Strategy Amendment for public comment.

OFFICER'S COMMENTS:

The Regulations require a local planning strategy to set out long term planning directions, apply State and regional planning policies and to provide a rationale for zones and other local planning scheme provisions.

The proposed Strategy Amendment revises the long term planning direction for the Browne Farm area (currently known as the Port Kalbarri Precinct). SPP 3 *Urban Growth and Settlement* (SPP 3) and SPP 2.5 *Land Use Planning in Rural Areas* (SPP 2.5) provide for rural living where: productive agricultural land and land use conflict is avoided; it is close to existing settlements and services; and takes a realistic approach in terms of demand.

The Browne Farm landholdings are not identified as priority agricultural land and are adjoined by the newly developed density residential area to the east and a rural living estate (1ha lots) to the south. These areas were subdivided in accordance with the existing structure plan for the area (Port Kalbarri Structure Plan). The proposed Strategy Amendment provides for replacement of the Port Kalbarri Structure Plan with a new structure plan which will facilitate a 'downscaling' of planned residential densities to more generally align with Rural Living. This is largely a response to the significant changes to the economic climate under which the existing structure plan was prepared.

The proposed Strategy Amendment is considered to be generally consistent with the objectives and measures of SPP 2.5 and SPP 3.

The proposed Strategy Amendment also provides direction that supports the proposed rezoning of Lots 9502 and 9505 to an urban development zone (Amendment 11 to LPS 9) and the preparation of a structure plan such as that at **Attachment 3**.

The draft Strategy Amendment satisfies the requirements of the Regulations for WAPC's certification prior to advertising.

Approval to advertise is recommended.

ITEM NO: 9.4

Town of East Fremantle Local Planning Strategy – Submitted for Consent to Advertise

WAPC OR COMMITTEE: Statutory Planning Committee

REPORTING AGENCY:	Department of Planning
REPORTING OFFICER:	Planning Manager, Schemes and Amendments
AUTHORISING OFFICER:	Planning Director, Schemes and Amendments
AGENDA PART:	E
FILE NO:	DP/13/00452
DATE:	5 October 2015
REPORT CATEGORY:	Statutory
RECOMMENDATION OUTCOME:	1. Certify
ATTACHMENT(S):	1. Location Plan
	2. Actions proposed in response to themes, objectives and strategies in Directions 2031 and Beyond
	3. Strategy Plan
	4. Strategies and Actions
	5. Schedule of Modifications

RECOMMENDATION:

That the Statutory Planning Committee resolves to:

- 1. certify that the draft local planning strategy is consistent with Regulation 12A(3) of the Town Planning Regulations (as amended) subject to the modifications outlined in the attached Schedule of Modifications being undertaken prior to advertising; and*
- 2. require the draft local planning strategy to be advertised for not less than 21 days*

SUMMARY:

- The Town of East Fremantle has forwarded a draft local planning strategy to the Western Australian Planning Commission (WAPC) for consent to advertise.
- WAPC is required to certify that the draft strategy is acceptable for advertising in accordance with the *Town Planning Regulations 1967*. The *Planning and Development (Local Planning Schemes) Regulation 2015* (PD Regs), which will take effect on 19 October 2015, prescribes the same requirement.

- The draft strategy is recommended for advertising subject to modifications.

BACKGROUND:

The Town of East Fremantle covers an area of approximately 3.2km², with a population of 6 930 based on ABS data from the 2011 census (**Attachment 1**).

Residential land uses and development predominate in the Town, which contains a significant number of dwellings that are representative of early development in the Perth metropolitan region and which the Town advises have heritage significance. Grouped dwellings and older multiple dwellings are also well represented in the Town.

Commercial and retail uses are generally concentrated along Canning Highway at the Preston Point Road and Petra Street intersections, and along George Street. Canning and Stirling Highways which dissect the Town are reserved under the MRS.

The river foreshore is reserved for Parks and Recreation under the MRS, and generally provides for good public access and recreational activities, with exception of areas occupied by existing facilities including boat launching ramps, yacht and rowing clubs, scout and navy cadet facilities. Leeuwin Barracks occupies a substantial area (approximately 13ha) abutting the foreshore at Preston Point, and is reserved for Public Purposes in the MRS.

The Town's existing local planning strategy was adopted in June 2003, and development is subject to Town Planning Scheme No. 3 (TPS 3) which was gazetted in December 2004. The Town has not commenced preparation of a new local planning scheme.

Regulation 11 of the PD Regs requires the WAPC to certify that a local planning strategy satisfies the following before it can be advertised for public submissions:

- sets out the long-term directions for the local government;
- applies any State and regional planning policy that is relevant to the strategy; and
- provides the rationale for any zoning or classification of land under the local planning scheme.

LEGISLATION / STRATEGIC PLAN / POLICY:

Legislation	<i>Town Planning Regulations 1967</i>
Section:	Regulations 12A and 12B
Legislation (effective 19 October 2015)	<i>Planning and Development (Local Planning Schemes) Regulations 2015</i>
Section:	Regulations 11 and 12

Strategic Plan

Objectives:	Planning
Performance Outcomes:	Effective Delivery of Integrated Plans

Strategic Imperatives: Implement State and Regional Planning priorities

Policy

Number and / or Name: Directions 2031 and Beyond
Draft Central Metropolitan Perth Sub-Regional Strategy
Draft Central Sub-regional Planning Framework
SPP 2.8, Bushland Policy for the Perth Metropolitan Region
SPP 2.9, Water Resources
SPP 2.10, Swan-Canning River System
SPP 3, Urban Growth and Settlement
SPP 3.1, Residential Design Codes
SPP 3.5, Historic Heritage Conservation
SPP 4.1, State Industrial Buffer Policy, and draft SPP 4.1, State Industrial Buffer (Amended) Policy
SPP 4.2, Activity Centres for Perth and Peel
SPP 5.4, Road and Rail Transport Noise and Freight Considerations in Land Use Planning
DC Policy 1.6 Planning to Support Transit Use and Transit Oriented Development

DETAILS:

The structure of the draft strategy broadly accords with the format recommended in the WAPC's Local Planning Manual (2010), and comprises two parts:

Part 1 (Background) provides a summary of background information including the local context and setting, State and regional planning framework, local profile and a brief description of precincts and “strategic sites”. This part also details actions that are proposed by the Town in response to themes, objectives and strategies in Directions 2031 and Beyond (**Attachment 2**).

Part 2 (Local Planning Strategy) explains the Town's vision and planning principles, associated strategies and actions, including key issues. A strategy plan outlines the elements of the draft strategy (**Attachment 3**). Key actions are developed for strategies based on objectives of the Town's existing local planning strategy which was adopted in June 2003 (**Attachment 4**).

GOVERNMENT AND CORPORATE IMPLICATIONS:

The draft strategy will contribute towards facilitating application of State and regional level planning policies by providing a strategic planning framework to inform and guide amendment and review of the Town's operative Town Planning Scheme No. 3.

CONSULTATION:

Submitted for consent to advertise.

OFFICER'S COMMENTS:

The draft strategy is generally expressed in simple terms that assist with conveying the Town's planning direction and intentions. Nevertheless, it is relevant to note the following:

- Strategies are contained in Part 1 (Background), while background information is also included in Part 2 (Local Planning Strategy). Accordingly, it is recommended that the draft strategy be modified to enhance legibility by ensuring background information and strategies/actions are contained in respective parts of the document.
- A more comprehensive approach is recommended in Part 1 to demonstrate consideration and application of State and regional policies and strategies. In this regard, the draft strategy should articulate implications and relevant issues for the Town, in accordance with the WAPC's Local Planning Manual (2010). Accordingly, it is recommended that the draft strategy be modified by identifying planning implications for the Town under each State and regional planning policy and strategy, including DC Policy 1.6 (Planning to Support Transit Use and Transit Oriented Development).

For example, in response to SPP 4.2 (Activity Centres for Perth and Peel) it would be necessary for the draft strategy to identify indicative boundaries for centres that are wholly or partly within the Town, and identify walkable catchments for centres within which housing potential should be optimised. In relation to DC Policy 1.6, the draft strategy should identify transit oriented precincts comprising 400m and 800m walkable catchments identified within the Town.

- A new section is recommended in Part 1 to review and analyse key issues/implications for the Town, and to consider options to address each issue in the context of State and regional policies and strategies, and the local profile in accordance with the WAPC's Local Planning Manual (2010).

For example, in response to policy provisions in SPP 4.2 it would be necessary for the draft Strategy to investigate and discuss appropriate density codes and implementation measures to achieve the residential density targets recommended within walkable catchments, and discuss and show estimated retail need and indicative distribution of floorspace. In relation to DC Policy 1.6, the draft strategy should investigate and discuss application of appropriate residential density codes and/or relevant scheme provisions to achieve the recommended minimum density yield.

- The draft strategy proposes dual R12.5/R40 coding to provide for “medium density” development. Criteria for application of the R40 code, excluding lots abutting Canning Highway, mandate the following development outcomes:
 - retention of any building on the Municipal Heritage Inventory or Heritage List;
 - minimum of three new/additional dwellings (unless property is on Municipal Heritage Inventory or Heritage List);

- all new/additional dwellings to be constructed concurrently in one stage;
- balcony, veranda or porch facing street; and
- one vehicular crossover (unless property is on Municipal Heritage Inventory or Heritage List, or is a corner lot).

The Town advises that the criteria are designed to provide for redevelopment opportunities while protecting heritage values and enhancing amenity, avoiding rear (battleaxe) subdivisions and encouraging coordinated redevelopment. Although most implications of the criteria are self-explanatory, it is relevant to note that subdivision will be limited to the creation of strata or survey-strata lots with common property, but only after all new/additional dwellings have been constructed concurrently.

WAPC policy and practice do not preclude creation of vacant lots, dictate land tenure and development outcomes (such as requiring additional dwellings to be constructed prior to subdivision), or impose minimum densities. In this case, heritage will be addressed by deemed provisions in the PD Regs (Part 3, clause 67(k) and (l), Schedule 2), and the design of dwellings to address the street front could be dealt with by the R Codes and local planning policy. Accordingly, it is recommended that the Town provide additional information to substantiate the proposed criteria to assist with full consideration following advertising.

- It is acknowledged that the proposed “medium density” areas which are subject to dual R12.5/R40 codes are suitable for this purpose having regard to State and regional planning policies (eg. in proximity to centres and transit precincts), and where some degree of amenity and streetscape impacts are to be expected. Accordingly, it would be appropriate for the approach of applying dual coding to be substantiated. It is recommended that additional information be provided to assist with consideration of the proposed dual density codes following advertising.
- The following comments and recommendations relate to actions proposed in Table 3, Part 2 of the draft strategy:
 - Proposed actions: Scheme requirements to protect heritage values.
Scheme provisions to include effective public comment periods.
Scheme provisions that require redevelopment to demonstrate how a proposal will relate to the character and scale of surrounding development.

Comment and recommendation: Provisions in the PD Regs that are required to be incorporated into TPS 3 effectively relate to these matters. Accordingly, it is recommended that the draft strategy incorporate additional information to discuss and substantiate the requirement for additional scheme provisions for these purposes.

- Proposed action: Focus redevelopment opportunities along major transport routes and bus routes.

Comment and recommendation: This does not appear to be clearly reflected in the draft strategy. It is recommended that the draft strategy discuss and incorporate the measures in DC Policy 1.6 (Planning to Support Transit Use and Transit Oriented Development) to facilitate increased densities/redevelopment opportunities within transit oriented precincts, as defined in the policy.

- Proposed action: Scheme provisions to encourage high quality streetscapes.

Comment and recommendation:

The nature of scheme provisions should be clarified as it relates to a matter that would be more appropriately addressed by a local planning policy.

CONCLUSION

Subject to the recommended modifications (**Attachment 5**) the draft strategy satisfactorily addresses the requirements of the PD Regs by providing adequate planning direction for the Town in the context of the State and regional planning framework. It is recommended that the draft strategy be certified for advertising subject to the modifications.

ITEM NO: 9.5

Application for Planning Approval for a Stairway at Lot 200 Bindaring Parade Claremont

WAPC OR COMMITTEE: Statutory Planning Committee

REPORTING AGENCY:	Department of Planning
REPORTING OFFICER:	Senior Planner Metropolitan Central
AUTHORISING OFFICER:	Director Metropolitan Central
AGENDA PART:	C
FILE NO:	02-50002-3
DATE:	27 July 2015
REPORT CATEGORY:	Statutory
RECOMMENDATION OUTCOME:	2. RF
ATTACHMENT(S):	Attachment 1 MRS Location Plan Attachment 2 Aerial View Plan Attachment 3 Amended Application Plans Attachment 4 Parks & Recreation Reservation Attachment 5 Environmental Report
REGION SCHEME ZONING:	Urban/Parks and Recreation
LOCAL GOVERNMENT:	Town of Claremont
LOCAL SCHEME ZONING:	Residential R30
LGA RECOMMENDATION(S):	Approval
REGION DESCRIPTOR:	Metropolitan Central
RECEIPT DATE:	16 January 2014
PROCESS DAYS:	397
APPLICATION TYPE:	Development
CADASTRAL REFERENCE:	Lot 200 Bindaring Parade Claremont

RECOMMENDATION:

That the Statutory Planning Committee in relation to the application for the construction of a wooden stairway at Lot 200 Bindaring Parade, Claremont resolves to refuse the application for the following reasons:

- 1. The proposed development is predominantly located over land reserved for Parks and Recreation and is therefore contrary to the purpose and intent of the Reservation and would prejudice future use of the reservation for recreation and conservation of the escarpment and foreshore;***
- 2. The proposed development will adversely impact on the natural quality of land reserved for Parks and Recreation under the Metropolitan Region***

Scheme and is therefore contrary to the long term purpose and intent of the reservation; and

- 3. *Approval to the development would set an undesirable precedent for similar development on surrounding lots along the escarpment and would be to the detriment of the long term and significant landscape value of the Freshwater Bay escarpment.***

SUMMARY:

- The application relates to Lot 200 Bindaring Parade, Claremont, which is located on the western side of the road on a site that slopes on a substantial decline toward the Swan River (**Attachment 1 - MRS Location Plan**).
- The application seeks approval for the construction of a wooden stairway and associated retaining walls on a vegetated and westerly sloping area of the site adjacent to the Swan River (**Attachment 2 Aerial View**).
- The applicants have submitted amended plans which substantially limit the height of the proposed stairway above natural ground level (**Attachment 3 Amended Application Plans**). The original plans were due to be considered by the Statutory Planning Committee in June 2014 with a recommendation to refuse the application. At the request of the proponent, the application was withdrawn from the agenda.
- The stairs are proposed to be constructed predominantly on land which is reserved for 'Parks and Recreation' under the Metropolitan Region Scheme (MRS) as identified on **Attachment 4 - Parks and Recreation Reservation**. The application is therefore required to be referred to the Western Australian Planning Commission (WAPC) for determination, pursuant to the provisions of the Section 29(1)a(ii) and 30A(2)a(i) of the MRS.
- An Environmental Report has been submitted in support of the proposed development (**Attachment 5 - Environmental Report**).
- The application has been recommended for refusal by the Swan River Trust and the Department supports this recommendation. The Department however, considers there is an alternative recommendation that should be considered, being to refer the application to the Minister for Planning and Environment and request they form a view on the application and advise the WAPC accordingly.
- The primary issue to be considered as part of this application is the development of private structures on reserved land and whether it is appropriate for the WAPC to approve such structures.

LEGISLATION / STRATEGIC PLAN / POLICY:

Legislation
Section:

Planning and Development Act 2005
Part 10, Division 5

Strategic Plan

Strategic Goal:	Planning
Outcomes:	Effective Delivery of Integrated Plans
Strategies:	Implement State and Regional Planning Priorities

Policy

Number and / or Name:	State Planning Policy 2.10 Swan-Canning River System Development Control Policy 5.3 Use of Land Reserved for Parks and Recreation and Regional Open Space
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INTRODUCTION:

Application Details

The proposal is for the construction of a timber staircase, pathway and associated retaining structures at Lot 200 Bindaring Parade, Claremont. The stairs are proposed to zigzag in an easterly direction from the top of a vegetated escarpment, with a retained floor level (RL) of approximately 31 metres AHD (Australian Height Datum) to a decked seating area in proximity to the river, with an RL of 16.35 metres AHD. The land upon which the stairs are proposed to be constructed, is predominantly reserved under the MRS for Parks and Recreation and extends approximately 30 metres into the reservation. The stairs and pathway extend for some 180 metres in length and decline the escarpment in the order of 14.5 metres.

The proposed stairs will not provide direct access to the river because of the steepness of the escarpment and the rocky shoreline that abuts the eastern (rear) boundary of Lot 200. The site is also separated from the river by a Foreshore Reserve (Reserve No.24523).

The stairs are proposed to be constructed of seasoned Jarrah decking and Jarrah posts and joists. The application does not propose elaborate retaining wall structures and rather proposes to step the stairs with the topography of the site, as much as possible.

The applicants have undertaken an environmental assessment to identify what trees would need to be removed to facilitate the construction of the stairway and to inform the architects in the design of the stairway in an effort to minimise tree removal. The Environmental Assessment (**Attachment 5 - Environmental Report**) identifies that a total of 10 trees comprising Callitris and Eucalyptus, may be impacted by the design of the stairway. The stairway was therefore redesigned to avoid the removal of or any damage to any trees located on the escarpment and within the 'Parks and Recreation' reserve.

Determination of Applications on Reserved Land - Metropolitan Region Scheme

The WAPC is required to determine applications for the development and use of reserved land having regard to the following factors:

- the purpose for which the land is zoned or reserved under the MRS;
- the order and proper planning for the locality; and
- the preservation of the amenities of the locality.

As detailed above, the MRS requires that the WAPC have due regard to the recommendation provided by the Swan River Trust (SRT) and in the case of any disagreement, Clause 30A (7) of the MRS states:

'if the Commission does not agree with part or all of the advice of the Swan River Trust on an application referred to in subclause (2) (a) -

- (a) the matter on which there is not agreement is to be resolved in the matter determined by the SCRM Minister and the Minister for Planning;
- (b) the Minister for Planning is to direct the Commission accordingly; and
- (c) the Commission is to determine the application in accordance with the direction.'

In the case of this application the SRT has recommended the application be refused and the Department agrees with this recommendation. The Department is however of the view, that there is an alternate recommendation that can be considered, being to refer the application to the Minister for Planning and Environment and request they form a view on the application and advise the WAPC accordingly. This will be discussed toward the end of the report.

The Site and Surrounding Landuse and Development

The subject land comprises:

- A western portion fronting Bindaring Parade on which an existing dwelling is located;
- A vegetated escarpment located in the eastern portion of the land that slopes steeply down to the foreshore of the Swan River and which is visible from the River; and
- A rocky foreshore at the foot of the escarpment that abuts the property boundary.

The eastern portion of the property adjacent to the Swan River and including the sloping escarpment is reserved for Parks and Recreation under the MRS. A summary of other structures that have been constructed within the 'Parks and Recreation' Reserve adjacent to Freshwater Bay are listed below however the Department is aware that other private structures such as jetties and boat storage facilities exist also:

- Claremont and Royal Freshwater Bay Yacht Clubs
- Christchurch Grammar Boat Club
- MLC Boat storage
- Private Pump Shed
- Private Boat Shed
- Funicular Railway
- Public and private Jetty structures
- Cliff Street Private Stairs (approved by the SPC 23 September 2014)

Whilst the DoP recognises that other private structures have been constructed on land reserved for Parks and Recreation it is considered that structures such as the Yacht Club, Christchurch Grammar School Boat Shed and the Public Jetty are recreational facilities that can be used by the wider public and are therefore generally consistent with the intent of the reservation. The Department acknowledges the other private structures that have been constructed on the reserved land but does not consider that this should set a precedent for future approvals.

The Committee could however form a different view that the construction of private structures on reserved land is appropriate, subject to appropriate conditions which would indemnify the WAPC and require any construction to be removed if and when the reservation was purchased or ceded to the Crown.

GOVERNMENT AND CORPORATE IMPLICATIONS:

Approval for construction of a private stairway could set a precedent for similar developments emerging on reserved land adjacent to Freshwater Bay. If however, approvals were issued with appropriate conditions, then the corporate implications of issuing such approvals could be lessened.

Refusing the application, as is the recommendation of this report, will trigger appeal rights and possible rights to a claim for injurious affection to the applicant.

CONSULTATION:

Town of Claremont

The application was referred to the Town of Claremont. The Town did not support the original application and considered that the original design of the stairway would set an unwanted precedent. The Town also acknowledge that a number of properties adjacent to the river historically had and may still feature stairs or steps that provide direct access to the river. The Town however considered that the original stair proposal would have been visually obtrusive due to its height. The Town also commented that due to the number of properties along the escarpment and the desire of many owners to have direct, private access to the river, that approval of the stairs would set an unwanted precedent that will precipitate the degradation of the natural and scenic qualities of the escarpment which have been well protected from development over the last 100 years. The Town also considered that if the owner wished to gain access to the river across the eastern portion of their property a less prominent staircase, designed to keep to the natural contours of the site, would suffice.

The Town has since considered the amended plans and advises that it now supports the application for the raised wooden stairway subject to the following conditions:

1. All development being in accordance with the approved plans.
2. A revegetation plan being submitted and approved by the local government prior to commencement of works that demonstrates how any loss of vegetation and soil destabilisation caused by the works will be rectified. The plan should show:
 - a) Areas of impact where clearing or changes in site levels are required

- b) All plants (including species) being removed as part of the works
 - c) Replacement plant locations and species
3. The revegetation plan shall be implemented prior to completion of the development.

Submission Received from Objecting Nearby Landowner via the Town of Claremont

A submission has been received by the Town of Claremont on behalf of an objecting landowner who resides in the locality. The objection is summarised below:

- The fragility of the cliff and the fact that any structure could further compromise its stability and recent erosion on the site could be exacerbated.
- The new stairway would be very visible from the river and could encourage people to climb up from the water's edge and have access to the properties along Bindaring Parade and in particular to the residence at 10 Bindaring Parade, increasing security risk to the resident of this property.

The Town did not readvertise the amended plans or liaise with the objecting landowner as the nature of the proposal had not changed substantially relative to the objection.

Whilst the property at Lot 200 Bindaring Parade is not accessible from the foreshore or the river (because of the steep topography and a rocky shoreline) and the land provides limited opportunities for public access or public recreation, it is a semi vegetated piece of land that has conservation and aesthetic value.

The Department agrees that the proposed construction of private stairs and decking would be inconsistent with the intent of the Parks and Recreation reserve and that the development would be visible from the river and could detract from the natural beauty of the area. The amended plans, the subject of this report, do however propose a less prominent staircase that is more in tune with the natural contours of the site.

Swan River Trust

Clause 30A(1)a(i) of the MRS provides that where an application for approval relates to a development of land part of which is in the management area within the meaning of the *Swan River Trust Act 1988* the Commission shall give full particulars of the application to the Minister for Waterways. This has occurred as part of the standard referral of the application to the SRT in January 2014. The application was considered by the Trust Board at its meeting of 11 March 2014 and the SRT recommended the application be refused.

Similarly the amended plans were referred to the SRT and the application has again been recommended for refusal on the following grounds:

1. The proposed new structures are to be located within and will impact on the natural quality of land reserved for Parks and Recreation under the

Metropolitan Region Scheme and are therefore contrary to the long term purpose and intent of the reservation.

2. The development will create an undesirable precedent for the proliferation of similar new structures across the escarpment, to the detriment of the long term and significant landscape value of the Freshwater Bay escarpment.

The SRT has also commented that the foreshore along Bindaring Parade is characterised by a primarily naturalistic limestone escarpment, with development sited at the top of the cliff and an uninterrupted band of vegetation to the water's edge. Although the escarpment is still in private ownership, the land is reserved for Parks and Recreation under the MRS. Clause 7.4.11 of State Planning Policy 2.10 *Swan-Canning River System* (SPP2.10) states that where public acquisition of private land is not likely to occur in the short-term, development should not be permitted within the area of reservation if it is likely to impact on the natural qualities of the land, or if it would prejudice its timely transfer to the Crown in the future.

Furthermore the SRT has advised that one of the main purposes of *Metropolitan Region Scheme Amendment 1226/57*, which was for the rationalisation of the Parks and Recreation reserve boundary around Freshwater Bay (gazetted on 28 May 2013) was to ensure the protection of the Freshwater Bay escarpment from non-habitable development and to formally preserve its significant landscape values by adjusting the existing reservation boundary to align with the top of the river bank.

The SRT finally advised that although landowners have a right to access their property, including if it is reserved for Parks and Recreation, the proliferation of substantial structures and platforms near the waterline such as proposed in this application is of concern given the likely cumulative visual impact on the escarpment. SPP2.10 specifically states that development should avoid negatively impacting on public views to or from the river, which is of particular importance along this highly visible and relatively undeveloped escarpment at Freshwater Bay.

The Trust did comment that whilst it is acknowledged that the amended design is an improvement on the original proposal, the fundamental reasons for which the Trust originally recommended refusal of the application remain.

The DoP agrees with the SRT comments and recommendation and in particular the proposed stairway being contrary long term purposes and intent of the MRS reservation. If the Committee forms a different view, it is necessary that the application be referred to the relevant Minister's for consideration and recommendation to the WAPC.

Department of Parks and Wildlife (DPaW) Swan Region

The application has been referred to DPaW. DPaW have responded that they consider that the proposal and any potential environmental impacts will be appropriately addressed through the existing planning framework.

COMMENTS:

Planning Framework

Metropolitan Region Scheme

A large portion of the subject land is reserved for 'Parks and Recreation' under the MRS. As detailed previously, the WAPC is required to determine applications for the development and use of reserved land having regard to the following factors:

- *the purpose for which the land is zoned or reserved under the MRS;*
- *the orderly and proper planning for the locality; and*
- *the preservation of the amenities of the locality.*

The purpose of the 'Parks and Recreation' reservation is to protect open space of regional significance for recreation, landscape and conservation and to provide public access where possible.

Whilst the reservation of the land under the MRS and the intent of the reservation is an important consideration, it is also relevant to consider the context of the application. In this case, it is considered that whilst the land is reserved, it is still in private ownership and on a property that has frontage to the Swan River foreshore and it is reasonable for landowners to be able to access their property in entirety and to access the foreshore. It is also relevant to note that there is no intention or timeframe, within the next 5 years for the WAPC to purchase the reserved land and as such it could be considered unreasonable to sterilise its use by the landowners until such a time as it is purchased by the WAPC. The WAPC could resolve however to purchase and acquire the land earlier if required. This aside, the proposed stairway is a substantial private structure that would be visible from Freshwater Bay and would compromise the preservation of the amenities of the reserve and the locality.

In balance, it is considered that unless referred to the Ministers for recommendation, the WAPC should not support private development on land reserved under the MRS.

Development Control Policy 5.3 Use of Land Reserved for Parks and Recreation and Regional Open Space

The WAPC Development Control (DC) 5.3 deals with the use of land reserved for Parks and Recreation. The policy informs that the use and development of reserved land shall be restricted to that which is consistent with furthering the enhancement of the reserve and facilitating its use for recreational or conservation purposes. The policy further informs that the use and development of land reserved for Parks and Recreation or Regional Open Space for purposes inconsistent with the purpose of the reserve should not be supported.

DC 5.3 sets out that land reserved for Parks and Recreation or Regional Open Space shall be used for:

- Passive recreation;
- Active sporting pursuits;

- Cultural and or community activities;
- Activities promoting community education of the environment; and/or
- Uses that are compatible with and or support the amenity of the reservation (i.e. cafe, restaurant)

Whilst the application consists of development that will be used for private passive recreational purposes, the stairs are proposed to provide access from the residence to the foreshore across privately owned land. The policy is silent on how to deal with land that is privately owned and reserved under the MRS. It is the view of the Department that the Committee therefore has the discretion to consider the application under this policy. To assist the Committee in considering whether to exercise its discretion and approve private development on privately owned and reserved land, the following points are made:

- The location of the stairway will not impact on or impede access which is along the foreshore, outside of the subject site;
- The proposed stairway is not consistent with furthering the enhancement of the reserve or facilitating its use for recreational or conservation purposes unless approved with appropriate conditions; and
- Encroachment of private recreational development into the Parks and Recreation reserve is clearly contrary to the purpose and intent of the reservation, and should not be approved, unless subject to appropriate conditions.

Statement of Planning Policy (SPP) No 2 Environment and Natural Resources

The objectives of SPP No. 2 that are relevant to the proposal are:

- To integrate environment and natural resource management with broader land use planning and decision-making;
- To protect, conserve and enhance the natural environment; and
- To promote and assist in the wise and sustainable use and management of natural resources.

SPP No. 2 recognises the significance of natural resources as listed below:

- Avoid development that may result in unacceptable environmental damage.
- Actively seek opportunities for improved environmental outcomes including support for development which provides for environmental restoration or enhancement.
- Take account of the availability and condition of natural resources, based on best available information at the time.
- Protect significant natural, indigenous and cultural features, including sites and features significant as habitats and for their floral, cultural, built, archaeological, ethnographic, geological, geomorphological, and visual or wilderness values.
- Take into account the potential for economic, environmental and social (including cultural) effects on natural resources.

The proposed stairway does not meet the objectives of protecting, conserving and enhancing the natural environment and could result in development that would result in damage to the escarpment.

Approval, however, subject to appropriate conditions, could provide for the construction of the stairs in such a way that they are less visually intrusive, constructed with minimal impact and in such a way that they can easily be removed and could then be assessed as satisfying the policy.

Statement of Planning Policy No 2.10 Swan-Canning River System

This policy applies to the Swan and Canning rivers and their immediate surroundings, as described in the Swan River System Landscape Description. The relevant objectives of this policy are to:

- provide a context for consistent and integrated planning and decision making in relation to the river; and
- ensure that activities, land use and development maintain and enhance the health, amenity and landscape values of the river, including its recreational and scenic values.

The property is included within the Melville Water Precinct and the policy states that planning decisions in this area should:

- Protect views, in particular the long axial corridors from public vantage points such as Pelican Point, Nedlands foreshore, Keanes Point, Attadale foreshore, Point Heathcote, Canning Bridge, Mounts Bay Road, and the intermediate views in Freshwater Bay, Matilda Bay and Alfred Cove;
- Improve opportunities for public access and use of the river, particularly between Chidley Point and Keanes Point, parts of Freshwater Bay and Point Resolution on the northern side, taking account of the terrain, public risk and recreational opportunities;
- Ensure urban development complements natural landforms; and
- Ensure that vegetation is integrated with development to minimise the contrast between the natural and built elements of the landscape and that ridgeline vegetation and its backdrop to the waterway is retained

Whilst the applicants have put forward that the construction of the stairs will not result in the removal of any trees or vegetation the Department considers that the proposed stairs will not enhance the natural landform of the escarpment and therefore does not accord with the intent of the Policy. If approved however, with appropriate conditions, as discussed previously, the stairs could be assessed to generally accord with the intent of the Policy.

Most significantly, the proposed construction of the steps, will not restrict public access to the foreshore because they are setback in the order of 10 metres from the high water mark and access to the foreshore is not readily accessible to the public in this location and in the area of foreshore extending generally westwards from the Claremont Yacht Club to the Esplanade. On balance it is considered that because the stairway will not impact the functioning of the Parks and Recreation Reserve,

support for its retention could be considered, if recommended by the relevant Minister's.

Other Considerations

Visual Impact

It is acknowledged that the stairs could be visible from Freshwater Bay; however this could be counteracted by:

- the natural timber materials that the stairs are proposed to be constructed of which minimise visual impact and enable the stairs to blend in with the natural environment and conditions to require aesthetic treatments to the retaining wall structures to reduce visual impact;
- the proposed and recommended landscaping, which will assist in concealing the stairs;
- the distance the stairs are from potential public viewing points, which would mostly be from Freshwater Bay and the visual impact of the stairs reduces when viewed from afar, as will be the case for most observers; and
- the potential imposition of conditions, if the application was approved, which could require the visual impact of the stairways to be reduced.

Despite the points made above, the DoP considers that the Freshwater Bay escarpment and foreshore is a prime landscape feature of the Swan River and the introduction of private structures, such as proposed by the application, could diminish the future amenity of the escarpment by introducing a man-made structure in this part of the Park and Recreation reserve associated with Freshwater Bay.

Private Development on Reserved Land

The application consists of development that will be used for private recreational purposes and is contrary to the purpose and intent of the public recreational purposes and is not consistent with:

- Clause 30(1) of the MRS which requires the WAPC to have regard for the purpose for which the land is reserved under the MRS;
- SPP 2.10 that seeks to maintain the Swan River and its setting as a public community resource, limiting development to that which demonstrates a benefit to the community;
- Development Control Policy 1.2 that requires the WAPC to have regard for the purpose for which the land is reserved.
- DC 5.3, which seeks to restrict the construction of any additional private facilities on reserved land.

It is however acknowledged that the reserved portion of the site is still in private ownership and may be lawfully used by the owner to gain access to the river foreshore. The intent of reserving land under the MRS however is for the land to be ultimately acquired but this has not happened and as detailed earlier, there is no specified timeframe for this to occur.

Whilst private development and use of the reserved land is not consistent with the MRS and other various WAPC and SRT Policies it is possible that a structure such as the stairway, could be approved conditionally subject to the WAPC being indemnified for any costs associated with the removal of the structure, when and if the land is ever purchased by the WAPC. Whilst this is considered to be a proactive approach and allows the use of the land in the short term without restricting the purchase of the land by the WAPC and its development for a Parks and Recreation Reserve in the future, a decision that can only be made on recommendation to the WAPC by the relevant Minister's, because the Swan River Trust has recommended refusal.

Similar Future Applications

The subject land forms part of the 'Parks and Recreation' reserve. There are in the order of 29 other privately owned properties that are located in the vicinity of the subject land (between the Claremont Yacht Club and the Freshwater Bay Yacht Club) which have frontage to Freshwater Bay and which are partly reserved for 'Parks and Recreation'. Approval of this application could trigger similar development applications on other privately owned land that is similarly reserved as 'Parks and Recreation' under the MRS.

The applicant states that the precedent has already been set with other structures having been constructed on land reserved for 'Parks and Recreation'. As discussed previously there are already a number of private structures on the reserved land adjacent to Freshwater Bay ranging from private boat sheds, and jetties. Approval to additional private structures on reserved land would continue to set an undesirable precedent and make future refusals on future applications difficult to justify and substantiate.

Alternative Recommendation

Whilst private development and use of the reserved land is not consistent with the MRS and other various WAPC and SRT Policies it is possible that a structure such as the stairway, could be approved conditionally subject to the WAPC being indemnified for any costs associated with the removal of the structure, when and if the land is ever purchased by the WAPC. This is considered to be a proactive approach and allows the use of the land in the short term without restricting the purchase of the land by the WAPC and its development for a Parks and Recreation Reserve in the future. Such a proactive approach however, requires the referral of the application to the Minister for Planning and the Minister for Environment in accordance with the requirements of the MRS.

If the Committee views the temporary development of private recreation on reserved land, as acceptable, it will be necessary to refer the application to the Minister for Planning and Environment and request they form a view on the application and advise the WAPC accordingly. The following recommendation would need to be endorsed if this was the Committee's view:

That the Statutory Planning Committee in relation to the application for the construction of a wooden stairway at Lot 200 Bindaring Parade, Claremont resolves to:

- 1. refer the application to the Minister for Planning in accordance with clause 30 (a) (7) of the Metropolitan Region Scheme.*
- 2. requests the Minister for Planning to liaise with the Minister for Environment in relation to this application.*
- 3. requests the Minister for Planning to form a view on the application and advise the Western Australian Planning Commission to disregard the advice of the Swan River Trust and approve the subject application subject to the following conditions:*
 - a) the stairway shall be removed in its entirety, including all related structures, from within the Parks and Recreation reserve and the area reinstated, if and when the Parks and Recreation reserve is purchased, or ceded to the Crown, to the specification of the Swan River Trust and to the satisfaction of the Western Australian Planning Commission.*
 - b) the landowner indemnifying the Western Australian Planning Commission against any claim for compensation for the improvements located on land reserved for Parks and Recreation when the land is ultimately acquired, to the satisfaction of the Western Australian Planning Commission.*
 - c) the visual impact of the stairway, and its related structures, when viewed from Crown Reserve 24523 and the Swan River shall be addressed to the specification of the Swan River Trust and to the satisfaction of the Western Australian Planning Commission and with the necessary improvements being carried out within 2 months of the date of this approval.*
 - d) a Landscaping plan for the Parks and Recreation Reserve (to replace removed vegetation and to ameliorate the visual impact of stairway) shall be approved and implemented to the specification of the Swan River Trust and to the satisfaction of the Western Australian Planning Commission.*
 - e) a geotechnical report undertaken by a suitably qualified and practising specialist to confirm that the stability of the escarpment will not be adversely impacted as a result of the stairway construction and any recommendations made in this geotechnical report to be implemented prior to construction to the specification of the Swan River Trust and to the satisfaction of the Western Australian Planning Commission.*
 - f) no further vegetation removal or disturbance to the natural and river park environment shall occur within the Swan River Trust Development Control Area or the 'Parks and Recreation' Reserve.*

ADVICE

1. *With regard to Condition b, it is recommended that a legal agreement is put in place to ensure that at such time that the WAPC acquires the P&R, the land shall be acquired at the unimproved value of the land, and that if the improvements are required to be removed by the WAPC, the owner of the land must do so at their cost. This is to ensure the improvements to the land will not prejudice the timely transfer to the Crown in the future.*
2. *With regard to Condition c, the intent of the condition is to address the bulk, contrasting colour, including the limestone block retaining walls and consideration should be given to treating these in a darker colour in an effort to make them blend with the escarpment landscape.*
3. *Any landscaping within the Parks and Recreation Reserve should be locally native species that are suited to the soil type of the area and strategically placed vegetation should be used to screen the more prominent parts of the stairway structure, where visible from Crown Reserve 24523 and the river. The revegetation shall also be done in such a way to offset the trees that were removed and trimmed during the construction of the stairway.*
5. *A planning approval is not an approval to commence any works associated with the development. A Building Permit must be obtained prior to commencement of any site and building works.*

CONCLUSION:

In accordance with the provisions of the MRS, in determining the merits of a development application, the WAPC is required to have regard to orderly and proper planning, the preservation of the amenities of the locality and the purpose of the land's zoning. The proposed stairway at Lot 200 Bindaring Parade is not considered to be appropriate development for land that is reserved for 'Parks and Recreation' on the grounds that they will be used for private recreation and could have a visual and environmental impact on the reserved land.

In addition, it is considered that approval of the application could have an adverse effect on the amenities of the locality. With regard to orderly and proper planning, it is clear that there are numerous WAPC, SRT and Council policies that promote the retention of reserved land for recreation and conservation values and approval to the proposed structure would not therefore be in keeping with orderly and proper planning.

Finally, approval to the proposal could set an undesirable precedent for similar structures to be constructed, the cumulative effect of which would have an adverse impact on the amenity of the Freshwater Bay escarpment and foreshore. As discussed above, if the Committee forms a different view, the application will need to be referred to the respective Minister's for consideration. This situation is provided for under the MRS.

ITEM NO: 9.6

Development: Proposed Rural Shed - Lot 14 Gnangara Road, Henley Brook

WAPC OR COMMITTEE: Statutory Planning Committee

REPORTING AGENCY: Department of Planning
REPORTING OFFICER: Planning Manager, Metropolitan Planning North East,
Perth and Peel Planning
AUTHORISING OFFICER: Director, North East , Perth and Peel Planning
AGENDA PART: G
FILE NO: 21-50458-1
DATE: 17 September 2015
ATTACHMENT(S): 1. Development Plans
2. Aerial View
3. Location Plan/Zoning Map
REGION SCHEME ZONING: Rural
LOCAL GOVERNMENT: City of Swan
LOCAL SCHEME ZONING: Swan Valley Rural
LGA RECOMMENDATION(S): Approval
REGION DESCRIPTOR: West Swan
RECEIPT DATE: 16 October 2014
PROCESS DAYS: 58
APPLICATION TYPE: Development
CADASTRAL REFERENCE: Lot 14 Gnangara Road, Henley Brook.

RECOMMENDATION:

That the Statutory Planning Committee resolves to approve the application for the proposed development on Lot 14 Gnangara Road, Henley Brook subject to the following conditions and advice:

CONDITIONS:

1. ***Development must be in accordance with the following plans:***
 - (a) ***proposed Plan, Dwg No. 1 of 4, date stamped 17 June 2015;***
 - (b) ***proposed Elevations 1 & 2, Dwg No. 2 of 4, date stamped 17 June 2015;***
 - (c) ***proposed Elevations 3 & 4, Dwg No. 3 of 4, date stamped 17 June 2015; and***

(d) proposed Site Plan, Dwg No. 4 of 4, date stamped 17 June 2015.

- 2. Storm water shall be contained on-site, or appropriately treated and connected to the local drainage system to the specifications of the City of Swan.**
- 3. A Landscaping Plan addressing the screening of the proposed shed is to be prepared, implemented and maintained to the specifications of the City of Swan.**
- 4. The shed shall only be used for domestic and/or rural purposes associated with the existing dwelling on the land, and not for human habitation.**
- 5. The shed is to be constructed and finished in materials and colours reflecting the rural nature of the locality to the specifications of the City of Swan.**

ADVICE TO APPLICANT

- 1. The subject land is partially located within the Henley Brook floodplain and may be susceptible to flood damage during major flood events.**

SUMMARY:

The application seeks approval for the construction of a rural shed on Lot 14 Gngara Road, Henley Brook. The land is within 'Area B' of the *Swan Valley Planning Act 1995*. The application is considered consistent with the objectives of the Swan Valley Planning Act 1995 for Area 'B' and the objectives of the City of Swan Local Planning Scheme No.17 for the 'Swan Valley Rural' zone.

The application is referred to the Statutory Planning Committee for determination as it is recommended the application be approved contrary to the Swan Valley Planning Committee's recommendation that the proposal be refused.

LEGISLATION / STRATEGIC PLAN / POLICY:

Legislation

Section:

Swan Valley Planning Act 1995

Metropolitan Region Scheme

Swan Valley Planning Act 1995 - Section 8

Metropolitan Region Scheme Text - Part III subclause 26(3) & Part IV subclause 30B(5)

Strategic Plan

Strategic Goal:

Outcomes:

Strategies:

Planning

Planned Local Communities Developing a Sense of Place

Encourage innovation in the design of our communities

Policy

Number and / or Name: Swan Valley Interim Planning Policy 2014

INTRODUCTION:

The application seeks approval for the construction of a rural shed and the planting of a vegetation screen on Lot 14 Gngangara Road, Henley Brook (**Attachment 1** - Proposed Development Plan). The subject lot is 1.9197 hectares in area. The proposed shed is 300m² in area (20 metres x 15 metres) and 5.88 metres in height including roof pitch. The shed is proposed to be setback 93 metres from Gngangara Road and 20 metres from the nearest lot boundary. There is an existing dwelling and outbuildings on the land (**Attachment 2** - Aerial View). The landowner intends to use the shed to store personal items including vehicles, a boat, caravan and machinery.

The subject land is zoned 'Rural' under the Metropolitan Region Scheme (MRS) and 'Swan Valley Rural' zone under the City of Swan Local Planning Scheme No.17 (LPS 17) (**Attachment 3** - Local Zoning Plan). The land is located within 'Area B' of the *Swan Valley Planning Act 1995 (SVP Act)*.

The application has been referred to the Western Australian Planning Commission (WAPC) pursuant to Clauses 26(3) and 30B(5) of the MRS due to the City of Swan's Council resolution being inconsistent with the advice of the Swan Valley Planning Committee (SVPC).

CONSULTATION:

The City of Swan supports the proposal subject to conditions. The conditions, where generally relevant and reasonable, have been imposed.

The SVPC recommends that the application be refused on the basis that the dimensions and siting of the shed on the front of the property would present as a dominant built form on the landscape and that it would have a negative impact on the rural character of the Swan Valley.

The Department of Water (DoW) has no objection to the proposal, however, advises that a portion of the subject land is affected by the flooding of Henley Brook during a 100 year ARI flood event. DoW recommends an advice note be applied informing the applicant of the potential for flood damage during major flood events.

PLANNING ASSESSMENT:

City of Swan Local Planning Scheme No.17 (LPS No.17)

The property is zoned 'Swan Valley Rural' under LPS 17. The objectives of the Swan Valley Rural zone is to ensure that prime agricultural land remains intact and that proposed development and land uses do not conflict with the objectives of the Swan Valley Planning Act. The proposal is considered to be in accordance with the objectives of the 'Swan Valley Rural' zone. The application is supported by the City of Swan who has determined that the development is consistent with the Scheme.

Swan Valley Interim Planning Policy (SVIPP)

The SVIPP was endorsed by the Swan Valley Planning Committee and the Western Australian Planning Committee in July 2014 for the purpose of assisting authorities in interpreting the objectives of the *Swan Valley Planning Act* when considering or determining applications within the *SVP Act* area.

In regard to sheds and outbuildings, the SVIPP acknowledges that they are an integral part of rural and agricultural operations and provide for the storage of farm goods, vehicles and machinery. Sheds are to be designed, sited and sized to minimise visual impact, and are to be subordinate and ancillary to the predominant use of the lot on which they are being constructed. The SVIPP sets out a number of criteria that need to be met. The proposed is considered to be consistent with these criteria.

The proposed shed is for the storage of vehicles, a boat, caravan and other personal items of the landowners who live in the existing dwelling on the land and would be subordinate and ancillary to the predominant use of the land as a residential lot.

The proposed shed is to be setback 93 metres from Gnangara Road and sited perpendicular to it. It will be screened by vegetation from the primary street and the neighbouring property to the east.

There are several existing sheds within the surrounding locality of a similar scale to the proposal. A very similar proposal was supported by the SVPC at its 3 June 2014 meeting for Lot 110 Ferntree Place, Henley Brook.

CONCLUSION:

The proposal complies with the Commission's *Swan Valley Interim Planning Policy*, the general planning objectives and the area specific planning objectives of the *Swan Valley Planning Act* 1995 and the City of Swan Local Planning Scheme No.17. It is consistent with the prevailing land uses within the locality and the rural character of the Swan Valley. It is recommended that the application be approved subject to conditions.

ITEM NO: 9.7

Proposed Reduction in Boundary Setback for Rural Shed - Lot 116 (No. 151) Padbury Avenue, Millendon

WAPC OR COMMITTEE:	Statutory Planning Committee
REPORTING AGENCY:	Department of Planning
REPORTING OFFICER:	Planning Officer
AUTHORISING OFFICER:	A/Director - Metropolitan Planning North East
AGENDA PART:	G
FILE NO:	21-50461-1
DATE:	17th September 2015
REPORT CATEGORY:	Statutory
RECOMMENDATION OUTCOME:	3. Approve
ATTACHMENT(S):	Attachment 1 - Site Plan Attachment 2 - Aerial Photo Attachment 3 - Location Zoning Plan Attachment 4 - Aerial Photo of Shed
REGION SCHEME ZONING:	Rural
LOCAL GOVERNMENT:	City of Swan
LOCAL SCHEME ZONING:	Swan valley Rural
LGA RECOMMENDATION(S):	Conditional Approval
REGION DESCRIPTOR:	N/A
RECEIPT DATE:	5 August 2015
PROCESS DAYS:	43
APPLICATION TYPE:	Development Application
CADASTRAL REFERENCE:	Lot 116 (No. 151) Padbury Avenue, Millendon

RECOMMENDATION:

That the Statutory Planning Committee resolves to retrospectively approve the application for development, subject to the following conditions:

1. ***Development must be in accordance with the following plans:***
 - a) ***site Plan, Drg No. VS-5-2009-1, date stamped 5 Aug 2015;***
 - b) ***plan, Drg No. VS-5-2009-2, date stamped 5 Aug 2015; and***
 - c) ***structural Details, Drg No. VS-5-2009-7, date stamped 5 Aug 2015.***
2. ***Stormwater must be contained on-site, or appropriately treated and connected to the local drainage system to the specifications of the City of Swan.***

3. ***The lean-to must only be used for domestic and/or rural purposes associated with the existing dwelling on the land and not for human habitation.***
4. ***Development being wholly contained within the property boundaries of Lot 116 (No. 151) Padbury Avenue, Millendon.***

SUMMARY:

An application has been received seeking retrospective approval for an unauthorised 31m² lean-to on Lot 116 (No. 151) Padbury Avenue, Millendon (**Attachment 1 - Site Plan**).

The application was referred to the Swan Valley Planning Committee (SVPC), which at its meeting on the 4th May 2015, resolved to refuse the application. At its Council meeting on the 22nd July 2015, the City of Swan (the City), resolved to approve the application subject to conditions. Due to the conflicting resolutions of the SVPC and the City, the application was forwarded to the Western Australian Planning Commission (WAPC) for final determination.

It is considered that the proposal is consistent with the objectives of the 'Swan Valley Rural' zone under the City of Swan Local Planning Scheme No. 17, the objectives of Area B of the *Swan Valley Planning (SVP) Act 1995* and the WAPC's Swan Valley Interim Policy. It is recommended that the application be approved, subject to conditions.

LEGISLATION / STRATEGIC PLAN / POLICY:

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

Legislation *Swan Valley Planning Act 1995*
Section: Part 3

Strategic Plan
Objectives: 1. Planning
Performance Outcomes: 1. Excellence in Service
Strategic Imperatives: 1. Develop Connected and Accessible Communities

Policy
Number and / or Name: Swan Valley Interim Planning Policy (WAPC)
Building and Development Standards - Rural Zones (City of Swan: POL-TP-126)

INTRODUCTION:

The subject land (**Attachment 2 - Aerial Photo**) is zoned 'Rural' under the Metropolitan Region Scheme (MRS) and 'Swan Valley Rural' under the City of Swan's Local Planning Scheme No. 17 (LPS 17) (**Attachment 3 - Location Zoning Plan**). The property is approximately 3.2ha in area and is situated within 'Area B' of the *Swan Valley Planning Act 1995*. The land is used for a number of agricultural uses, including the growing of watermelons and hay.

The application seeks retrospective planning approval for an existing 31m² lean-to with a rear boundary setback of less than one metre. The lean-to is open on the east and western sides, enclosed at the rear and is attached to a 300m² shed. The applicant has advised that the main purpose of constructing the lean-to is to provide shelter for machinery and other equipment associated with producing hay, watermelons and the general upkeep of the property.

The application has been referred to the WAPC for determination, pursuant to Clause 26 (3) and 30B (5) of the Metropolitan Region Scheme, as the City has not accepted the advice of the SVPC.

CONSULTATION:

The proposal was advertised to the adjoining neighbour nearest to the lean-to, who advised that they had no objection to the proposal.

The application was referred to the SVPC on the 20th April 2015, which resolved to recommend that the application not be approved. The SVPC noted the details of the application, however, did not provide specific reasons for not supporting it. The City of Swan's Council then resolved to approve the matter on the 22nd July 2015.

The Department of Water and Department of Parks and Wildlife advised they had no concerns or objections to the proposal.

COMMENTS:

City of Swan Local Planning Scheme No. 17 (LPS 17)

The property is zoned 'Swan Valley Rural' under LPS 17. The objectives of the Swan Valley Rural zone is to ensure that prime agricultural land remains intact and that proposed development and land uses do not conflict with the objectives of the Swan Valley Planning Act. The proposal is considered to be in accordance with the objectives of the 'Swan Valley Rural' zone. The application is supported by the City of Swan who has determined that the development is consistent with the Scheme, including side and rear boundary setback provisions.

Swan Valley Interim Planning Policy

The Interim Policy was endorsed by the SVPC and the WAPC in July 2014 for the purpose of assisting authorities in interpreting the objectives of the Swan Valley Planning Act 1995. The Interim Policy is to be used by the WAPC when considering subdivision and development applications within the area covered under the Act.

In regards to sheds and outbuildings, the Interim Policy acknowledges that they are an integral part of rural and agricultural operations and provide for the storage of farm goods, vehicles and machinery. Such development is to be designed, sited and sized to minimise visual impact and must be subordinate and ancillary to the predominant land use on the property. The Interim Policy sets out a number of criteria that need to be met and the proposal is considered to be consistent with these.

The landowner has conveyed that the lean-to is necessary to protect various equipment and farming machinery from the weather. This machinery is associated with watermelon and hay production, in addition to the general upkeep of the property. The lean-to is sited to minimise the amount of agricultural land it occupies. By placing the outbuilding to the rear of the shed maximises land that cannot be used for farming on the property. Being at the rear of the existing shed also lends to the lean-to being out of view from the primary street and perpendicular to the secondary street. The visibility of the lean-to is screened as best as possible.

Proximity of Development to Rear Boundary

Whilst the plans submitted by the applicant indicate the development is within the property boundaries, no setback is identified on the plans (**Attachment 4 - Aerial Photo of Shed**). A condition has been imposed requiring all development to be wholly contained within the subject property's boundaries, to address this.

CONCLUSION:

It is considered that the proposal is consistent with the objectives of LPS 17, the *Swan Valley Planning Act 1995* and the Swan Valley interim Policy. Conditional approval is recommended.