



Statutory Planning Committee

Notice is hereby given that meeting 7547 of the
Statutory Planning Committee will be held on:

Tuesday, 28 June 2016
9:00 AM

Level 3, Room 3.23, 140 William Street Perth

This meeting is not open to members of the public



Kerrine Blenkinsop
WAPC Secretary

**Committee
Secretary:**

Irene Obales
6551 9400
committees@planning.wa.gov.au

**Attendance by
Department of
Planning officers:**

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

Statutory Planning Committee

Tuesday, 28 June 2016, 9:00 am

ITEM	ORDER OF BUSINESS	
1.	Declaration of opening	
2.	Apologies – Nil.	
3.	Members on leave of absence and applications for leave of absence Mayor Russell Aubrey – 5 to 15 July 2016	
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. 7546 on 14 June 2016	
8.	DEPUTATIONS AND PRESENTATIONS	
9.	STATUTORY ITEMS FOR DECISION	Officer Attending
9.1	Amendment to City of Swan Outline Development Plan 139 (Equis Lakes), The Vines	Emille van Heyningen <i>A/Planning Director, Metro North</i>
9.2	Consideration of Helena Valley Local Structure Plan No. 71 – Lots 2, 3 and 6 Midland Road, Helena Valley	Emille van Heyningen <i>A/Planning Director, Metro North</i>
9.3	Consideration of Lot 601 Old Pinjarra Road Structure Plan	Cameron Bulstrode <i>Planning Director, Peel Planning</i>
9.4	Consideration of Lot 803 North Yunderup Road Structure Plan	Cameron Bulstrode <i>Planning Director, Peel Planning</i>
9.5	Structure Plan Amendment – Development Area No. 35 North Forrestdale (Stage Three/South), Lot 500 Nicholson Road, Piara Waters	Lindsay Baxter <i>Planning Director, Metro South East</i>
9.6	Subdivision to Create Two Lots for Residential Purposes - Lot 13 Springdale Road, Kalamunda	Emille van Heyningen <i>A/Planning Director, Metro North</i>
9.7	Addition of Deck to Existing Heritage Building – Kidogo Arthouse, Bather's Beach, Fremantle	Mathew Selby <i>A/Planning Director, Metro Central</i>
9.8	Application to Subdivide Lot 212 Matheson Road, Ascot, to Create Two Survey Strata Lots on Land Zoned 'Residential and Stables'	Mathew Selby <i>A/Planning Director, Metro Central</i>
9.9	Consideration of Furnissdale West Structure Plan	Cameron Bulstrode <i>Planning Director, Peel Planning</i>
9.10	Local Structure Plan No.42 – Farrall Road Local Structure Plan – Multiple Lots Farrall Road, Orchard Avenue & Morrison Road Midvale/Stratton	Emille van Heyningen <i>A/Planning Director, Metro North</i>
9.11	Reconsideration of Condition of Approval – Subdivision to Create 75 Residential Lots – Lots 1 and 206 Winston Crescent and Lots 210-213 Bernley Drive, Viveash	Emille van Heyningen <i>A/Planning Director, Metro North</i>

10.	POLICY ITEMS FOR DISCUSSION / DECISION		Officer Attending
	Nil.		
11.	CONFIDENTIAL ITEMS		Officer Attending
11.1	Residential Subdivision and Development on Lots Less than 100m2 WITHDRAWN FROM AGENDA PRIOR TO THE MEETING		David MacLennan <i>Assistant Director General, Policy and Priority Initiatives</i>
11.2	City of Joondalup – District Planning Scheme No. 2 Amendment No. 42 For Final Approval		Lee O'Donohue <i>Planning Manager, Schemes and Amendments</i>
11.3	City of Stirling Local Planning Scheme No.3 – Amendment No.10 – for Final Decision		Lee O'Donohue <i>Planning Manager, Schemes and Amendments</i>
11.4	City of Wanneroo – District Planning Scheme No. 2 Amendment 150 – for Final Approval		Emille van Heyningen <i>A/Planning Director, Metro North</i>
11.5	Reconsideration of Endorsement of Local Structure Plan – Lot 809 Perseverance Boulevard, Argyle – Shire of Donnybrook– Balingup		Michael Schramm <i>Planning Director, South West Regions</i>
11.6	City of Armadale Local Planning Strategy – For Final Endorsement		Lee O'Donohue <i>Planning Manager, Schemes and Amendments</i>
11.7	Shire of Boddington Local Planning Strategy Request for Certification		Cameron Bulstrode <i>Planning Director, Peel Planning</i>
11.8	State Administrative Tribunal Review – Section 31 Reconsideration of Refusal of Two Lot Subdivision – Lot 601 Morphett Crescent Bateman		Sally Grebe <i>Manager, Planning Appeals</i>
	CORPORATE MATTERS		Notes
12.	General Items – Publications, Briefings and Updates		
	12.1	The Landing Page	Nil.
	12.2	The WAPC Monthly Report	Nil.
	12.3	Freedom of Information Status Report	15 June 2016
	12.4	State Administrative Tribunal Report	Due in July 2016
13.	Stakeholder engagement and site visits		Nil.
14.	Urgent or other business		Nil.
15.	FUTURE ACTIONS		
16.	Meeting Closure – next meeting Tuesday 12 July 2016 at 9:00 am.		

Information for SPC Members

2016 Meeting Dates - Tuesday 9am

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| <ul style="list-style-type: none"> • 9 February • 23 February • 8 March* • 22 March • 12 April • 26 April* • 10 May • 24 May • 14 June* • 28 June • 12 July | <ul style="list-style-type: none"> • 26 July* • 9 August • 23 August • 13 September* • 27 September • 11 October • 25 October* • 8 November • 22 November • 6 December* • 20 December |
|--|--|

* Policy Meetings

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 Ross THORNTON	Nominee of the Minister for Regional Development Schedule 2 clause 4(3)	Current Nominee
Ms Elizabeth TAYLOR	Community representative Schedule 2 clause 4(2)(d)	31/12/2016
Mr Ian HOLLOWAY	Professions representative Schedule 2 clause 4(2)(e)	31/12/2016
Mayor Russell AUBREY	Local government representative Schedule 2 clause 4(2)(f)	23/09/2016
Ms Megan ADAIR	WAPC appointee Schedule 2 clause 4(2)(g)	04/12/2016
Ms Sue BURROWS	WAPC appointee Schedule 2 clause 4(2)(g)	31/12/2016
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) *Planning and Development (Local Planning Schemes) Regulations 2015*;
 - (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) *Planning and Development (Local Planning Schemes) Regulations 2015*

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.
- 2.21 Such powers and functions of the WAPC as set out in -
 - (i) Parts 5 and 8 of the Planning and Development Act 2005;
 - (ii) Town Planning Regulations 1967; and
 - (iii) Any improvement scheme approved,

In relation to improvement plans and improvement schemes for land within the City of Karratha, the Shire of Ashburton and the Shire of Broome to be designated by the Statutory Planning Committee as Anketell, Midland, Ashburton north and Browse LNG Precinct Strategic Industrial Areas.

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 7546
held on Tuesday 14 June 2016

Attendance

Members

Ms Megan Adair	WAPC appointee
Mayor Russell Aubrey	Local government representative
Ms Sue Burrows	WAPC appointee
Mr Ray Glickman	WAPC appointee
Mr Stephen Hiller	WAPC appointee
Mr Ian Holloway	Professions representative
Ms Elizabeth Taylor	Community representative (Presiding Member)
Mr Ross Thornton	Nominee of the Minister for Regional Development

Officers

Ms Lindsay Baxter
Mrs Kerrine Blenkinsop
Ms Alice Brown
Mr Cameron Bulstrode
Ms Melanie Dawson
Ms Sally Grebe
Ms Cath Meaghan
Ms Kirstan Muir
Ms Jasmine Tothill

Department of Planning

Planning Director, Metro South East
Secretary WAPC
Planning Manager, Metro South East
Planning Director, Peel Planning
A/Commission Support Manager
Manager, Planning Appeals
Planning Director, Wheatbelt Region
Solicitor, Legislative and Legal Services
Senior Planning Officer, Metro South East

Presenters

Mr Paul McQueen	Lavan Legal (Item 8.1)
Ms Jesse Dunbar	Planning Solutions (Item 8.1)
Ms Zamaris Saxon	Lavan Legal (Item 8.1)

Commission Support

Irene Obales	Commission Support Officer
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7546.1 Declaration of Opening

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

**Mayor Aubrey nominated Ms Taylor.
Ms Taylor accepted the nomination.**

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Resolved

Moved by Mayor Aubrey, seconded by Mr Glickman

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

The motion was put and carried.

The Presiding Member declared the meeting open at 9:00 am, acknowledged the traditional owners and custodians of the land on which the meeting is taking place and welcomed Members.

7546.2 Apologies

Mr Eric Lumsden
Ms Gail McGowan

WAPC Chairman (Presiding Member)
Director General, Department of Planning

7546.3 Members on Leave of Absence and Applications for Leave of Absence

Mayor Aubrey has submitted an application for a leave of absence for the Statutory Planning Committee from 5 to 15 July 2016.

Resolved

Moved by Ms Adair, seconded Mr Holloway

That the approval for a leave of absence be granted to Mayor Aubrey for the Statutory Planning Committee from 5 to 15 July 2016.

The motion was put and carried.

7546.4 Disclosure of Interests

Member/Officer	Minute No.	Page No.	Nature of Interest
Ms Sue Burrows	7546.11.3		Impartiality

Ms Burrows declared an impartiality interest for Item 7546.11.3 State Administrative Tribunal – Drovers Place Structure Plan No. 80 – Modification to Infrastructure Provisions.

Resolved

Moved by Ms Adair, seconded by Mr Glickman

In accordance with clause 6.10(7) of the Standing Orders

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2009, members of the Statutory Planning Committee agreed that Ms Burrows, who has disclosed an impartiality interest, is permitted to stay but will not participate in discussion and voting on item 7546.11.3 State Administrative Tribunal – Drovers Place Structure Plan No. 80 – Modification to Infrastructure Provisions.

The motion was put and carried.

7546.5 Declaration of Due Consideration

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

7546.6 Announcements by the Chairperson without discussion

Nil.

7546.7 Confirmation of Minutes

7546.7.1 Minutes of the Statutory Planning Committee meeting held on Tuesday 24 May 2016

Resolved

Moved by Mayor Aubrey, seconded by Mr Holloway

That the minutes of the Statutory Planning Committee meeting held on Tuesday 24 May 2016, be confirmed as a true and correct record of the proceedings.

The motion was put and carried.

7546.7.2 Ratification of Out of Session Item - Subdivision to Create Two (2) Lots for Residential Purposes – Lot 27 (No. 4) Pleasant Grove Circle, Falcon

Resolved

Moved by Mr Hiller, seconded by Mr Glickman

That the Statutory Planning Committee confirms its out of session resolution as follows:

That the Statutory Planning Committee resolves to approve the application for the subdivision of Lot 27 (No. 4) Pleasant Grove Circle, Falcon as shown on the plan date-

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stamped 26 November 2015. This decision is valid for three years subject to the following conditions and advice:

1. *A 1.8 metre high acoustic barrier/wall, parallel to Old Coast Road, to be constructed in accordance with the Proposed Subdivision - Pleasant Grove Circle, Falcon Noise Assessment dated 19 February 2014, to the satisfaction of the Western Australian Planning Commission. (Main Roads Western Australia)*
2. *Local Development Plan(s) being prepared and approved for lots shown on the plan dated 26 November 2015 (attached) that address the following:*
 - (a) *the implementation of 'Quiet House Design Packages' in accordance with the recommendations of the Proposed Subdivision - Pleasant Grove Circle, Falcon Noise Assessment dated 19 February 2014;**to the satisfaction of the Western Australian Planning Commission. (Local Government)*
3. *Pursuant to Section 150 of the Planning and Development Act 2005 and Division 3 of the Planning and Development Regulations 2009 a covenant preventing vehicular access onto Old Coast Road being lodged on the certificate(s) of title of the proposed lot(s) at the full expense of the landowner/applicant. The covenant is to prevent access, to the benefit of Main Roads Western Australia, in accordance with the plan dated 26 November 2015 (attached) and the covenant is to specify:*

"No vehicular access is permitted from Old Coast Road." (Main Roads Western Australia)

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

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

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

"This lot is in close proximity to known mosquito breeding areas. The predominant mosquito species is known to carry viruses and other diseases."

6. *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."

7. *The two lean-to structures marked on the plan dated 26 November 2015 (attached) being demolished and materials being removed from the site. (Local Government)*

8. *All effluent disposal systems having the necessary clearance from the new boundaries as required under the relevant legislation including the Local*

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- Planning Scheme and Building Regulations of Australia. (Local Government)*
9. *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)*
 10. *Arrangements being made to the satisfaction of the Western Australian Planning Commission and to the specification of Western Power for the provision of an underground electricity supply to the lot(s) shown on the approved plan of subdivision. (Western Power)*

ADVICE:

1. *In regard to Condition 9, the landowner/applicant shall make arrangements with the Water Corporation for the provision of the necessary services. On receipt of a request from the landowner/applicant, a Land Development Agreement under Section 83 of the Water Services Act 2012 will be prepared by the Water Corporation to document the specific requirements for the proposed subdivision.*
2. *In regard to Condition 10, Western Power provides only one underground point of electricity supply per freehold lot.*

The motion was put and carried.

7546.8 Deputations and Presentations

7546.8.1 Request to Endorse Deposited Plan: WAPC 144978, Lots 101-103 Rowley Road, Hilbert (Item 9.1)

Presenter Mr Paul McQueen, Lavan Legal
Mr Jesse Dunbar, Planning Solutions
Ms Zamaris Saxon, Lavan Legal

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Mr McQueen and Ms Dunbar made a presentation to the Committee to request for the item to be deferred until the meeting on 12 July 2016 as clearance of the subdivision conditions is anticipated for 23 June 2016. Mr McQueen and Ms Dunbar answered questions from members.

A copy has been placed on file.

7546.9 Statutory Items for Decision

7546.9.1 Request To Endorse Deposited Plan: WAPC 144978, Lots 101-103 Rowley Road, Hilbert

File 144978
Agenda Part C
Reporting Officer Planning Manager Metropolitan South East

Officer's recommendations:

That the Statutory Planning Committee resolves to:

1. refuse the deposited plan associated with WAPC approval 144978, lots 101-103 Rowley Road, Hilbert; and
2. advise the applicant accordingly.

Members discussed the deputation that had been made and agreed to defer the item until 12 July 2016 to allow for the subdivision conditions to be satisfied.

Resolved

Motion to defer

Moved by Ms Adair, seconded by Ms Burrows

That the item relating to Request To Endorse Deposited Plan: WAPC 144978, Lots 101-103 Rowley Road, Hilbert be deferred until 12 July 2016 to allow for the subdivision conditions to be satisfied.

The motion was put and carried.

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7546.10 Policy Items for Discussion/Decision

Moved to Item 7546.10.2

7546.10.1 Review Of Development Control Policy 1.10: Location And Design Of Freeway Service Centres – For Final Approval

File DP/13/00814
Agenda Part A
Reporting Officer Planning Director, Wheatbelt Region

Officer's recommendations:

That the Statutory Planning Committee resolves to:

1. determine the submissions in accordance with attached Schedule of Submissions (Attachment 1);
2. approve the revised Development Control Policy 1.10 – Location and design of freeway service centres (Attachment 2); and
3. note the recommended definition modifications to the Planning and Development (Local Planning Schemes)(LPS) Regulations 2015 and for the modifications to be considered in the next review of the Regulations (Attachment 3).

Members discussed the Development Control Policy 1.10 and agreed that the item be deferred to the next policy meeting on 26 July 2016 for further information and to allow for the following changes to be made:

1. Remove “ideally with easy access to parks” on item 3.1.13 of the Policy measures for freeway service centres and roadhouses.
2. Change “truckers” to “truck drivers” on item g of the Proposed modifications to the Regulations definitions.
3. Officer to draft clauses on signage along the principles of setbacks, limitations and land use aspects.

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4. To consider changing the report title to Review of Development Control Policy 1.10: Location and Design of Freeway Service Centres and Signage.
5. Officer to provide information on MainRoads policy on signage.

Resolved

Motion to defer

Moved by Mr Holloway, seconded by Mr Hiller

That the item relating to Review Of Development Control Policy 1.10: Location And Design Of Freeway Service Centres – For Final Approval be deferred for next policy meeting on 26 July 2016 for further information and to allow for the requested changes to be made.

The motion was put and carried.

Moved to Item 7546.10.1

7546.10.2

Shire Of Serpentine Jarrahdale Local Planning Policy 39 – Ancillary Dwellings

File DP/15/00314

Agenda Part A

Reporting Officer Planning Manager, Metropolitan South-East

Officer's recommendations:

That the Statutory Planning Committee resolves to:

1. Approve a variation to the deemed-to-comply provision for the plot ratio area of ancillary dwellings under Clause 7.3.2 of State Planning Policy 3.1 - Residential Design Codes (R-Codes) as outlined in Shire of Serpentine Jarrahdale Local Planning Policy 39 - Ancillary Dwellings.
2. Advise the Shire of Serpentine Jarrahdale of the following:
 - (i) To maintain consistency with terminology in the R-Codes for

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- ancillary dwellings it would be preferable to utilise standards that refer to a 'maximum plot ratio area' as opposed to 'maximum floor area'; and
- (ii) Schedule 1 should be modified to ensure that the acceptable development standards can be applied to lots that are equal to 5000m² in area.
 - (iii) To review the implementation of the policy following 12 months of operation.

The members discussed and agreed to defer the item for further information on R-Codes for ancillary dwellings and information on the powers of SPC members to endorse the item.

Resolved

Motion to defer

Moved by Mr Hiller, seconded by Mr Holloway

That the item relating to Shire Of Serpentine Jarrahdale Local Planning Policy 39 – Ancillary Dwellings be deferred for further information relating to specific guidance for developments in Rural areas not covered by the R-Codes; and information relating to the powers of the SPC members to endorse the item given the potential intensification of residential developments in Rural areas.

The motion was put and carried.

Move to Item 7546.10.1

7546.11 Confidential Items

7546.11.1 Review of the Peel Region Scheme Floodplain Management Policy

File RLS/0493
Agenda Part A
Reporting Officer Director Peel Region

THIS ITEM IS CONFIDENTIAL

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- 7546.11.2 Shire Of Coolgardie Local Planning Strategy And Local Planning Scheme No. 2 – Approval**
File DP/12/01257 / TPS/1171
Agenda Part E
Reporting Officer Statutory Planning Manager, Central Regions

Withdrawn from the agenda prior to the meeting

- 7546.11.3 State Administrative Tribunal – Drovers Place Structure Plan No. 80 – Modification to Infrastructure Provisions**
File SPN/0125M-4, SPN/0125M - 5
Agenda Part C
Reporting Officer Manager Planning Appeals

Ms Burrows disclosed an interest and did not vote on this item.

Member	Nature of Interest
Ms Burrows	Impartiality

THIS ITEM IS CONFIDENTIAL

7546. 12 General Items – Publications, Briefings and Updates

- | | | |
|------------------|---|--------------------|
| 7546.12.1 | The Landing Page | 9 May 2016 |
| 7546.12.2 | The WAPC Monthly Report | May 2016 |
| 7546.12.3 | Freedom of Information Status Report | 16 May 2016 |
| 7546.12.4 | State Administrative Tribunal Report | Nil. |

7546.13 Stakeholder Engagement and Site Visits

Nil.

7546.14 Urgent or Other Business

Nil.

7546.15 Future Actions

Nil.

7546.16 Meeting Closure

The next ordinary meeting is scheduled for 9:00 am on Tuesday 28 June 2016.

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There being no further business before the Committee, the Presiding Member thanked members for their attendance and declared the meeting closed at 10:43 am.

PRESIDING MEMBER _____

DATE _____

UNCONFIRMED

INDEX OF REPORTS

Item	Description
9	STATUTORY ITEMS FOR DECISION
<i>C</i>	<i>SUBDIVISIONAL / AMALGAMATIONS</i>
9.1	Amendment to City of Swan Outline Development Plan 139 (Equis Lakes), The Vines
9.2	Consideration of Helena Valley Local Structure Plan No. 71 - Lots 2, 3 and 6 Midland Road, Helena Valley
9.3	Consideration of Lot 601 Old Pinjarra Road Structure Plan
9.4	Consideration of Lot 803 North Yunderup Road Structure Plan
9.5	Structure Plan Amendment – Development Area No. 35 North Forrestdale (Stage Three/South), Lot 500 Nicholson Road, Piara Waters
9.6	Subdivision to Create Two Lots for Residential Purposes – Lot 13 Springdale Road, Kalamunda
<i>G</i>	<i>DEVELOPMENTS / SUBDIVISIONAL / SURVEY STRATA</i>
9.7	Addition of Deck to Existing Heritage Building – Kidogo Arthouse, Bather's Beach, Fremantle
9.8	Application to Subdivide Lot 212 Matheson Road, Ascot, to Create Two Survey Strata Lots on Land Zoned 'Residential and Stables'
9.9	Consideration of Furnissdale West Structure Plan
9.10	Local Structure Plan No.42 – Farrall Road Local Structure Plan – Multiple Lots Farrall Road, Orchard Avenue & Morrison Road Midvale/Stratton
9.11	Reconsideration of Condition of Approval – Subdivision to Create 75 Residential Lots – Lots 1 and 206 Winston Crescent and Lots 210-213 Bernley Drive, Viveash
10	POLICY ITEMS FOR DISCUSSION/DECISION
11	CONFIDENTIAL REPORTS
<i>A</i>	<i>POLICY</i>

11.1 Residential Subdivision and Development on Lots Less than 100m2

B LOCAL OR REGIONAL PLANNING SCHEMES / AMENDMENTS

11.2 City of Joondalup – District Planning Scheme No. 2 Amendment No. 42 For Final Approval

11.3 City of Stirling Local Planning Scheme No.3 – Amendment No.10 – for Final Decision

11.4 City of Wanneroo – District Planning Scheme No. 2 Amendment 150 – for Final Approval

C SUBDIVISIONS / AMALGAMATIONS

11.5 Reconsideration of Endorsement of Local Structure Plan – Lot 809 Perseverance Boulevard, Argyle – Shire of Donnybrook–Balingup

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

11.6 City of Armadale Local Planning Strategy – For Final Endorsement

11.7 Shire of Boddington Local Planning Strategy Request for Certification

G DEVELOPMENTS / SUBDIVISIONAL / SURVEY STRATA

11.8 State Administrative Tribunal Review – Section 31 Reconsideration of Refusal of Two Lot Subdivision – Lot 601 Morphet Crescent Bateman

ITEM NO: 9.1

Amendment to City of Swan Outline Development Plan 139 (Equis Lakes), The Vines

COMMITTEE: Statutory Planning Committee

REPORTING AGENCY: Department of Planning
REPORTING OFFICER: A/Planning Manager, Metropolitan North-East
AUTHORISING OFFICER: A/Planning Director, Metropolitan North
AGENDA PART: C
FILE NO: SPN/0816M-1
DATE: 26 May 2016
REPORT CATEGORY: Statutory
RECOMMENDATION OUTCOME: Approval with modification.

ATTACHMENT(S):
1. Current ODP
2. Proposed ODP
3. Zoning Plan
4. Wetland Mapping
5. Aerial View
6. Schedule of Modifications

REGION SCHEME ZONING: Urban
LOCAL GOVERNMENT: City of Swan
LOCAL SCHEME ZONING: Residential Development
LGA RECOMMENDATION(S): Approval with modifications
REGION DESCRIPTOR: Metropolitan Planning North-East
RECEIPT DATE: 22 February 2016
PROCESS DAYS: 127 days
APPLICATION TYPE: Structure Plan
CADASTRAL REFERENCE: Lot 9006 Railway Parade, The Vines

RECOMMENDATION:

That the Statutory Planning Committee resolves to:

- 1. Require that the Outline Development Plan No.139 (Equis Lakes) received on 22 February 2016 be modified in accordance with the schedule of modifications appended as Attachment 6 before final approval is given; and***
- 2. Advise the City of Swan of its decision accordingly.***

SUMMARY:

Amendment D to Outline Development Plan 139 Equis Lakes (ODP 139) proposes to reconfigure the north-eastern portion of the ODP to provide for residential development over a Resource Enhancement Wetland (REW). The REW is small, isolated and degraded and both the City of Swan (City) and the Department of Parks and Wildlife (DPaW) have indicated that they are not prepared to rehabilitate and manage the wetland. The proposed residential development over the wetland is recommended to be supported.

The proposal has been referred to the Statutory Planning Committee as the recommendation to the WAPC is that residential development over the REW be supported, which is inconsistent with Liveable Neighbourhoods.

BACKGROUND:

ODP 139 was initially endorsed by the Western Australian Planning Commission (WAPC) in 2007 and a number of modifications have subsequently been endorsed (**Attachment 1 - Current ODP 139**). Approximately half of the residential lots proposed by the ODP have already been created.

The amendment seeks to convert the land identified as 'Conservation and Drainage Public Open Space', which relates to the REW and buffer, to residential development (**Attachment 2 - Proposed ODP**). The WAPC has received a related subdivision application (WAPC:153070), which is consistent with the proposed ODP amendment.

The proposed amendment was presented to the City of Swan Council meeting on 10 February 2016, with an officer's recommendation for approval without further modification. Council resolved to recommend to the WAPC that approval be granted to the proposed modification subject to the road depicted as 'Danehill Drive' be terminated in a cul-de-sac at its eastern end and the redundant road connection be developed as residential lots at either an R25 or R30 density. This resolution was made in order to address the amenity expectations of the purchaser whom purchased a lot along 'Danehill Drive' on the basis that it would not be a through road

LEGISLATION / STRATEGIC PLAN / POLICY:

Legislation

Planning and Development Act 2005

Strategic Plan

Strategic Goal:

Manage Growth

Outcomes:

Improved housing affordability

Strategies:

Increase housing densities, diversity and affordability

Policy

Number and / or Name:

Liveable Neighbourhoods

SPP 3.7 - Planning in Bushfire Prone Areas

SPP 5.4 - Road and Rail Transport Noise and Freight

Considerations in Land Use Planning

DETAILS:

The ODP covers an area of 28.16 hectares, with the majority zoned Urban under the Metropolitan Region Scheme and the remainder reserved Parks and Recreation. This forms part of Bush Forever Site No. 300 and includes Ellen Brook and Saw Pit Gully. The Urban portion is zoned Residential Development under City of Swan Local Planning Scheme No.17. An unconstructed road reserve for Railway Parade and a freight railway reserve abut the eastern boundary of the ODP area (***Attachment 3 - Zoning Map***).

Amendment D proposes to:

- remove the Conservation and Drainage area (7032m²), which reflects the REW and buffer, and replace it with residential development at a density of R20 and R25;
- change the residential density in the north-east portion of the ODP from R17.5 and R25 to R20; and
- reconfigure the movement network to accommodate the above changes and connect to Railway Parade.

The total lot yield of the ODP area will increase from 242 to 257 while dwelling yield will increase from 242 to 263.

GOVERNMENT AND CORPORATE IMPLICATIONS:

Nil

CONSULTATION:

The City advertised the amendment for 28 days commencing on 26 October 2015. A total of 14 submissions were received of which 6 did not object and 8 objected to the proposal. The objections raised concerns with the removal of the conservation drainage area (REW); increased traffic along the existing internal road network; and impact on the perceived rural amenity.

The responses from relevant government agencies are summarised below:

- The Department of Water made no comment.
- The Department of Aboriginal Affairs advised that the ODP is not within the boundary of identified Aboriginal heritage sites.
- The Department of Parks and Wildlife did not provide comment to the City but subsequently provided comment to the Department of Planning. This is discussed further below.
- The Public Transport Authority made no comment.

OFFICER'S COMMENTS:

Wetland issues

A Resource Enhancement Wetland (REW) straddles the eastern boundary of the ODP area. The western portion of the REW is within the ODP area, with the balance situated within the unconstructed portion of the Railway Parade road reserve, the adjoining freight rail reserve and rural land to the east (**Attachment 4 - Wetland Mapping** and **Attachment 5 - Aerial View**).

In the original ODP endorsed by the WAPC in 2007, the western portion of the wetland was to be included as private open space within a retirement village site. In 2014, the City considered an ODP amendment which involved the removal of the retirement village site and private open space, with the wetland and its buffer to be contained within a 'Conservation and Drainage POS' site.

The wetland serves no drainage function for the subdivision proposed by the ODP and the POS requirements for the ODP have already been met. The City considered that the resources required for the management of the site were not justified given the remaining wetland within the ODP area is only 2600m² in area. The City also resolved that it would not accept management of the land and that the designation in the ODP as a Conservation Area and not POS be retained.

The WAPC subsequently resolved to endorse the ODP subject to modifications and required that appropriate arrangements be made to ensure that the ownership and management of the Conservation and Drainage / Resource Enhancement Wetland site was addressed to the satisfaction of the WAPC and the inclusion of an appropriate notation on the ODP map to clarify this matter.

The City will soon be constructing a road within the Railway Parade reservation abutting the eastern boundary of the ODP area. To enable construction of the carriageway, the portion of the REW located within the road reserve will need to be removed, thus further isolating the portion remaining within the ODP area, which is considered by the City to have no discernible value for rehabilitation.

In its comments to the Department of Planning on the current amendment, DPaW has acknowledged that the viability and overall condition of this wetland will be marginal following the clearing of the portion in the Railway Parade road reserve and further isolation of the portion within the ODP area. Additionally, DPaW is highly unlikely to accept management of the wetland due to its relatively small size and isolation from other DPaW-managed reserves. However, it advised that it considers all reasonable measures should be taken to minimise potential impacts on REWs; and that the wetland could be rehabilitated to provide local passive POS and fauna habitat. It should be noted the City is not prepared to manage the wetland or for it to be provided as additional POS.

Given the above, the limited potential for the wetland to serve as passive POS and fauna habitat due to the close proximity of the Bush Forever reserve, and the reluctance of either the City or DPaW to accept management responsibility of the land, it is recommended that residential development over the land be supported.

Movement network

The proposed amendment does not abut or impact any regional roads. The street network within the ODP is approximately 70% constructed and the increase in traffic from the additional 21 dwellings is not considered significant.

Although the City is largely satisfied with the proposed movement network, it has recommended that Danehill Drive be converted to a cul-de-sac at its eastern end, following concerns raised by a land owner at the western end of Danehill Drive regarding increased traffic.

The City's recommendation in this regard is not supported as:

- a cul-de-sac would make it necessary for all Danehill Drive traffic to pass through the western end of the street. The current proposal by the applicant allows traffic to also exit to the east;
- through-traffic from Dalmilling Drive is more likely to use the higher order road parallel and to the north of Danehill Drive to access Railway Parade as this route is more direct;
- Danehill Drive would form a cul-de-sac approximately 190 metres long. Liveable Neighbourhoods recommends a maximum cul-de-sac length of 120 metres; and
- it would restrict secondary access/egress to houses in the event of bushfire.

Rural amenity

Some of the submissions during advertising related to the loss of perceived rural amenity arising from removal of the wetland. These concerns are not considered to be valid as the land is zoned to permit residential development under both the MRS and LPS 17, and the ODP area is characterised by residential lots ranging in size from 300m² to 600m². The established The Vines residential estate abuts to the south while Ellenbrook (Annie's Landing) is being developed to the north.

Noise issues

The applicant has submitted an acoustic assessment relating to the freight railway to the east of the ODP area. The study indicates that some of the proposed lots to be created will be subject to a night time noise level above 50dB and below 55dB. The 50dB contour is indicated as affecting the eastern portion (approximately 30%) of each lot, while the remainder is below this threshold. Under *SPP 5.4 - Road and Rail Transport Noise and Freight Considerations in Land Use Planning*, these areas will require notifications on title and quiet house design. It is noted that a 1.8 metre high acoustic wall is proposed along the eastern boundary of lots abutting the Railway Parade road reserve. Given the location of the contours, these measures are considered satisfactory.

Drainage

Urban Water Management Plans (UWMP) have been prepared for previous subdivision stages. The development of the ODP area is advanced and an addendum to the approved UWMP has been prepared for the subject land. The

City is satisfied with this approach and the Department of Water has no comments on the amendment.

Public Open Space

The POS Schedule for the amended ODP indicates that a total of 15.6% POS will be provided, which is well over the 10% required under Liveable Neighbourhoods. Most POS parcels in the area are contiguous with the Parks and Recreation reservation, forming a band of open space running diagonally through the subject land.

Bush Fire Management

The revised Bushfire Attack Level (BAL) assessment submitted by the applicant indicates that lots in the new proposed residential area having a BAL of 12.5, largely due to vegetation in Saw Pit Gully and the road and rail reserves to the east. This is considered acceptable under the *Guidelines for Planning in Bushfire Prone Areas* as future dwellings will require construction to Australian Standard 3959.

CONCLUSION

The proposed ODP amendment to replace the Resource Enhancement Wetland with residential lots is supported, given the wetland's isolation, its relative small size, the low environmental values of the REW, and the unwillingness of the City and DPaW to manage the wetland.

Proposed Amendment D to Outline Development Plan 139 (Equis Lakes), The Vines is considered to be generally consistent with WAPC policy and a suitable framework to facilitate future subdivision and development of the area, and it is therefore recommended that the amendment be approved.

ITEM NO: 9.2

Consideration of Helena Valley Local Structure Plan No. 71 – Lots 2, 3 and 6 Midland Road, Helena Valley

COMMITTEE: Statutory Planning Committee

REPORTING AGENCY:	Department of Planning
REPORTING OFFICER:	A/Planning Manager, Metropolitan Planning North East
AUTHORISING OFFICER:	A/Planning Director, Metropolitan Planning North
AGENDA PART:	C
FILE NO:	MUND/2016/2/1
DATE:	28th June 2016
REPORT CATEGORY:	Statutory
RECOMMENDATION OUTCOME:	1. Require modifications before final approval
ATTACHMENT(S):	1. Aerial Photo 2. Location Plan 3. Proposed LSP 4. Location of Lake 5. ANEF Noise Contour Plan 6. Site Photo of Lake 7. Uncontrolled Fill Extents 8. Schedule of Modifications
REGION SCHEME ZONING:	Urban, Rural and Parks and Recreation
LOCAL GOVERNMENT:	Shire of Mundaring
LOCAL SCHEME ZONING:	'Development' and 'Rural Residential'
LGA RECOMMENDATION(S):	Approval subject to modifications
REGION DESCRIPTOR:	Metropolitan Planning North-East
RECEIPT DATE:	12th February 2016
PROCESS DAYS:	137
APPLICATION TYPE:	Structure Plan
CADASTRAL REFERENCE:	Lots 2, 3 and 6 Midland Road, Helena Valley

RECOMMENDATION:

That the Statutory Planning Committee resolves to:

- 1. Note the Local Structure Plan is not consistent with State Planning Policy 5.1 Land use planning in the vicinity of Perth Airport;***

2. ***Require that Local Structure Plan No. 71, dated February 2016, be modified in accordance with the schedule of modifications appended as Attachment 8 before final approval is given; and***
3. ***Following the completion of the modifications, upon approval of the structure plan, the approval shall be valid for a period of 10 years.***

SUMMARY:

The Shire of Mundaring (the Shire) has recommended approval of the proposed Helena Valley Local Structure Plan No. 71 (LSP No. 71), subject to changes, and has forwarded the proposed structure plan to the Western Australian Planning Commission (WAPC) for determination.

In its recommendation, the Shire resolved to request that the existing lake on the site be retained and incorporated into the design of the structure plan. The proposal is being submitted to the Statutory Planning Committee as the recommendation to the WAPC does not require the retention of the lake.

The structure plan, subject to a number of recommended modifications, is considered to be generally consistent with WAPC policy and is supported.

BACKGROUND:

LSP No. 71 encompasses 13.22 hectares of land which comprises of Lots 2, 3 and 6 Helena Valley Road, Helena Valley (**Attachment 1 - Aerial Photo**). The structure plan area is located approximately 2.3 kilometres south-east of the Midland activity centre.

The structure plan area has a split zoning under the Metropolitan Region Scheme (MRS) of 'Rural' and 'Urban' with a portion reserved for 'Parks and Recreation' (**Attachment 2 - Location Plan**). The site is bounded by land reserved for 'Parks and Recreation' to the north and east (forming part of the Helena River foreshore area), 'Urban' zoned land to the east, south and west and 'Rural' zoned land to the west.

The land has a split zoning of 'Rural Residential 4' and 'Development' under the Shire of Mundaring Local Planning Scheme No. 4. Approximately 44 percent of the north-western part of the site is identified as being within the 20-25 Australian Noise Exposure Forecast (ANEF) ultimate 2014 noise contours.

The majority of the structure plan area comprises undeveloped land which is parkland cleared. The Kadina Brook, mapped by the Department of Parks and Wildlife (DPaW) as a Resource Enhancement Wetland, affects the western portion of the site. An industrial depot and a lake are also located on the land.

LEGISLATION / STRATEGIC PLAN / POLICY:

Legislation

Planning and Development Act 2005

Strategic Plan

Strategic Goal: Strategic Goal 2: Planning
Outcomes: Effective Delivery of Integrated Plans
Strategies: Implement State and Regional Planning Priorities

Policy

Number and / or Name: Liveable Neighbourhoods
SPP 3.7 - Planning in Bushfire Prone Areas
SPP 5.1 - Land use planning in the vicinity of Perth Airport

DETAILS:

The structure plan consists of two parts, a Part One 'Statutory Report' section (recommended for rewording to 'Implementation') and a Part Two 'Explanatory Report' section, and provides a framework to facilitate the following:

- A total of 76 residential lots ranging in density from R20 to R30;
- Two rural residential lots;
- Land for the Helena River foreshore 'Regional Open Space' reservation; and
- Public Open Space (POS) and associated buffer area for the Kadina Brook.
(Attachment 3 - Proposed LSP)

The structure plan includes a plan in Part One which identifies land use zones and reserves which are consistent with the zones and reserves classifications listed in the Scheme.

GOVERNMENT AND CORPORATE IMPLICATIONS:

Nil

CONSULTATION:

- LSP No. 71 was advertised for public comment by the Shire for a period of 28 days from the 21st October to the 20th November 2015. A total of 76 submissions were received during the advertising period and a further three after this period. All submissions objected to the proposed structure plan and most (73) objections related to the proposed filling of the lake to the north of Reserve 49062 (**Attachment 4 - Lake**). Other issues that were raised include concerns of density in the aircraft noise contour; traffic volumes and safety; loss of parkland; contamination; residential density and the removal of vegetation.

A number of agency referrals advised that they do not object to the proposal, with the following agencies raising the following issues:

The Department of Health identified that the site and surrounding land poses potential health related mosquito issues if not addressed appropriately and recommended that mosquito breeding should be managed over the site.

The Department of Environment Regulation (DER) advised that soil and groundwater investigations appear limited and do not meet the relevant standards; and advised that a risk assessment has not been undertaken and that further investigations are required and remedial measures need to be undertaken.

The Department of Parks and Wildlife (DPaW) has advised that whilst the lake (to the north of Reserve 49062) is not mapped as an important wetland, it has some ecological value in its own right. The DPaW has recommended that although there is no statutory requirement to retain the lake, it should be incorporated into the design of the structure plan for retention.

The Shire of Mundaring supported the proposed structure plan subject to a number of modifications to be made, which included the following:

- An annotation being included requiring subdivision approval to require mosquito breeding controls;
- A small section of the central rural residential lot being incorporated into the road reserve;
- The north-western rural residential lot being shown as POS;
- The water body to the north of Reserve 49062 being incorporated into the design of the structure plan for retention and the road layout being modified; and
- The POS to the south of the central rural residential lot being incorporated into the central rural residential lot.

The Shire confirmed that the local road network has sufficient capacity to cope with the increase in traffic generated from the proposal.

OFFICER'S COMMENTS:

Planning & Development Regulations 2015

A structure plan, which was already in the system at the time of the gazettal of the *Planning and Development (Local Planning Scheme) Regulations 2015* (the Regulations), does not need to be converted to the new format required by the Regulations. However, if a structure plan contains provisions relating to it having the 'force and effect' of the local planning scheme or containing any variations to the deemed-to-comply requirements of the Residential Design Codes, then these need to be removed as this is inconsistent with the intent of the Regulations. Part One, Section 3.2 *Relationship with the Scheme*, of the structure plan refers to it having the 'force and effect' of the local planning scheme and it is recommended that this be removed. The structure plan also includes a Part 1 'Statutory report' and this should be amended to refer to 'Implementation' section as per the WAPC's Structure Plan Framework, as structure plans are not a statutory document.

Aircraft Noise Impacts

The subject site is located within an area subject to State Planning Policy 5.1 *Land use planning in the vicinity of Perth Airport* (SPP 5.1) and is affected by the 20 - 25 Australian Noise Exposure Forecast (ANEF) ultimate 2014 noise contours (**Attachment 4 - ANEF Noise Contour Plan**). SPP 5.1 states that where land is zoned for residential purposes in the 20 - 25 ANEF noise contour, the maximum dwelling density should be limited to R20. Variations to this can be considered where land is identified as appropriate for more intensive development through strategic planning instruments such as a regional or sub-regional structure plan; where a higher density coding is desirable to facilitate redevelopment or infill development of an existing residential area; and where it can be demonstrated that the public benefits of higher density coding outweigh the negative impacts of exposing additional residents to aircraft noise.

The structure plan proposes residential coded land at R30 within the 20 - 25 ANEF contour, and the applicant has provided the following in support of the proposed density:

- The need to increase residential density in order to be closer to achieving the density target of 15 dwelling units per hectare established in the Shire's Local Planning Strategy for new structure plan areas within Helena Valley.
- Additional density over and above the R20 code is required to offset the environmental constraints present on the site, such as the Resource Enhancement Wetland and its buffer, Regional Open Space and the geotechnical considerations associated with the former landfill.
- There is a strategic need to generate additional dwelling yield in this locality in order to meet the infill dwelling targets established by Directions 2031.
- The need to reach critical dwelling yield to facilitate the redevelopment of the site which will facilitate substantial environmental gains in relation to the remediation of the past landfill and regeneration of the Kadina Brook.

The above justification is not supported for the following reasons.

- No strategic planning instruments identify the land as suitable for higher densities than those stipulated under SPP 5.1.
- The WAPC has previously approved structure plans for land directly to the south and east of the subject site with a density coding of R20 or less, consistent with the previous ANEF contours to manage residential development in the vicinity of the airport.
- Although it is acknowledged that there is a greater demand for housing diversity and affordability given recent changes on the demographic structure of household composition and occupancy rates, residential development at higher densities as per the Housing Strategy and Directions 2031 need to be located in appropriate locations. The area of land affected by the flight path is considered to be unsuitable for higher residential density.

- The purpose of SPP 5.1 is to protect Perth Airport from unreasonable encroachment by incompatible (noise sensitive) development in order to provide for its ongoing development and operation; and to ensure that the impact of airport operations on future communities is minimised. In this regard, the policy is clear on the type and density of residential development that should be permitted in areas affected by the ANEF contours.
- The structure plan proposes a density of R30 in the 20 - 25 ANEF noise contour, which is inconsistent with SPP 5.1 which permits a maximum density of R20 in this contour. The structure plan does not comply with the possible exceptions to exceed the R20 density under the Policy. The land has not been identified for more intensive development in strategic planning instruments, is not considered desirable to facilitate infill development of an existing residential area as it is on the fringe of urban zoned land and it cannot be demonstrated that the public benefits of higher density outweigh the negative impacts of exposing additional residents to aircraft noise.

Filling of the lake

An existing lake is located on the southern boundary of the subject land and is directly north of Reserve 49062 (**Attachment 4 - Location of Lake**). The proposed structure plan designates the area for residential development and proposes to fill the lake.

Aerial photography indicates that it is permanently inundated with water, measures approximately 2,200sqm and contains fringing native vegetation that has regrown naturally. The Environmental Assessment and Management Strategy submitted with the structure plan conveys that the lake was formed as a result of alterations made to the topography of the land in the 1950's. Under the Department of Parks and Wildlife (DPaW) mapping of water bodies, the lake is not classified as a wetland and no State Government policies cover the protection of this feature from an environmental perspective.

The primary issue raised during the public advertising period was the objection to the filling of the lake based on the environmental, social and amenity values of the lake. The public submissions suggest that it provides a habitat for several water bird species, in addition to species of amphibians and reptiles (**Attachment 6 - Site Photos of Lake**).

The DPaW has advised that there is no statutory basis for the protection of the lake, as it is not a natural wetland and is not covered by any of the mapping systems as an important wetland. However, the DPaW has advised that consideration should be given for its protection due to its ecological value with some ecological linkages to the Helena Valley floodplain.

The Shire, as part of its recommendation to the WAPC, has requested that the lake be retained as POS and be integrated into the design of the structure plan, in lieu of unrestricted POS elsewhere on the subject site. The Shire considered that the lake presents a more suitable option as POS under Element 4 - *Public parkland* of Liveable Neighbourhoods, which aims to integrate existing water features into POS.

The objectives of Liveable Neighbourhoods support such water features being retained within subdivisions as dual purposes can be achieved in addressing environmental and drainage functions through the site whilst increasing the amenity of the local area. The Shire also advised that the integration of the lake as POS is consistent with the general principles of Liveable Neighbourhoods as small local parks or special purpose parks are encouraged for local children's play, for identity and sense of place, and as resting places for the elderly or disabled people in appropriate circumstances.

The applicant's justification to support the filling of the lake in order to facilitate the residential development of the area, is that the lake is artificial and supports only wildlife which will likely relocate to the Kadina Brook once the area has been revegetated. The applicant contents the following:

- *"Surface water ponding occurs in the south of the site in a depression formed through historic quarrying activities. Historic aerials show that while that area may have been a natural low-point within the site, quarrying operations created a drainage channel through the south of the site connecting to the Kadina Brook in the west of the site. Ponding in the area increased with the blockage of this drainage channel, resulting in the permanent wet area currently in the south of the site. This is not a natural feature, and will not require significant consideration within the Local Structure Plan other than the consideration of drainage and groundwater management."*
- *"Alteration of the natural topography (as part of historic quarrying activities) and low permeability of underlying soils has resulted in the ponding of surface runoff along the southern boundary of the former landfill. Historic aerials show this feature appeared between 1953 and 1955, and appeared to be seasonally inundated, however a manmade drainage channel leading from this depression through to the Kadina Brook previously allowed drainage from this area into the waterway. This channel appears to have been blocked through the alterations to the landform within the site resulting in the depression remaining inundated to various degrees throughout the year. This area, though artificial, now supports various species of aquatic plants and wildlife."*
- *"...the revegetation works proposed within the Kadina Brook and associated REW will enable water plant and animal species to re-establish within the wetland which will be representative of a much more natural environment (and provide ecological linkage values)."*

Although it is acknowledged that the lake is an environmental asset in the area, with some social value to the local community, the lake is not statutorily protected by environmental legislation and policy. Due to the geotechnical constraints of the land, 'swapping' of POS with residential land is not economically viable and the applicant has advised that if this lake is retained, the development will not be economically feasible due to the significant area of the structure plan already excluded for residential development due to its environmental characteristics. Approximately 38% of the land is either reserved for 'Parks and Recreation' or occupied by the Kadina Brook and an associated buffer. It is considered that the 11% of POS, including the area bordering the Kadina Brook, will provide a significant sized area to allow for the

protection of vegetation and for the local community to access the natural watercourse.

The Kadina Brook will be rehabilitated and its environmental functionality improved with the removal of waste material and weeds. Replanting of vegetation within it will also contribute to its improvement.

Bush Fire Management

The structure plan includes a Bushfire Management Plan that indicates that the maximum Bushfire Attack Level (BAL) that residential lots will be subject to is BAL-29. The lots subject to this rating are located along the western boundary of the structure plan, opposite the Kadina Brook which is classified as woodland vegetation, and these affected lots will be subject to construction standards in accordance with AS3959. Lots in the southern and eastern portion of the subject site are surrounded by houses which do not pose a bushfire threat. All proposed lots will have direct access to public roads offering at least two directions of egress connecting to the wider road network as required by the WAPC's *Guidelines for Planning in Bushfire Prone Areas* (the Guidelines).

North-Western Rural Residential Lot

As part of its recommendation, the Shire requested that the north-western portion of 'Rural Residential 4' land of 6,700sqm on the proposed structure plan be changed to POS. This is on the basis that the land would otherwise result in an undersized rural residential lot, whereby a minimum lot size of four hectares is required in accordance with Clause 5.9.1 of the Shire's planning scheme.

The structure plan provides approximately 11% of net residential subdividable area as POS which exceeds the 10% required under Liveable Neighbourhoods. It is considered that a requirement to provide additional land as POS within this context cannot be justified and it is therefore recommended that the land be retained as 'Rural Residential' on the basis that the proposed zoning in the structure plan is consistent with the current zoning; the lot is already undersized; and there is sufficient POS provided within the structure plan.

Approval of later details

Due to the unique site characteristics and constraints, it is recommended that additional details be included in the structure plan to require a number of reports/strategies to be provided prior to subdivision and as conditions of subdivision approval. It is recommended that the structure plan be amended in order to facilitate submission of a vegetation survey to map areas of important vegetation. It is recommended that a condition of subdivision approval is incorporated into the structure plan that requires notifications on title for geotechnically unsuitable land that cannot accommodate development. Furthermore, the Shire has recommended that a subdivision condition be listed that addresses measures to control the breeding of mosquitos.

Reports/Strategies required prior to subdivision - Vegetation survey

It is therefore recommended that a vegetation survey be required to be provided prior to the submission of a subdivision application.

Two Local Natural Areas (LNAs) are located over the western portion of the subject land, the westernmost associated with Kadina Brook and an area of remnant vegetation to the east of Kadina Brook. The Shire's Local Biodiversity Strategy (LBS) and existing mapping for the site suggest that the site meets a number of criteria for designation of a LNA (wetland values, potential Black Cockatoo habitat, ecological connectivity, etc.) and hence part of the site has been designated as such.

This vegetation is identified under the Perth Biodiversity Project's (PBP) *Local Government Biodiversity Planning Guidelines for the Perth Metropolitan Region* as contributing to regional ecological linkage No. 134m. This connects Conservation Category Wetlands (CCWs) to the north-west and Resource Enhancement Wetlands (REWs) within the site to further wetland areas south and east of the site. The PBP is a natural resource mapping tool that was developed by the Western Australian Local Government Association and has produced mapping for the area.

The entire western portion of the site is mapped as an Environmentally Sensitive Area (ESA), prescribed under the *Environmental Protection (Clearing of Native Vegetation) Regulations 2004*, in order to protect native vegetation values of areas surrounding significant, threatened or scheduled flora, vegetation communities or ecosystems.

The Environmental Assessment and Management Strategy that informs the structure plan identifies that the site contains suitable foraging habitat and potential breeding trees for species of Black Cockatoo. Considering the mapping under several policies and legislation, it is considered that a vegetation survey should be undertaken prior to subdivision in order to inform what specific vegetation exists on-site as potential Black Cockatoo foraging and nesting trees, so that these be incorporated within the subdivision plan for retention.

Conditions of subdivision approval - Geotechnical Notification on Title

Portions of the land were previously filled with inert landfill material from 1982 to 1993 (**Attachment 7 - Uncontrolled Fill Extents**). A geotechnical report has not yet been done to confirm the depths of this fill, however it is estimated to exceed depths of five metres. The structure plan has been designed with this in mind and is proposing to create a central 'rural residential' lot over the land that is affected by the fill. Due to the estimated depth of the fill, the land is not economically viable for development and cannot accommodate development due to potential settling issues. This will leave the ground geotechnically unsuitable for the construction of a dwelling, etc. Due to this, it is recommended that a requirement be included in the structure plan for a condition of subdivision to be imposed to facilitate a notification on title to advise prospective purchasers of the geotechnical constraints of the site.

Measures to control mosquito breeding

The Department of Health (DoH) expressed concerns that the site is in close proximity to potential mosquito breeding habitats along the Helena River and is in an area that occasionally experiences significant problems with disease carrying mosquitos, including Ross River Virus and Barmah Forest Virus. The Shire and the DoH recommends that an annotation be included on the structure plan requiring subdivision approval to require mosquito breeding measures to be undertaken.

CONCLUSION

The structure plan, subject to a number of modifications, is considered to be generally consistent with WAPC policy and a suitable framework to facilitate future subdivision and development of the area. It is therefore recommended that the WAPC requires a number of modifications to be made before final approval is given.

ITEM NO: 9.3

Consideration of Lot 601 Old Pinjarra Road Structure Plan

WAPC OR COMMITTEE: **Statutory Planning Committee**

REPORTING AGENCY:	Department of Planning
REPORTING OFFICER:	Planning Manager, Peel
AUTHORISING OFFICER:	Director, Peel
AGENDA PART:	G
FILE NO:	SPN/0779
DATE:	9 June 2016
REPORT CATEGORY:	Statutory
RECOMMENDATION OUTCOME:	1. Approve 2. Advise
ATTACHMENT(S):	1. Structure Plan with Required Modifications 2. Schedule of Modifications
REGION SCHEME ZONING:	Urban
LOCAL GOVERNMENT:	Shire of Murray
LOCAL SCHEME ZONING:	Residential Development
LGA RECOMMENDATION(S):	Adopt subject to modifications
REGION DESCRIPTOR:	Peel
RECEIPT DATE:	1 June 2016
PROCESS DAYS:	8 Days
APPLICATION TYPE:	Structure Plan
CADASTRAL REFERENCE:	Lot 601 Old Pinjarra Road, Greenfields

RECOMMENDATION:

That the Statutory Planning Committee resolves to:

- 1. Approve the Lot 601 Old Pinjarra Road Structure Plan; and***
- 2. Advise the City of Mandurah of its decision accordingly.***

SUMMARY:

The WAPC has received a modified version of the Lot 601 Old Pinjarra Road Structure Plan (Structure Plan) as required by the resolution made by the Statutory Planning Committee on 5 May 2016 (**Attachment 1**).

This report is being presented to the Committee as there is no delegated authority to approve a structure plan that significantly departs from the local government

recommendation, despite the structure plan modifications arising from a previous decision of the Committee.

As the modified version of the structure plan dated May 2016 (Document Ref: 123894-1-001_SP) incorporates the required modifications, it should be approved.

BACKGROUND:

On 5 May 2016 the SPC resolved to require modifications be made to the Structure Plan. Significant modifications were required to address bushfire considerations and the proposed residential density.

In particular, the structure plan needed to be amended to show an area within which subdivision and development is restricted, due to a bush fire hazard arising from existing vegetation on abutting land to the east.

Other administrative modifications were required, some of which sought to improve consistency between the Structure Plan, the *Planning and Development (Local Planning Schemes) Regulations 2015* and the Structure Plan Framework.

LEGISLATION / STRATEGIC PLAN / POLICY:

Legislation	<i>Planning and Development Act 2005</i> <i>Planning and Development (Local Planning Schemes) Regulations 2015</i>
Section:	Schedule 2, Part 4
Strategic Plan	
Objectives:	Planning
Performance Outcomes:	Sufficient urban, commercial and industrial and supply opportunities
Strategic Imperatives:	Increase housing densities, diversity and affordability
Policy	
Number and / or Name:	Directions 2031 Draft South Metropolitan Peel Sub-regional Planning Framework SPP 3 – Urban Growth and Settlement SPP 3.7 – Planning for Bushfire Prone Areas Liveable Neighbourhoods

DETAILS:

The modifications required by the WAPC are detailed in **Attachment 2** and reflect the Schedule of Modifications attached to the report determined by Committee on 5 May 2016.

GOVERNMENT AND CORPORATE IMPLICATIONS:

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

CONSULTATION:

The City and the proponent are aware of the modifications and no further consultation is necessary.

OFFICER'S COMMENTS:

The modified Structure Plan documents reflect the resolution of the WAPC and it is recommended that the Structure Plan be approved.

ITEM NO: 9.4

Consideration of Lot 803 North Yunderup Road Structure Plan

WAPC OR COMMITTEE:	Statutory Planning Committee
REPORTING AGENCY:	Department of Planning
REPORTING OFFICER:	Planning Manager, Peel
AUTHORISING OFFICER:	Director, Peel
AGENDA PART:	G
FILE NO:	SPN/0718
DATE:	9 June 2016
REPORT CATEGORY:	Statutory
RECOMMENDATION OUTCOME:	1. Approve 2. Advise
ATTACHMENT(S):	1. Structure Plan with Required Modifications 2. Schedule of Modifications
REGION SCHEME ZONING:	Urban
LOCAL GOVERNMENT:	Shire of Murray
LOCAL SCHEME ZONING:	Residential Development
LGA RECOMMENDATION(S):	Endorse with modifications (undertaken)
REGION DESCRIPTOR:	Peel
RECEIPT DATE:	13 May 2016
PROCESS DAYS:	45 (as at 28 June 2016)
APPLICATION TYPE:	Structure Plan
CADASTRAL REFERENCE:	Lot 803 North Yunderup Road, North Yunderup

RECOMMENDATION:

That the Statutory Planning Committee resolves to:

- 1. Approve the Lot 803 North Yunderup Road Structure Plan; and***
- 2. Advise the Shire of Murray of its decision accordingly.***

SUMMARY:

The Shire of Murray has forwarded a modified version of the structure plan for approval, which reflects the modifications required by the Committee's decision of 22 March 2016 (**Attachment 1**).

This report is being presented to the Committee as there is no delegated authority to approve a structure plan that significantly departs from the local government recommendation, despite the structure plan modifications arising from a previous decision of the Committee.

As the modified version of the structure plan dated May 2016 (Document JWP YUN) incorporates the required modifications, it should be approved.

BACKGROUND:

At its 22 March 2016 meeting, the SPC resolved to require modifications be made to the Structure Plan. Significant modifications were required to address bushfire considerations and developer contribution provisions.

In particular, the structure plan needed to be amended to show an area within which subdivision and development is restricted, due to a bush fire hazard arising from existing vegetation on abutting land to the east. Also, some of the proposed developer contribution provisions were required to be removed, as they were not adequately justified.

Other administrative modifications were required, some of which sought to improve consistency between the Structure Plan, the *Planning and Development (Local Planning Schemes) Regulations 2015* and the Structure Plan Framework.

LEGISLATION / STRATEGIC PLAN / POLICY:

Legislation

Planning and Development Act 2005
Shire of Murray Town Planning Scheme No.4
Planning and Development (Local Planning Schemes) Regulations 2015

Section:

Schedule 2, Part 4 clauses 14-29

Strategic Plan

Objectives: Manage Growth

Performance Outcomes: Sufficient urban, commercial and industrial and supply opportunities

Strategic Imperatives: Increase housing densities, diversity and affordability

Policy

Number and / or Name: Directions 2031
Draft South Metropolitan Peel Sub-regional Planning Framework
SPP3 – Urban Growth and Settlement
SPP 3.6 – Development Contributions for Infrastructure
SPP 3.7 – Planning for Bushfire Prone Areas
Liveable Neighbourhoods

DETAILS:

The modifications required by the WAPC are detailed in **Attachment 2** and reflect the Schedule of Modifications attached to the report presented to SPC on 22 March 2016.

GOVERNMENT AND CORPORATE IMPLICATIONS:

The WAPC will be required to determine any future subdivision applications. A development application may also be required, if any drainage from the site is proposed within the abutting Regional Open Space reservation.

CONSULTATION:

The Shire and the proponent are aware of the modifications and no further consultation is necessary.

OFFICER'S COMMENTS:

The modified structure plan documents reflect the resolution of the WAPC and it is recommended that the structure plan be approved.

ITEM NO: 9.5

Structure Plan Amendment – Development Area No. 35 North Forrestdale (Stage Three/South), Lot 500 Nicholson Road, Piara Waters

WAPC OR COMMITTEE: Statutory Planning Committee

REPORTING AGENCY:	Department of Planning
REPORTING OFFICER:	Manager - Metropolitan South East
AUTHORISING OFFICER:	Director - Metropolitan South
AGENDA PART:	C
FILE NO:	SPN/0354M-2
DATE:	28 June 2016
REPORT CATEGORY:	Statutory
RECOMMENDATION OUTCOME:	1. Refusal
ATTACHMENTS:	1. Existing Local Structure Plan 2. Aerial Photo 3. Structure Plan Amendment
REGION SCHEME ZONING:	URBAN
LOCAL GOVERNMENT:	City of Armadale
LOCAL SCHEME ZONING:	Urban Development
LGA RECOMMENDATION:	Refusal
REGION DESCRIPTOR:	Perth Metro South East
RECEIPT DATE:	7 December 2015
PROCESS DAYS:	176
APPLICATION TYPE:	Structure Plan
CADASTRAL REFERENCE:	Lot 500 Nicholson Road, Piara Waters

RECOMMENDATION:

That the Statutory Planning Committee resolves to:

- 1. Refuse the Structure Plan modification for the following reasons:***
 - (a) The removal of the indicative road (Gossan Chase) will compromise the ability to achieve a permeable road network, limiting long term access options to Lot 2 and 3 Nicholson Road and the eastern portion of 152 Nicholson Road, including alternative access to these lots;***
 - (b) The proposed temporary access onto Nicholson Road would result in movement conflict with future access on Lot 121***

Nicholson Road and non-compliance with the Western Australian Planning Commission's Development Control Policy 5.1 - Regional Roads (Vehicular Access); and

- (c) The proposed relocation of the cul-de-sac/turning bulb entirely within the adjoining Lot 501 restricts public road frontage to Lot 500, will compromise the potential for visitor or on-street parking and waste collection services, and transfers the burden of road construction to the adjoining landowner.***

SUMMARY:

The application proposes an amendment to the Development Area 35 - North Forrestdale (Stage Three/South) Structure Plan relating to Lot 500 Nicholson Road, Piara Waters. The structure plan map is proposed to be amended by deleting an indicative subdivision road on Lot 500 and inserting a temporary vehicular access/egress point onto Nicholson Road.

The subject site adjoins a Lot 152 which is designated as a local centre in the structure plan. Both sites need to be considered holistically due to considerable access constraints arising from their location adjacent to key regional roads, and the existence of a non-traversable trunk main bisecting both sites.

The proposal prevents future internal access between the two sites for both vehicles and pedestrians. It also places the entire burden of road construction on Lot 501 to the north by removing any requirement for road construction on the subject property. This presents difficulties for visitor and on-street parking and refuse collection, and is inequitable given the site's reliance on the road as its sole access point.

The Western Australian Planning Commission (WAPC) has not delegated the ability to refuse structure plans to officers of the Department of Planning, thus a determination by the Statutory Planning Committee is required.

BACKGROUND:

The Development Area 35 North Forrestdale (Stage Three/South) Structure Plan (the structure plan) was originally adopted by the City of Armadale (the City) in December 2008 and subsequently endorsed by the WAPC in November 2009. The structure plan establishes a framework to guide future subdivision and development of land generally bound by the Piara Nature Reserve, Armadale Road, Nicholson Road and the Jandakot Urban Ground Water Protection Area. This amendment relates to Lot 500 (No.378) Nicholson Road, Piara Waters, situated on the south eastern corner of the structure plan area.

Site Context

The subject site is zoned Urban in the Metropolitan Region Scheme (MRS) and abuts an Other Regional Road reservation for Nicholson Road under the MRS. The subject site is zoned Urban Development under the City of Armadale Town Planning Scheme No. 4 (TPS No. 4) (**Attachment 1 - Existing Local Structure Plan**).

The subject site is bisected by the Serpentine Trunk Main, which is designated as 'Water Easement' under the structure plan. The portion of the site located to the east of the trunk main contains an existing dwelling. The balance landholding west of the trunk main is currently vacant. The site adjoins Lot 2, 3, 41, 152 Nicholson Road, which is designated as a local centre on the structure plan. The site is currently occupied by a service station and drive-through liquor store. Land to the north and west are designated for future residential development (**Attachment 2 - Aerial Photo**).

LEGISLATION / STRATEGIC PLAN / POLICY:

Legislation *Planning and Development (Local Planning Scheme) Regulations 2015*

Section: Schedule 2, Part 4 Clause 22

Strategic Plan

Objectives: Strategic Goal 2: Planning

Performance Outcomes: Effective Delivery of Integrated Plans

Strategic Imperatives: Implement State and Regional Planning priorities

Policy

Compliance: Development Control Policy 5.1 - Vehicular Access (Regional Roads).
Liveable Neighbourhoods

DETAILS:

The amendment seeks to modify the indicative road layout on Lot 500 to remove a section of Gossan Chase and adds an annotation on the structure plan map that would allow a temporary access/egress onto Nicholson Road (see **Attachment 3 - Proposed Amendment**). The proponent has provided the following justification in support of this proposal:

- *A separate development application for the Local Centre (corner of Nicholson and Armadale Road) will allow access and egress points onto both Nicholson Road and Armadale Road. Therefore the need for road access to the Local Centre from Lot 5 [sic] will no longer be required.*
- *Removal of Gossan Chase will allow for greater infill development on the lot and optimise development opportunities for a site which abuts a local centre.*
- *Road access between Lot 5 [sic] and the Local Centre, via Gossan Chase, will pose significant engineering challenges due to the difference in ground levels.*

GOVERNMENT AND CORPORATE IMPLICATIONS:

There are no government or corporate implications.

CONSULTATION:

The amendment was advertised to the adjoining landowners and public agencies over a 14 day period, between 10 November and 25 November 2015. Two

submissions were received from Main Roads WA (Main Roads) and the Water Corporation. The contents of these submissions are summarised below:

Main Roads WA Comments

Main Roads Western Australia (Main Roads) advises that the proposed temporary access onto Nicholson Road is unacceptable due to a potential access conflict with Lot 121 Nicholson Road (on the opposite side of Nicholson Road) which forms part of the adjoining North Forrestdale Stage 2 Structure Plan. A temporary access would also impede any potential right turning movement for vehicles exiting Lot 121 onto Nicholson Road (assuming that Main Roads allow this to function as a full movement intersection).

Main Roads also recommends that future connectivity between the subject site and the local centre be the subject of further investigation to determine appropriate internal linkages, with the aim of removing its current dependency on access from Armadale Road and Nicholson Road in future.

Water Corporation Comments

The Water Corporation raises no objections but notes that the original structure plan depicts a dual use path along the western boundary of Lot 500. The structure plan document as submitted did not depict the dual use path. The Water Corporation suggests that the route for the dual use path be further clarified on the structure plan map.

City of Armadale Comments

The City recommends that the amendment be refused on the following grounds:

1. *The proposed modification will severely restrain internal permeability to the local centre from the north thereby restricting future options to service the local centre.*
2. *It is considered premature to remove the road access prior to resolution of vehicular access to the local centre . Removal of the road will also exclude pedestrian access from the residential area located to the north west.*
3. *The submitted structure plan and documents do not provide adequate details and information to warrant approval for the proposed temporary access from Nicholson Road given that Nicholson road carries high volumes (> 25,000 vpd) of traffic with high operating speeds (85% = 90 km/h).*
4. *Removal of the proposed section of Gossan Chase based on the level difference between the two sites is considered premature. The applicant has failed to demonstrate that this link is not possible/feasible.*
5. *No evidence has been provided to justify the claim that the removal of Gossan Chase will allow greater infill potential.*

OFFICER'S COMMENTS:

Removal of Public Road Reserve

The removal of Gossan Chase and relocation of the cul-de-sac/turning bulb entirely within the adjoining Lot 501 would transfer the burden of constructing the road to the adjoining landowner which is not equitable given the subject site would be reliant on this road for access. The reduction in effective road frontage would also limit options for on-street refuse collection and informal visitor parking, placing increased pressure on the residual road network. The City notes that the cul-de-sac arrangement is a preferred option in terms of ensuring efficient manoeuvring of waste collection for all residences.

Nicholson Road Temporary Access

The abutting section of Nicholson Road is a major arterial road which carries over 25,000 vehicles per day. A previous subdivision approval issued for Lot 500 (WAPC Ref 145735) included a condition requiring the imposition of a restrictive covenant on Titles to prevent any vehicular access from the site onto Nicholson Road. Main Roads has raised concerns regarding movement conflict with vehicles exiting Lot 121 onto Nicholson Road.

Development Control Policy 5.1 - Regional Roads (Vehicular Access) (WAPC 1998) states that the creation of new driveways or increased use of existing access is not to be permitted where alternative access is available. The proposed temporary access is not supported due to the need to rationalise access onto regional roads. Further, no transport impact assessment or additional information has been provided as part of the structure plan amendment that justifies support for a temporary access on to Nicholson Road.

Local Centre Access

The subject site is located immediately to the north of Lots 2, 3 and 152 Nicholson Road, Piara Waters, which are designated as local centre in the current structure plan. Road access to the local centre site is highly constrained due to a restriction of crossings over the Serpentine Trunk Main and a restriction of access on Armadale Road, due to the proximity and design of the Armadale/Nicholson Roads intersection upgrade.

The WAPC, reflecting advice of Main Roads, recently refused to grant approval to a development application in the local centre that was reliant on access onto Armadale Road. The WAPC's determination under the MRS is currently pending an appeal to the State Administrative Tribunal. If the WAPC's decision is upheld by SAT, the only feasible access to the local centre would be via a single crossover onto Nicholson Road (left-in/left-out and right-in only). The removal of any potential road connection via Gossan Chase would severely constrain access to the local centre or the ability to accommodate alternative land uses in the event that the retention of a local centre/service station is unviable. Retaining a secondary access for Lots 2, 3 and 152 Nicholson will allow greater flexibility to accommodate a variety of development options for these sites.

Pedestrian Connectivity

The City is concerned that the removal of access will prevent pedestrian connectivity through the site to the local centre. The structure plan always envisioned public pedestrian connectivity between the two sites.

The majority of footpaths within the structure plan area (with the exception of district dual use paths) are generally co-located within the road reserves. As such, it is anticipated that access to the local centre be afforded via a footpath along Gossan Chase. If this public road was removed, future public access through the site may be compromised as development could obstruct pedestrian movement between the two sites.

The City maintains that a pedestrian linkage through the site would be better facilitated from a public realm scenario through the existing cul-de-sac arrangement, rather than a potential pedestrian easement through a grouped housing development (i.e. via communal access), which would be made exclusive to residents of the unit development, departing from the intent of the structure plan.

Ground Level Difference

A level difference of approximately one metre (27-28 metres AHD) will arise between the subject site and the local centre when development on Lot 500 commences, to allow efficient ingress of stormwater drainage and gravity sewers. The applicant has argued that this level difference would prohibit any access to the local centre. However, this does not represent an insurmountable constraint as levels will likely need to be increased through any future development of the local centre site, particularly as extensive fill will also be used in the upgrading of the Armadale/Nicholson Road intersection. It is noted that the existing site levels are substantially lower than the surrounding development both on the Armadale Road and Nicholson Road intersection level. As such, the need to consider fill requirements to co-ordinate with surrounding developments will need to be revisited as part of any future subdivision or development proposal.

CONCLUSION:

The Western Australian Planning Commission (WAPC) has not delegated the ability to refuse structure plans to officers of the Department of Planning, thus a determination by the Statutory Planning Committee is required.

Having regard to the above assessment, it is recommended that the structure plan be refused, pursuant to Schedule 2 Part 4 Clause 22 of the *Planning and Development (Local Planning Scheme) Regulations 2015*.

ITEM NO: 9.6

Subdivision to Create Two Lots for Residential Purposes – Lot 13 Springdale Road, Kalamunda

WAPC OR COMMITTEE: Statutory Planning Committee

REPORTING AGENCY: Department of Planning
REPORTING OFFICER: A/Planning Manager, Metropolitan North-East
AUTHORISING OFFICER: A/Planning Director, Metropolitan Planning North
AGENDA PART: G
FILE NO: 153085
DATE: 21 April 2016
REPORT CATEGORY: Statutory
RECOMMENDATION OUTCOME: 1. Approve with conditions

ATTACHMENT(S): 1. Subdivision Plan
2. Aerial Photograph
3. Zoning Map
4. Street Block Map
REGION SCHEME ZONING: MRS: URBAN
LOCAL GOVERNMENT: Shire of Kalamunda
LOCAL SCHEME ZONING: Residential (R10)
LGA RECOMMENDATION(S): Refusal
REGION DESCRIPTOR: Perth Metropolitan Planning NorthEast
RECEIPT DATE: 22 December 2015
PROCESS DAYS: Deferred
APPLICATION TYPE: Subdivision
CADASTRAL REFERENCE: Lot 13 Springdale Road, Kalamunda

RECOMMENDATION:

That the Statutory Planning Committee resolves to approve the subdivision of Lot 13 Springdale Road, Kalamunda subject to the following conditions:

Condition(s)

- 1. Engineering drawings and specifications are to be submitted, approved, and works undertaken in accordance with the approved engineering drawings, specifications and approved plan of subdivision, for grading and/or stabilisation of the site 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 proposed finished ground levels of the land abutting. (Local Government)*
- 2. 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).*
- 3. All buildings and effluent disposal systems having the necessary clearance from the new boundaries as required under the relevant legislation including the Local Planning Scheme and Building Regulations of Australia. (Local Government)*
- 4. Other than buildings, outbuildings and/or structures shown on the approved plan for retention, all buildings, outbuildings and/or structures present on proposed Lot 2 at the time of subdivision approval being demolished and materials removed from the lot(s). (Local Government)*
- 5. The existing dwelling being retained is to comply with the requirements of the Residential Design Codes. (Local Government)*
- 6. The proposed access way(s) being constructed and drained at the landowner/applicant's cost to the specifications of the local government. (Local Government)*
- 7. Suitable arrangements being made with the local government for the provision of vehicular crossover(s) to service the lot(s) shown on the approved plan of subdivision. (Local Government)*
- 8. Redundant vehicle crossover(s) to be removed and the kerbing, verge, and footpath (where relevant) reinstated with grass or landscaping to the satisfaction of the Western Australian Planning Commission and to the specifications of the local government. (Local Government)*
- 9. 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)*
- 10. 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)*

- 11. Suitable arrangements being made with the Water Corporation for the drainage of the land either directly or indirectly into a drain under the control of that body. (Water Corporation)**
- 12. 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)
- 13. Measures being taken to ensure the identification and protection of any vegetation on the site worthy of retention that is not impacted by subdivisional works, prior to commencement of subdivisional works. (Local Government).**

ADVICE:

- 1. In regard to Condition 3, the Western Australian Planning Commission will accept building clearance requirements as specified in the relevant local planning scheme operative at the time the subdivision approval was granted by the Western Australian Planning Commission.**
- 2. In regard to Condition 4, planning approval and/or a demolition licence may be required to be obtained from the local government prior to the commencement of demolition works.**
- 3. In regard to Condition 9, Western Power provides only one underground point of electricity supply per freehold lot.**
- 4. In regard to Condition 11, the landowner/applicant shall make arrangements with the Water Corporation for the provision of the necessary services. On receipt of a request from the landowner/applicant, a Land Development Agreement under Section 83 of the Water Services Act 2012 will be prepared by the Water Corporation to document the specific requirements for the proposed subdivision.**
- 5. The landowner/applicant is advised that the Department of Environment and Regulation has prepared dust control guidelines for development sites, which, outline the procedures for the preparation of dust management plans. The dust management plans are generally approved, and their implementation overseen, by Local Government. Further information on the guidelines can be obtained from the Department of Environment and Regulation's website: www.der.wa.gov.au under air quality publications.**

SUMMARY:

The application proposes to subdivide Lot 8 Springdale Road, Kalamunda (total 2023m²) into two lots of 968m² and 1055m² in a battleaxe configuration. The application is referred to the Statutory Planning Committee (SPC) for determination

as approval is recommended, contrary to the recommendations of the Shire of Kalamunda (Shire) and Department of Health that the application be refused. Although the proposal does not comply with the 'small infill' criteria of the Government Sewerage Policy, it is considered as a small infill development, onsite effluent disposal can be provided and the recommendation for approval is consistent with similar decisions previously made by the SPC.

LEGISLATION / STRATEGIC PLAN / POLICY:

Legislation

Section:

Planning and Development Act 2005

Part 10

Strategic Plan

Objectives:

Planning

Performance Outcomes:

Planned Local Communities Developing a Sense of Place

Strategic Imperatives:

Encourage innovation in the design of our communities

Policy

Number and / or Name:

Development Control Policy 2.2 Residential Subdivision

State Planning Policy 3.1 Residential Design Codes

Government Sewerage Policy

INTRODUCTION:

The application proposes to subdivide a 2023m² lot to create two lots of 968m² (proposed Lot 1) and 1055m² (proposed Lot 2) in a battleaxe configuration. An existing dwelling is to be retained on proposed Lot 1, whilst all outbuildings are to be demolished from proposed Lot 2. Access is gained via Springdale Road, a dedicated and constructed road (**Attachment 1 - Subdivision Plan, Attachment 2 - Aerial Photograph**).

The subject lot is zoned 'Urban' under the Metropolitan Region Scheme (MRS) and 'Residential' coded 'R10' under the Shire of Kalamunda Local Planning Scheme No. 3 (**Attachment 3 - Zoning Plan**).

The proposed subdivision is not located within a bushfire prone area.

CONSULTATION:

The Shire has recommended that the application be refused on the basis that the proposal would result in the creation of lots smaller than those permitted under the Government Sewerage Policy (GSP). The Shire has confirmed that onsite effluent disposal is possible and has provided draft conditions.

The Department of Health does not support the proposal, advising that the proposal does not meet any criteria, including the small infill criteria in the GSP, to warrant exemption from the mandatory sewer condition of the policy and as such, recommends that the application be refused.

The Water Corporation and Western Power raised no objection to the proposal subject to conditions and advice.

COMMENTS:

State Planning Policy 3.1 – Residential Design Codes (R-Codes)

The proposal is consistent with the minimum site area and frontage requirements of the R-Codes as detailed below:

	R-Coding		
	Required	Provided	Compliance
Minimum lot size	875m ²	968m ²	Yes
Average lot size	1000m ²	1011.5m ²	Yes
Minimum rear battleaxe lot size	925m ² (740m ² effective required)	1055m ² (878m ² effective provided)	Yes
Minimum frontage	20m	23.68m	Yes

Government Sewerage Policy Perth Metropolitan Region

The GSP was adopted by the WAPC in March 1982 and revised in October 1995 and applies to the Perth Metropolitan Region and requires the provision of reticulated sewerage to all subdivision or density development, except where certain exemptions apply. A key objective of the policy is to provide flexibility in the control of subdivision or density development for which reticulated sewerage is unlikely to be available for some time, as is the case with the proposed application.

The subject land is located in the outer metropolitan area, where the policy allows some subdivisions without sewer in certain specified circumstances, such as where a subdivision can be considered small infill development. In this regard, Clause 5.2.1 of the policy ' states that subdivision can be supported where proposals for small infill subdivision or development do not have potential for the creation of more than four additional lots, dwellings or single residential equivalents respectively, in the immediate vicinity (generally interpreted as within the street block), so that the proposal completes rather than extends an existing pattern of subdivision or development. Lot sizes and land use should be consistent with the existing pattern of subdivision or development in these cases.

As described prior, the GSP may permit small infill subdivision or development whereby no more than four additional lots are proposed. However, this provision does not clearly identify whether the four additional lots refer to the remainder of the street block potential or if it also includes those lots resulting from the subdivision application in question. In a recent State Administrative Tribunal (SAT) decision (WASAT 187, 2007), it was determined that the four additional lots does not include the subject application. The proposed application has been assessed in accordance with this direction provided by the SAT.

The subject street block comprises of a total of 19 lots, and of these lots, 6 lots have the potential to be subdivided into two lots each in accordance with the minimum and

average lot requirements of the R10 coding under the R-Codes. The potential exists for the creation of 5 additional lots within the street block (excluding the subject application), being one more than permitted under the small infill criteria of the GSP (maximum 4 additional lots) (**Attachment 4 - Street Block Map**).

Subdivisional approval WAPC 144503, is located in the street block to the south east of the proposed subdivision. On 20 May 2013, the subdivision was referred to the SPC given that the proposal did not meet the small infill criteria of the GSP, as with the current proposal. SPC approved the application on the basis that the subdivision was considered to be efficient use of the land; the proposed lots were consistent with the R10 coding under the R-Codes; the Shire had confirmed that on-site effluent disposal could be achieved; and a previous subdivision application for two residential lots had been approved within the relevant street block.

In this instance, the Shire has confirmed that the subject land is capable of onsite effluent disposal. The proposal, whilst not meeting the small infill criteria of the GSP, is consistent with the objectives of the GSP by providing flexibility for further subdivision in an area where reticulated sewerage will not likely be available for some time. The proposal is also considered to complete rather than extends the existing pattern of subdivision.

CONCLUSION:

It is recommended that the proposed subdivision be supported on the basis that the subdivision is an efficient use of the land; the proposed lots are consistent with the R10 coding under the R-Codes; on-site effluent disposal can be achieved; and similar applications have been approved by the SPC in the area.

ITEM NO: 9.7

Addition of Deck to Existing Heritage Building – Kidogo Arthouse, Bather's Beach, Fremantle

WAPC OR COMMITTEE:	Statutory Planning Committee
REPORTING AGENCY:	Department of Planning
REPORTING OFFICER:	Senior Planning Officer
AUTHORISING OFFICER:	Director, Metropolitan Perth and Peel
AGENDA PART:	G
FILE NO:	05-50134-5
DATE:	17 June 2016
REPORT CATEGORY:	Statutory
RECOMMENDATION OUTCOME:	1. Refuse 2. Notice of removal
ATTACHMENT(S):	1. MRS Reserve and Aerial view 2. Approved toilet block/deck 3. Retrospective addition of timber deck 4. Section 214 Notice
REGION SCHEME ZONING:	Reserve for Parks and Recreation Abuts Reserves for Waterways and Public Purposes - Special Uses; Metropolitan freight rail network; PTA Railway; Heritage Conservation Order 18586, CSS_site_id No.5429, Permanent Heritage Place 896.
LOCAL GOVERNMENT:	Fremantle
LOCAL SCHEME ZONING:	MRS reserves
LGA RECOMMENDATION(S):	Refusal
REGION DESCRIPTOR:	Perth Metro Central
RECEIPT DATE:	10 December 2015
PROCESS DAYS:	190
APPLICATION TYPE:	Development
CADASTRAL REFERENCE:	Mews Road Fremantle

RECOMMENDATION:

That the Statutory Planning Committee resolves to:

1. Refuse the application for retrospective approval for development in accordance with the plans submitted thereto for the following reasons:

(a) The size and scale of the timber deck visually dominates a heritage building and place and thus detracts from its heritage and cultural

significance and is contrary to State Planning Policy 3.5 - Historic Heritage Conservation.

(b) The design and detail of the timber deck is inappropriate to the early colonial setting of the heritage place and is inconsistent with the Conservation Plan for this heritage place.

(c) Development is contrary to the orderly and proper planning and detrimental to the amenity of the locality.

2. Give written direction to the applicant, pursuant to section 214(3) of the Planning and Development Act, 2005, to:

(a) Remove the development of the timber deck extension to existing heritage building - Kidogo Arthouse; and

(b) Reinstate the land as nearly as practicable to its condition immediately before the development started; or

(c) Alter the development in accordance with the approval to commence development issued 30 July 2015 (Ref: 05-50134-4).

This direction is to be complied with by 31 October 2016, being not less than 60 days of the date shown on the notice of refusal.

3. Advise the applicant that, pursuant to section 214(7) of the Planning and Development Act, 2005, failure to comply with this direction within the time specified, is to commit an offence.

SUMMARY:

This application, for the retrospective approval of a timber deck attached to the northern side of the Kidogo Arthouse, Bather's Beach, Fremantle, was deferred by the Statutory Planning Committee in March 2016.

The Heritage Council reconsidered the application on 13 May 2016 and reiterates it does not support the proposal.

Pursuant to the *Heritage Act of Western Australia 1990*, a decision of the Western Australian Planning Commission (WAPC) is obliged to be consistent with Heritage Council advice which is not to support the application.

Refusal is recommended as the size and scale of the timber deck detracts from a highly significant and unique heritage building and place and thus compromises its heritage value.

LEGISLATION / STRATEGIC PLAN / POLICY:

Legislation

Section:

Planning and Development Act 2005
Heritage of Western Australia Act 1990
Planning Act - Part 10, Section 163 (Heritage places) and
164 (retrospective approval) -
Heritage Act - Section 11(3)

Strategic Plan

Objectives:

Performance Outcomes:

Strategic Imperatives:

Strategic Goal 2: Planning
Effective Delivery of Integrated Plans
Implement State and Regional Planning priorities

Policy

Number and / or Name:

SPP 3.5 Historic Heritage Conservation

BACKGROUND:

The Kidogo Arthouse occupies a heritage building, formerly known as the *Kerosene Store*, at Bather's Beach, Fremantle which is leased from the City of Fremantle. The lease area comprises the building, narrow paved areas on the west, east and south sides of the building and an open area extending 5-12m on the north side.

The land is reserved Parks and Recreation under the Metropolitan Region Scheme. The location and reservation is shown in **Attachment 1 - MRS reserve and Aerial view**.

The property is on the Heritage Council of Western Australia's Register of Heritage Places (State Heritage Register) and is subject to a Conservation Plan (2011) and Heritage Agreement. It is also on the Register of the National Estate, the local Municipal Inventory and is classified by the National Trust. The significance of the *Kerosene Store (fmr)* is described under the State Heritage Register as:

"a good example of an early colonial building and one of the few remaining buildings of its type in Western Australia. It is located in the highly significant Roundhouse and Arthur's Head Reserve and together with the Roundhouse comprises an interesting group of early colonial buildings."

DETAILS:

Approval was granted in July 2015 to an extension on the northern side of the building. The proposed extension was a total area of approximately 13.6m long and 3-3.8m wide, comprising a timber-clad toilet block and a timber deck approximately 6.3m long and 3m wide (**Attachment 2 - Approved toilet block/deck**).

A timber deck was constructed across the extent of the lease area on the northern side of the building (approximately 13.6m long and 5-12m wide), which is significantly greater than the deck approved in July 2015. The toilet block has not been constructed. **Attachment 3 - Retrospective addition of timber deck** includes

photographs of the building progress of this deck and sketches showing the extent of the timber deck.

At its meeting on 22 March 2016, the SPC deferred this application, for retrospective approval of a timber deck, to enable discussion between the State Heritage Office, Department of Planning and the applicant which took place 7 April 2016.

The Heritage Council agreed to reconsider the proposal at their next available meeting on 13 May 2016. The applicant was provided the opportunity to present to this meeting.

CONSULTATION:

Heritage Council

The Heritage Council's reconsideration confirms the application is not supported. Their findings (dated 24 May 2016) are as follows:

- *"Kerosene Store (fmr) is a good example of an early colonial building and one of the few remaining buildings of its type in Western Australia. It is located in the highly significant Roundhouse and Arthur's Head Reserve and, together with the Roundhouse, comprises an interesting group of early colonial buildings."*
- *The Heritage Council's Development Committee previously supported, after careful consideration of all of the impacts on cultural heritage values, the construction of a timber deck to accommodate toilets to activate the building for the approved use as a bar;(P0846-36123 in May 2015). This was the full extent of development considered acceptable for the place given its significant heritage values. The deck as constructed does not comply with the supported proposal.*
- *The deck as constructed differs from the supported deck as follows:*
 - *It is substantially bigger; and*
 - *It does not accommodate toilets to facilitate use as a bar.*
- *The scale of the deck as constructed, and its extension beyond the primary eastern facade of the Kerosene Store (fmr) visually dominates the highly significant building, and it is inappropriate to the early colonial setting.*
- *The Kerosene Store together with the Sea Wall and the Long Jetty piles are of considerable significance as the only visible structures that remain from the original focus of port activities on the southern end of the site, and are vital in retaining a sense of this historical context;*
- *The Kerosene Store is an important example of an essentially unmodified pre-goldrush colonial building constructed principally of local materials. The building helps to delineate the southern edge of the site where it interfaces with the visually and environmentally active area of new development surrounding Fishing Boat Harbour. It is visually and historically linked to the*

Commissariat, now the Maritime Shipwreck Museum (Criteria 1.2 and 1.3); and

- *The isolated setting of the Kerosene Store is an important aesthetic contrast to the more developed highland area of the Arthur Head Reserve and a reminder of the once intense development of the foreshore as the first industrial area of the Swan River Colony (Criterion 1.3). "*

Previous advice from the Heritage Council (dated 1 March 2016) also included concerns with the finish of the timber deck; *its construction over an area of archaeological significance; and lack of details concerning construction, servicing and potential fixings to the building.* Upon reconsideration, these matters are no longer of concern to the Heritage Council.

City of Fremantle

The City of Fremantle recommend refusal as the *"intensity and nature of the deck is incompatible with the heritage significance of the area and place"* and states as follows:

- (a) The deck has been constructed over an area of archaeological significance;*
- (b) The scale of the deck and its extension beyond the primary eastern façade of the Kerosene Store (fmr) visually dominates the highly significant building;*
- (c) In its extent both in plan and elevation, design, detail and material it is inappropriate to the early colonial setting; and*
- (d) No details of construction, servicing and potential fixings to the significant fabric of the Kerosene Store (fmr) have been made available."*

The City however observes the timber deck:

- *"Does not appear to be attached to the former Kerosene Store;*
- *Does not appear to obscure any significant views;*
- *Is easily removable; and*
- *The footings represent a relatively small surface area of direct ground disturbance."*

A building permit for the deck is on hold by the City of Fremantle pending the WAPC's determination of the application.

The application was also referred to the Public Transport Authority and Integrated Transport Planning at the Department of Planning who had no comment.

COMMENTS:

Clause 30(1) of the Metropolitan Region Scheme requires the WAPC to have regard to the purpose for which the land is reserved, the orderly and proper planning of the locality and the preservation of the amenities of the locality, when determining a development application on reserved land.

The WAPC is obliged to make a decision consistent with Heritage Council advice, pursuant to section 11(3) of the *Heritage Of Western Australia Act 1990* as the subject building and site is a registered place and subject to a Heritage Agreement. Section 11(3)(c) states as follows:

"A decision-making authority shall not take any action that might (whether or not adversely) affect to a significant extent a registered place or a place which is the subject of a Heritage Agreement (even though that action is not directly related to the place) unless —

- (a) subsection (2) has been complied with by the authority (which requires referral of application to the Heritage Council); and*
- (b) the authority has informed the Council of the proposed action and given the Council a reasonable opportunity to consider it and to advise both the Minister and that authority; and*
- (c) that action is consistent with advice received from the Council, or there is no feasible and prudent alternative to the taking of that action; and*
- (d) the decision-making authority has used its best endeavours to ensure that all measures which can reasonably be taken by any person involved in the implementation of the proposal are taken so as to minimize any adverse effect."*

Based on the Heritage Council's advice, retrospective approval of the timber deck would "affect to a significant extent" the heritage place.

A decision consistent with the Heritage Council's advice, that it does not support the retrospective approval of the constructed timber deck, is a determination of refusal.

The WAPC may only approve the proposal if can be demonstrated why there is "no feasible and prudent alternative" other than to disregard the Heritage Council's advice.

Heritage significance

The subject site is clearly of cultural heritage significance, and the impact of the timber deck on its heritage values and the amenity of the locality is the primary issue.

The heritage significance and heritage values are well documented by the State heritage registration, a Conservation Plan and a Heritage Agreement. As the Conservation Plan states and Heritage Council advises:

"The Kerosene Store together with the Sea Wall and the Long Jetty piles are of considerable significance as the only visible structures that remain from the original focus of port activities on the southern end of the site, and are vital in retaining a sense of this historical context;"

The timber deck has been constructed contrary to the approval granted in July 2015 for the toilet block extension and is significantly greater in size extending over most of the lease area on the northern side of the heritage building.

The Heritage Council advises this previous approval is the full extent of development considered acceptable for the place given its significant heritage values. The State Heritage Office has verbally advised a deck of any greater size is unlikely to be supported.

The Heritage Council advises the *"scale of the deck as constructed,... visually dominates the highly significant building, and it is inappropriate to the early colonial setting"*.

The timber deck would therefore detrimentally affect the cultural heritage significance of the building and place. This is inconsistent with requirements under clause 6.6 of State Planning Policy 3.5 (SPP 3.5) that requires:

- *"Development should conserve and protect the cultural significance of a heritage place based on respect for the existing building or structure "*
- *"Alterations and additions to a heritage place should not detract from its significance and should be compatible with the siting, scale, architectural style and form, materials and external finishes of the place..."*

Therefore development could also be seen to compromise the orderly and proper planning and preservation of the amenity of the locality.

Notice of removal

Under section 214 of the *Planning and Development Act 2005*, where a development is undertaken in contravention of a local planning scheme, the WAPC may give a written direction to the applicant, requiring in not less than 60 days, that the applicant:

- (a) remove, pull down, take up, or alter the development; and
- (b) restore the land as nearly as practicable to its condition immediately before the development started, to the satisfaction of the responsible authority.

The applicant would commit an offence, and be liable to an initial fine of up to \$200000, if such a direction is not complied with. A notice of removal (based on a template of a section 214 Notice) as included in **Attachment 4 - Section 214 Notice** would be sent to the applicant requiring removal, within a period of 90 days (as a reasonable time frame).

The applicant has a valid approval, dated July 2015, for a timber deck of reduced size (in addition to toilets). The timber deck is easily removable and the applicant could choose to reduce it in size in accordance with this prior approval or remove it altogether.

CONCLUSION:

The WAPC has the ability to approve the application; however, it could only do so if it had been demonstrated there was no alternative other than to disregard the Heritage Council's advice. Also, the Heritage Council would need to be informed of a proposed approval and be given the opportunity to consider this and advise both the Minister for Heritage and the WAPC.

It is recommended the WAPC take action consistent with advice received from the Heritage Council, (consistent with section 11(3) of the Heritage Act) and refuse the application.

Accordingly, a notice of removal in accordance with section 214 of the Planning and Development Act, 2005 is recommended requiring removal or reducing in size in accordance with the previous approval within 90 days. (**Attachment 4 - Section 214 Notice**)

ITEM NO: 9.8

Application to Subdivide Lot 212 Matheson Road, Ascot, to Create Two Survey Strata Lots on Land Zoned 'Residential and Stables'

WAPC OR COMMITTEE:	Statutory Planning Committee
REPORTING AGENCY:	Department of Planning
REPORTING OFFICER:	Planning Officer - Metropolitan Planning Central
AUTHORISING OFFICER:	Director - Metropolitan Planning Central
AGENDA PART:	G
FILE NO:	1294-15
DATE:	24 May 2016
REPORT CATEGORY:	Statutory
RECOMMENDATION OUTCOME:	Conditionally Approve
ATTACHMENT(S):	<ol style="list-style-type: none">1. Subdivision Plan2. Aerial View3. Location Plan4. Street Views5. Aerial View with Proposed Common Property
REGION SCHEME ZONING:	Urban
LOCAL GOVERNMENT:	City of Belmont
LOCAL SCHEME ZONING:	Residential and Stables
LGA RECOMMENDATION(S):	Refusal
REGION DESCRIPTOR:	Perth Metro
RECEIPT DATE:	6 November 2015
PROCESS DAYS:	195
APPLICATION TYPE:	Subdivision
CADASTRAL REFERENCE:	Lot 212 Matheson Road, Ascot

RECOMMENDATION:

That the Statutory Planning Committee resolves to approve the application for subdivision of Lot 212 Matheson Road, Ascot as shown on the plan date-stamped 6 November 2015. This decision is valid for three years subject to the following condition(s) and advice:

CONDITIONS

1. *Arrangements being made to the satisfaction of the Western Australian Planning Commission and to the specification of Western Power, for the provision of an electricity supply service to the survey strata lot(s) shown on*

the approved plan of subdivision, which may include the provision of necessary service access rights either as an easement under Section 136C and Schedule 9A of the Transfer of Land Act 1893 for the transmission of electricity by underground cable, or (in the case of approvals containing common property) via a portion of the common property suitable for consumer mains. (Western Power)

2. *Common walls being shown on the survey strata plan as prescribed “party wall easements”, pursuant to Regulation 14G of the Strata Titles General Regulations 1996 and Section 5D of the Strata Titles Act 1985. (Local Government)*

ADVICE

1. *With regard to Condition 1, Western Power provides only one point of electricity supply per freehold (green title) lot.*

SUMMARY:

The key points relating to this report are as follows:

- At its meeting on the 24 May 2016, the SPC deferred this item to seek further legal advice. Legal advice is provided under separate cover.
- The application seeks approval to subdivide a 1108m² corner lot to create two survey strata lots with areas of 446m² and 663m², providing a separate lot for each of the existing approved strata dwellings.
- The land is zoned ‘Residential and Stables’ under the City of Belmont Local Planning Scheme No.15 (LPS15), Clause 5.9.1 of which stipulates that, in the absence of a specific residential density coding for the zone, the minimum lot area shall be 1000m² with no more than one dwelling unit per 1000m².
- The objectives of the Residential and Stables Zone are to provide for compatible and environmentally responsible use of land in proximity to the Ascot Racecourse and the Swan River by residential accommodation and stables and ancillary functions of the horse racing industry.
- The lot is currently developed with two dwellings approved in the 1960s, and is therefore already inconsistent with the City’s Scheme.

LEGISLATION / STRATEGIC PLAN / POLICY:

Legislation	Subdivision / Development Approval / Reconsiderations - <i>Planning and Development Act 2005</i>
Section:	Part 10 of the <i>P&D Act 2005</i>

Strategic Plan

Objectives: Strategic Goal 2: Planning
Performance Outcomes: Effective Delivery of Integrated Plans
Strategic Imperatives: Implement State and Regional Planning priorities

Policy

Number and / or Name: State Planning Policy 3.1 Residential Design Codes
WAPC Policy 2.2 Residential Subdivision

INTRODUCTION

The subject site has an area of 1108m² and is located on the corner of Matheson Street and Moreing Street in the suburb of Ascot. Approval is sought to create two survey strata lots of 663m² and 446m². The existing duplex is intended to be retained. (**Attachment 1** - Subdivision Plan, **Attachment 2** - Aerial View)

The subject land is zoned 'Urban' under the Metropolitan Region Scheme and zoned 'Residential & Stables' pursuant to the City of Belmont Local Planning Scheme No.15 (LPS15). This zoning has no specific Residential Design Codes (R-Codes) density but utilises the R10 coding in respect of 'Open Space Provision' and 'Minimum Setbacks from Boundaries'. (**Attachment 3**- Location Plan)

Additionally Clause 5.9.1 of LPS15 stipulates the following:

"In the absence of a specific residential density coding for the zone, the minimum lot area shall be 1000 square metres with no more than one dwelling unit per 1000m²."

The objectives of the zone are stated in Clause 4.2 of LPS15:

"The Residential and Stables Zone is intended to provide for compatible and environmentally responsible use of land in proximity to the Ascot Racecourse and the Swan River by residential accommodation and stables and ancillary functions of the horse racing industry."

LPS15 has the following provisions in relation to setbacks for stables as per clause 5.9.4:

- '(1) No part of any stable shall be sited less than:
- (a) 24m from the frontage of the lot;
 - (b) 6m from any other street boundary of the lot. The City may allow zero setbacks on the other boundaries...'

The proposal was considered by the SPC at its meeting on 24 May 2016 and was deferred to allow for legal advice on the question of whether the WAPC can approve an application which conflicts with the provisions of the Local Planning Scheme. The legal advice received is discussed and attached under separate cover.

CONSULTATION

The City of Belmont does not support the application which it views as contrary to LPS15 for the following reasons.

- i. The proposal does not meet the minimum lot size requirements as specified under Clause 5.9.1 of the City's LPS 15.
- ii. The minimum lot size requirement is important in ensuring the other provisions of LPS 15 are achievable (i.e. Clause 5.9.5 - single house and the provision of two stables on the lot).
- iii. The Residential and Stables zone is listed under the City's Heritage Inventory where the character of the locality is required to be maintained. The proposed variation would therefore set an undesirable precedent for development that is not in keeping with the Residential and Stables zone.

The Water Corporation and Western Power support the proposal subject in the case of Western Power to the imposition of a standard servicing condition.

PLANNING ASSESSMENT

The land contains a grouped dwelling development consisting of two units which were approved on 26 September 1969, and there are no stables on the property.

Clause 5.1.1, provision P1.3, of the R-Codes provides for the WAPC to *"approve the creation of a survey strata lot or strata lot for an existing authorised grouped dwelling or multiple dwelling development of a lesser minimum and average site area than that specified in Table 1, where, in the opinion of the WAPC or the local government, the development on the resulting survey strata or strata lots is consistent with the objectives of the relevant design elements of the R-codes, and the orderly and proper planning of the locality."*

The City's position is that the lot should remain as a single entity and not be subdivided, so as to be in keeping with the minimum lot size requirement of 1000m² and to leave open the possibility that stables can be accommodated in the future. The City advises that it *"has no issue with the site operating as approved. However, a subdivision approval for the site would intensify the non-conforming use and effectively create an additional lot that could not comply with the City's LPS 15."*

It should be noted that subdivision approval would not change the existing development situation which is already contrary to the Scheme, as the site already has *"more than one dwelling unit per 1000m²"*.

It is questionable whether stables would ever be developed on the land. Clause 5.9.4 of LPS15 requires that stables shall be sited not less than 24m from the frontage of the lot and 6m from any other street boundary. Neither the existing situation nor a newly created lot could satisfy this requirement due to the 16m depth of the lot. The City, however, has put forward the argument that, if the duplex with frontage to Matheson Road were demolished and replaced by a single dwelling with

the frontage being Moreing Street, a setback greater than 24m can be achieved to the primary road frontage.

The applicant has provided an audit of corner lots within the 'Residential and Stables Zone' which shows that no lot contains both stables and grouped dwellings. There are very few other non-compliant duplex lots in the zone and approval of the proposed subdivision itself will not set a general precedent for other lots to similarly subdivide without stables, given that the prevailing lot sizes cannot accommodate both a duplex and stables.

The character of the locality would not be unduly impacted. With regard to the City's Heritage Inventory, the whole of the 'Residential and Stables Zone' is collectively offered a high level of protection in accordance with the Heritage Planning Strategy, so as to provide maximum encouragement to owners to conserve the significance of the place. The proposal would not affect the area's heritage values.

The principal issue to consider in the determination of this application is whether the proposal can be supported given its non-compliance with the minimum lot size requirement under the City's Scheme, and the fact that no increase in density is proposed. It is considered that the proposal has merit for the following reasons:

- (i) The proposal seeks to create separate lots for the two dwellings as currently exist on the subject site.
- (ii) Precedent setting is limited to a small number of other situations with similar circumstances.
- (iii) The proposal is consistent with the position of the R-Codes to allow the creation of separate lots in recognition of existing approved dwellings.
- (iv) Given the above the proposal does not compromise the orderly and proper planning of the area.

However, given that the City maintains its opposition to the proposal, the WAPC could, as an alternative to an approval in accordance with the application as presented, require the plan of subdivision to be modified to include an area of common property that could accommodate stables in the future. (refer **Attachment 5**)

This option would require the adding of a condition to the approval similar to the following:

3. *The plan of subdivision is to be modified so that an area of common property of not less than 200m² is provided adjacent to the eastern boundary, as shown on the attached plan date-stamped ..., to accommodate potential stables. (Western Australian Planning Commission)*

This approach would enable the subdivision of the land to be approved without compromising the objectives of the 'Residential and Stables Zone'. The City considers that, given the age of the existing dwellings, it is reasonable to assume that the lots proposed would be redeveloped in the near future. Without a mechanism in place to safeguard the potential of the site to accommodate stables, then it could be argued that the objectives of the zone would be undermined by the proposal as it

currently stands. The City has indicated a willingness to vary the Scheme's requirements to allow this to happen.

The applicant has been consulted on this alternative, but is of the view that the proposed subdivision layout (as submitted) is more likely to safeguard an area for a potential stable to be built on proposed Lot 2, if desired in the future, as opposed to some common property arrangement shared between both lots. The applicant believes that it is highly unlikely that stables would be constructed on the land given its width and the general configuration.

CONCLUSION

The proposal, as it currently stands, is capable of being approved in accordance with this recommendation. The conflict that arises with Clause 5.9.1 of LPS 15 is considered to be minor in nature as the outcome on the ground will be effectively unchanged. However, if the Commission considers that the intent of the zone would be undermined, then the requirement for a common property area to be included represents an outcome that is capable of addressing this concern, and would be acceptable to the City.

Attachment 1 - Subdivision Plan

Attachment 2 - Aerial View

Attachment 3 - Location Plan

Attachment 4 - Street Views

Attachment 5- Option 2 Modified Plan of Subdivision

ITEM NO: 9.9

Consideration of Furnissdale West Structure Plan

WAPC OR COMMITTEE: Statutory Planning Committee

REPORTING AGENCY:	Department of Planning
REPORTING OFFICER:	Planning Manager, Peel
AUTHORISING OFFICER:	Planning Director, Peel
AGENDA PART:	G
FILE NO:	MURR/2016/1
DATE:	10 June 2016
REPORT CATEGORY:	Statutory
RECOMMENDATION OUTCOME:	1. Require modifications prior to approval 2. Advise
ATTACHMENT(S):	1. Location plan 2. Advertised structure plan 3. Structure plan (as modified by the Shire) 4. Summary of submissions 5. Schedule of modifications
REGION SCHEME ZONING:	URBAN
LOCAL GOVERNMENT:	Shire of Murray
LOCAL SCHEME ZONING:	Residential Development
LGA RECOMMENDATION(S):	Approve
REGION DESCRIPTOR:	MAND
RECEIPT DATE:	21 December 2015
PROCESS DAYS:	161
APPLICATION TYPE:	Structure Plan
CADASTRAL REFERENCE:	Lots 181 – 185, 197-198, 1186 and 1187 Ronlyn Road, Lots 179 and 180 Riverside Drive and Lots 149, 150 and 156 Pinjarra Road

RECOMMENDATION:

That the Statutory Planning Committee resolves to:

1. *require the Shire of Murray to modify the Furnissdale West Structure Plan, in accordance with the attached Schedule of Modifications (Attachment 5);*
2. *require the Shire of Murray to resubmit the modified Furnissdale West Structure Plan to the Western Australian Planning Commission for its approval; and*

3. **advise the Shire of Murray of its decision.**

SUMMARY:

- The Shire of Murray seeks the Western Australian Planning Commission's (WAPC) approval of the Furnissdale West Structure Plan (the structure plan).
- The structure plan is being presented to the Committee for determination as it is not entirely consistent with WAPC policy (*State Planning Policy 3.7: Planning in Bushfire Prone Areas, State Planning Policy 5.4: Road and Rail Transport Noise and Freight Considerations in Land Use Planning, Liveable Neighbourhoods and Directions 2031 and beyond*) and the recommended modifications do not accord with the local government's determination.
- It is recommended the structure plan be approved subject to modifications.

BACKGROUND:

In May 2013 the structure plan area was rezoned to Urban under the Peel Region Scheme and Residential Development under the *Shire of Murray Town Planning Scheme No. 4 (Attachment 1 – Location Plan)*.

The structure plan was advertised for public comment during November and December 2014, with the submissions received considered by the Council on 26 February 2015. The advertised version of the structure plan is presented as **Attachment 2**.

The Shire of Murray has forwarded the structure plan (**Attachment 3**) to the WAPC for its determination.

There is an existing poultry farm on the northern portion of the structure plan area. This poultry farm is owned by the key proponent for the development of the structure plan area. The intention is to develop the southern portion of the structure plan area first and then the poultry farm will be closed to facilitate the development of the northern portion for residential purposes in accordance with structure plan.

LEGISLATION / STRATEGIC PLAN / POLICY:

Legislation	<i>Planning and Development Act 2005</i> <i>Planning and Development (Local Planning Schemes) Regulations 2015</i>
Section:	Clause 22, Part 4 of Schedule 2 – Deemed provisions for local planning schemes
Strategic Plan	
Objectives:	Manage Growth
Performance Outcomes:	Sufficient urban, commercial and industrial land supply opportunities; and improved housing affordability
Strategic Imperatives:	Increase housing densities, diversity and affordability; and increase land supply for urban, commercial and industrial

development.

Policy

Number and / or Name: *State Planning Policy 2 – Environmental and Natural Resources Policy*
State Planning Policy 2.1 - Peel-Harvey Coastal Plain Catchment Policy
State Planning Policy 3 – Urban Growth and Settlement
State Planning Policy 3.1 – Residential Design Codes
State Planning Policy 3.6 – Development Contributions for Infrastructure
State Planning Policy 3.7 - Planning in Bushfire Prone Areas.
State Planning Policy 4.3 – Poultry Farms Policy
State Planning Policy 5.4 - Road and Rail Transport Noise and Freight Considerations in Land Use Planning
Liveable Neighbourhoods
Directions 2031 and beyond

DETAILS:

The structure plan covers an area of approximately 50 hectares of privately owned urban land in Furnissdale, which is mostly located between the existing Furnissdale townsite (to the south), Pinjarra Road (to the north), Riverside Drive (to the west) and Ronlyn Road (to the east).

The structure plan (based upon modifications recommended by the Council after advertising) includes:

- (a) residential densities ranging from R20 to R-AC0 with a dwelling target of 750 dwellings across the site;
- (b) approximately 7.3 hectares of conservation areas (approximately 14.6 per cent of the structure plan area);
- (c) approximately 4.5 hectares of public open space (approximately 10.7 per cent of the gross subdivisible area); and
- (d) an indicative local road network.

The structure plan submitted by the Shire of Murray consists of three parts - a statutory section (part one), an explanatory section (part two) and technical appendices (part three). The structure plan was supported by eight technical studies, including environmental reports, a bushfire management plan and a local water management plan.

GOVERNMENT AND CORPORATE IMPLICATIONS:

Should the structure plan be approved, the WAPC would be required to assess and determine any future subdivision applications that may be received.

CONSULTATION:

The Shire of Murray advertised the structure plan for public comment from 19 November to 17 December 2014 (29 days). Nineteen submissions were received during the advertising period, with the key issues raised being:

- (a) development contribution arrangements;
- (b) adequacy of the transport assessment and the upgrade requirements for the intersections with Pinjarra Road;
- (c) consistency of the transport noise assessment with WAPC policy;
- (d) management of traffic impacts on existing roads;
- (e) use of density ranges in the structure plan rather than imposing particular density codes;
- (f) provision and distribution of public open space throughout the structure plan area; and
- (g) impact of development on surrounding rural and rural living areas.

A schedule of submissions, which includes the Council's comments and determinations, and the Department of Planning's recommended determinations, is presented as **Attachment 4**.

OFFICER'S COMMENTS:

Public open space and conservation areas

A local public open space (POS) contribution of approximately 4.51 ha (10.7%) is proposed. In addition to this, a further 6.83 ha (13.86%) of structure plan area is proposed to be ceded for vegetation conservation purposes as required by the Office of Environmental Protection Authority (these areas are referred to as the OEPA vegetation area).

The POS contribution meets the 10% requirement. However, a significant portion of POS will only provide limited opportunities for passive recreation pursuits, as such land will also function as a bushfire reduction zone around the OEPA vegetation area. In view of the constraints created by environmental and bushfire risk management requirements, the provision and distribution of public open space is considered to be acceptable as:

- An appropriate number of local and neighbourhood parks are provided throughout the structure plan area in accordance with WAPC policy;
- The POS around the OEPA vegetation area would still be able to be used for informal leisure active activities; and
- There is an existing active recreation area in the existing Furnissdale residential area (approximately 120 metres from the southern boundary of the structure plan area).

Development contribution arrangements

Five of the 19 submissions (including the submission MRWA) received on the structure plan raised issues relating to sharing infrastructure costs, the need for a development contribution scheme or particular landowners' perceived concurrence to being part of the proposed development.

There is one major landowner syndicate which at this present time controls approximately 40% of the structure plan area. This syndicate has been undertaking the necessary work to prepare and progress the structure plan. There is no formal agreement between all the different landowners regarding the provision of the POS, conservation areas and the cost sharing arrangements for required infrastructure.

The advertised version of the structure plan outlined that prior to subdivision and/or development, either a voluntary development contribution agreement is to be in place or a development contribution plan is to be approved and incorporated in the Shire's local planning scheme. Following advertising of the structure plan, the Shire modified the wording of the structure plan report to specify that an amendment to the Shire of Murray local planning scheme is required to formally establish a development contribution area and a development contribution plan prior to the subdivision of land. It is understood that in the near future Council will consider initiating an amendment to its local planning scheme to include the structure plan area within a 'Special Control Area – Development Contribution Area'.

In respect to development contribution provisions, both the advertised version of the structure plan and the modified wording recommended by Council are problematic, as structure plans only have due regard status under the *Planning and Development (Local Planning Schemes) Regulations 2015*. The Shire may also consider an interim voluntary agreement, particularly given that it could take a substantial time to put a formal development contribution plan in place. The major landowner syndicate is keen to progress with proposed Stages 1 and 2 (at the southern end of the structure plan area), based upon a voluntary contribution agreement with the Shire relating to the provision of infrastructure and the provision of POS and conservation areas.

It is also noted that the structure plan specifies the need for the required development contribution plan to include a contribution towards community infrastructure, in accordance with the Shire of Murray Community Infrastructure Plan. It would be preferable for the structure plan to not make reference to community infrastructure contribution requirements, as such matters may have a broader scope than the structure plan area and can be addressed in a local planning scheme amendment for a development contribution plan or pursuant to a voluntary agreement.

Given the above, it is recommended that the structure plan be modified so it does not require a development contribution plan to be prepared and implemented prior to the subdivision of land. Instead, it is recommended that the relevant section in the structure plan should be modified to specify the ways in which development contributions can be sought in accordance with *State Planning Policy 3.6: Development Contributions for Infrastructure* (SPP 3.6). These approaches include:

- (a) amending local planning schemes to identify development contribution areas and establish development contribution plans;

- (b) voluntary legal agreements being entered into between developers and local government; and
- (c) imposing conditions of subdivision approval where consistent with the requirements of Appendix 1 of SPP 3.6.

The above recommended modification is consistent with the requirements of SPP 3.6.

Bushfire risk management

The structure plan area is identified as a bush fire prone area in the bush fire prone area mapping produced by the Department of Fire and Emergency Services (DFES).

A bushfire management plan (BMP) was prepared for the initial structure plan in May 2014 and then updated in March 2015. In May 2015, the DFES advised that the updated BMP was acceptable as it was consistent with the then '*Planning Bush Fire Protection Guide Line Edition 2 May 2010*'. However, the updated BMP does not meet the requirements of *State Planning Policy 3.7: Planning in Bushfire Prone Areas* (SPP 3.7) or *Australian Standards 3959-2009: Construction of buildings in bushfire-prone areas* (AS3959), as it does not consider the bushfire risk associated with vegetation located within 100 metres of the structure plan area.

The bushfire risk from surrounding land for most development within the structure plan area would be mitigated by the following factors:

- (a) most of the structure plan area is bordered by Riverside Drive and Ronlyn Roads. These road reserves are 20 metres wide and can accommodate adequate asset protection zones which would meet the requirements of AS3959. In this respect, 14 metre wide asset protection zones would be required to achieve a bushfire attack level (BAL) of BAL-29. On this basis, any BAL Assessments and BMPs submitted at the subdivision stage for these lots should be able to comply with the requirements of SPP3.7; and
- (b) the south-western boundary of the structure plan area abuts the existing Furnissdale townsite, which has a low bushfire hazard level. SPP 3.7 does not require BAL assessments and BMPs to be prepared and submitted for proposals abutting such areas.

There are two locations within the structure plan area where the impact of bushfire risk from surrounding land is of greater concern. These locations are:

- (a) the western and south-western parts of Lot 156 Pinjarra Road, Furnissdale; and
- (b) the parts of Lots 150 Pinjarra Road and Lots 1186 and 1187 Pinjarra Road, Furnissdale located adjacent to Lots 151 and 403 Pinjarra Road, Furnissdale.

There is a reasonable degree of confidence that the bushfire risk in the two abovementioned potential areas of concern can be appropriately assessed at the subdivision stage, pursuant to the requirements of SPP 3.7. To ensure that the requirements of SPP 3.7 are appropriately addressed at the subdivision stage:

- (a) the structure plan map should be modified to identify 20 metre wide asset protection zones in these locations; and

- (b) Part One of the structure plan report should state that approval should not be granted for subdivision or development proposals for land within these asset protection zones unless it is demonstrated that the requirements of SPP 3.7 and AS3959 have been appropriately met.

Having regard to the above and following consultation with the Shire and the Department of Planning's policy section, it is considered appropriate in this instance to allow the structure plan to be finalised and that detailed bushfire matters be addressed at the subdivision stage. Any BMPs submitted at the subdivision application stage should be able to meet the requirements of SPP 3.7 and AS3959.

Residential densities

One submission received during the advertising period recommended the structure plan be modified to show residential density ranges, instead of specific density codes. In these circumstances, the residential densities would be established and given effect through a residential density plan submitted, with a subdivision application, for WAPC approval.

The Council considers the structure plan should clearly set out the residential density code applicable to each area. For this reason, the Council has:

- (a) maintained the designation of specific residential densities; and
- (b) sought to include provisions in the structure plan report which would provide for the residential densities shown on the structure plan to be varied, without modifying the structure plan.

This hybrid approach would not be consistent with the regulations. In this respect, it seeks to allow potentially significant variations to the structure plan to bypass the structure plan modification process set out in the planning regulations.

The structure plan could identify specific residential densities or residential density ranges, which are both acceptable approaches to structure planning and do not conflict with the local planning framework. However, the use of residential density ranges would be a significant modification that has not been subject to public comment and, therefore, it is recommended that the structure plan be modified to delete the provisions relating to the use of residential density plans.

During the advertising period for the structure plan, a submission (Submission No.8) was received from an owner of two properties fronting Pinjarra Road requesting that the structure plan show a 'Mixed Use Development' (with an R-AC density coding) and 'Commercial/Retail' land use as opposed to an R-60 coding for properties abutting the existing commercial centre on the corner of Ronlyn Road and Pinjarra Road. The reason given for requesting these land use designations was to provide the opportunities for having a gradual transition from service commercial development along Pinjarra Road to lower density residential development west and south of the subject site.

In respect to the above submission request, the Residential Development zoning for the land does not permit commercial or retail land uses. The Council supported an R-AC coding for the land west of the Furnissdale neighbourhood centre and

modifying the structure plan text to specify the need to introduce key development standards (such as height of buildings) appropriate to the Furnissdale context before subdivision and development of the R-AC coded areas.

It is recommended that the R-AC coding not be supported, as such a coding is intended for local planning scheme zones which permit mixed land uses (as opposed to an essentially residential zoning) within major activity centres. In this instance the land Council recommended for an R-AC coding abuts the Furnissdale neighbourhood centre. Also, any further extension of commercial or mixed use development along Pinjarra Road west of the Furnissdale neighbourhood centre would appear to be inconsistent with the Shire's local planning policy for the Barragup-Furnissdale Activity Centre.

The structure plan currently has a minimum total dwelling target of 750 dwellings, which is consistent with the 15 dwellings per gross hectare for new urban areas as specified in *Directions 2031 and beyond* (WAPC, 2010) and the draft sub-regional planning frameworks. However, the 50 ha covered by the structure plan includes 7.33 ha of land to be set aside for conservation purposes. There is a concern that with such a significant area being provided for conservation purposes, it may not be possible to achieve 15 dwellings per gross hectare. Based upon 26 dwellings per site hectare across the structure plan area (consistent with the draft *Liveable Neighbourhoods* (WAPC, 2015)) translates to a minimum dwelling target of 710 dwellings. This is considered an appropriate dwelling target for this structure plan and therefore, the specified total dwelling target should be changed from 750 to 710 dwellings.

Transport assessment

Main Roads WA advises that the transport assessment (dated 14 December 2015) does not adequately address the upgrade of the Pinjarra Road intersections and the determination of the catchment area for calculating traffic flows. However, Main Roads WA advises these issues can be appropriately addressed in a more detailed transport assessment submitted at the subdivision stage. In this respect, the structure plan recommends that a transport assessment should be submitted at the subdivision stage.

Transport noise

The noise assessment (dated May 2014) submitted with the structure plan is based upon residential development backing on to Pinjarra Road and the provision of a 2.4 m noise wall along Pinjarra Road. However, the Shire's planning objectives for Pinjarra Road is to have residential development fronting onto an access road that would run parallel with Pinjarra Road. The current proposed structure plan is consistent with Shire's objectives, by having development fronting towards Pinjarra Road. As a result, this noise assessment does not clearly demonstrate that development proposed by the structure plan would be consistent with *State Planning Policy 5.4: Road and Rail Transport Noise and Freight Considerations on Land Use Planning* (SPP 5.4).

Notwithstanding the above, the noise assessment does indicate that it should be possible for future residential development to comply with the requirements this

policy. It would be acceptable for the requirements of SPP 5.4 to be fully considered at the subdivision stage when the proposed subdivision layout is confirmed. In this respect, the structure plan should be modified to advise that a noise assessment should be submitted at the relevant subdivision stage that demonstrates that the proposed subdivision and development would comply with SPP 5.4.

Statutory planning considerations

The proposed structure plan was prepared prior to the *Planning and Development (Local Planning Schemes) Regulation 2015* (the regulations) coming into effect and seeks to perform some statutory functions which are not provided for under the regulations. To rectify this, various modifications to the structure plan and associated report are recommended (e.g. modifying the provisions of the structure plan that relate to specifying land use permissibility). Full details of the modifications that should be made to the structure plan are provided in the Schedule of Modifications (**Attachment 5**).

Conclusion

It is recommended that structure plan should be approved subject to various modifications to make it consistent with WAPC policy. Also, it is considered that the structure plan can be finalised prior to any formal development contribution plan or voluntary agreement between landowners and the Shire being in place.

ITEM NO: 9.10

Local Structure Plan No.42 – Farrall Road Local Structure Plan – Multiple Lots Farrall Road, Orchard Avenue & Morrison Road Midvale/Stratton

WAPC OR COMMITTEE: Statutory Planning Committee

REPORTING AGENCY:	Department of Planning
REPORTING OFFICER:	A/Planning Manager, Metropolitan Planning North East
AUTHORISING OFFICER:	A/Planning Director, Metropolitan Planning North
AGENDA PART:	G
FILE NO:	SPN/0769
DATE:	8 June 2016
RECOMMENDATION OUTCOME:	1. Approval
ATTACHMENT(S):	1. Local Structure Plan 2. MRS Zoning 3. Local Scheme Zoning 4. Aerial View 5. Development Concept Plan 6. Bridge Concept Designs 7. Additional Land Investigation Plans 8. Vegetation Assessment Map 9. Schedule of Modifications
REGION SCHEME ZONING:	Urban
LOCAL GOVERNMENT:	City of Swan
LOCAL SCHEME ZONING:	Residential Development
LGA RECOMMENDATION(S):	Approval with Modifications
REGION DESCRIPTOR:	Midvale
RECEIPT DATE:	2 February 2016
PROCESS DAYS:	127
APPLICATION TYPE:	Structure Plan
CADASTRAL REFERENCE:	Multiple Lots Farrall Road, Orchard Avenue & Morrison Road Midvale/Stratton.

RECOMMENDATION:

That the Statutory Planning Committee resolves to:

- 1. Require that the Local Structure Plan No.42 - Farrall Road Local Structure Plan be modified in accordance with the schedule of modifications appended as Attachment 11 before final approval is given; and***

2. ***Following the completion of the modifications, upon approval of the structure plan, the approval shall be valid for a period of 10 years.***

SUMMARY:

The City of Swan (the City) has forwarded the Farrall Road Local Structure Plan to the Western Australian Planning Commission (WAPC) for approval.

The structure plan proposes approximately 1300 dwellings, a realignment of Farrall Road and public open space.

The structure plan has been referred to the Statutory Planning Committee for determination as concerns have been raised by Main Roads Western Australia regarding the land area requirement for the possible grade separation of the Farrall Road railway crossing. The City has recommended several additional requirements relating to the environmental assets of the structure plan area, and possible traffic impacts which are not supported.

It is recommended that the structure plan be approved subject to modifications.

BACKGROUND:

The Farrall Road Local Structure Plan, also known as Local Structure Plan No. 42 (LSP 42) (**Attachment 1 - Local Structure Plan**), covers approximately 88 hectares of land generally bound by Toodyay Road to the north, Roe Highway to the west, Morrison Road to the south and the Avon Freight Railway to the east, and comprises of 35 properties. The land is located approximately 3 kilometres east of the Midland town centre and 19 kilometres north-east of the Perth CBD.

The subject land is zoned 'Urban' under the Metropolitan Region Scheme (MRS) (**Attachment 2 - MRS Zoning**) and 'Residential Development' under the City of Swan Local Planning Scheme No.17 (LPS No.17) (**Attachment 3 - Local Scheme Zoning**). The local structure plan (LSP) area is characterised by a mix of small scale commercial uses and residences in the southern portion, and the remainder of the land is vacant and mostly clear of vegetation (**Attachment 4 - Aerial View**). The LSP area includes an area of Bush Forever (Bush Forever Site 309) located on Lot 102 Farrall Road. A portion of land adjacent to Roe Highway contains high voltage power lines and is subject to an easement to the benefit of Western Power.

The City of Swan Outline Development Plan No.47 (ODP 47), dated 1994, was previously adopted over the land which assigned a road and lot layout and a density coding of R20. LPS 42 is intended to replace ODP 47 as the framework to guide subdivision and development of the locality. A draft West Stratton Local Structure Plan was prepared and lodged with the City of Swan in 2010 but did not proceed.

LSP 42 was considered by the City of Swan Council on 20 January 2016, and the Council recommended that the WAPC approve the structure plan subject to modifications.

LEGISLATION / STRATEGIC PLAN / POLICY:

Legislation *Planning and Development (Local Planning Schemes) Regulations 2015*
Section: *Part 4*

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: *Liveable Neighbourhoods*
 State Planning Policy 5.4 - Road and Rail Transport Noise and Freight Considerations in Land Use Planning
 State Planning Policy 3.7 - Planning in Bushfire Prone Area
 Planning For Bushfire Risk Management Guidelines
 Residential Design Codes

DETAILS:

LSP 42 proposes a 'Residential' zone over the majority of the subject land, with a density coding range of R30 to R80. The specific density coding will be subject to a set of locational criteria specified by the structure plan. The LSP identifies major internal road connections which includes a realignment of the northern portion of Farrall Road, which is identified as a District Distributor, and the provision of a Neighbourhood Connector through the western portion of the LSP area. The LSP also identifies public open space (POS) locations. The location of the local road network and POS areas are indicative and may be subject to change and refinement at subdivision stage.

The LSP identifies areas of land which are subject to additional development requirements to mitigate noise impacts from Roe Highway and the Avon Freight Railway, including the provision of a noise wall. An area of land is identified for future investigation south of the Farrall Road rail crossing to determine whether the crossing will require grade separation in future and how much land would subsequently be required to accommodate the separation. The area of investigation has been determined considering conservative estimates of the amount of land that may be required to ensure there will be sufficient land for this purpose to accommodate various design specifications.

The LSP designates bushfire prone areas based upon the results of a Bushfire Hazard Assessment, and flood prone areas based upon a Special Control Area within LPS No.17.

An area of land within the south-western corner of the LSP area is identified as 'Area subject to Planning Investigation' as part of this land is located within the MRS 'Primary Regional Roads reservation. LSP 42 is not intended to provide guidance to the future subdivision and development of this area of land and it is expected that

separate planning for this land will take place in future. However, LSP 42 does indicate Orchard Road, which runs through this portion of land, may provide a future additional access route from Morrison Road to the LSP area.

GOVERNMENT AND CORPORATE IMPLICATIONS:

Nil

CONSULTATION:

LSP 42 was advertised for 30 days with the public comment period concluding on 8 October 2015. At the close of advertising a total of 24 submissions were received of which 20 submissions objected to the proposed and four had no objections. The issues raised in the submissions relate to the following matters:

- Traffic impacts
- Noise impacts from road and rail freight routes
- Loss of flora and fauna within the LSP area

The LSP was also referred to the following agencies:

- Department of Transport (DoT)
- Main Roads Western Australia (MRWA)
- Public Transport Authority (PTA)
- Department of Housing
- Department of Water (DoW)
- Department of Parks and Wildlife (DPaW)
- Western Power
- Water Corporation
- Department of Education
- Department of Aboriginal Affairs
- Department of Planning (DoP)
- Shire of Mundaring
- Telstra

Concerns were raised by MRWA regarding traffic impacts to the Morrison Road and Orchard Avenue intersection and the Farrall Road rail crossing. Western Power objected to the land use designation shown on the LSP for the high voltage power line easement. DoP raised concerns regarding the acoustic assessment prepared to address the transport noise impacts from Roe Highway and the Avon Freight Railway.

The matters raised in the public submissions and the issues raised by the respective referral agencies are discussed in this report.

OFFICER'S COMMENTS:

Local Planning Scheme No.17

Under Part 5A of LPS No.17, the 'Residential Development' zone requires the preparation of a structure plan prior to subdivision and development for the purpose of coordinating subdivision and development of residential and other compatible land uses.

The LPS No.17 Scheme Map identifies a portion of the LSP area surrounding Blackadder Creek as a 'Special Control Area - Flood Prone Area' (SCA). Part 6.3 of the scheme requires planning approval for all development. The purpose of the SCA is to provide adequate flood protection by ensuring finished ground levels are sufficiently above peak flood levels for Blackadder Creek. The SCA is reflected on the structure plan map.

Lot Density and Yield

The structure plan prescribes a density coding range of R30/R40/R60/R80 across the residential zone. Lot densities are proposed to be assigned via locational criteria included on the structure plan and within Part One: Implementation Section, with a Residential Code (R-Code) Plan to be approved at the time of subdivision to form part of the structure plan.

The location criteria to assign density codings are based upon proximity to public transport, neighbourhood connector routes, public open space and community centres. The criteria are consistent with the WAPC's Structure Plan Preparation Guidelines, existing practice for previously endorsed structure plans, and the WAPC's Liveable Neighbourhoods which encourages the siting of medium density residential development within walking distance of community facilities.

The structure plan is anticipated to result in the development of approximately 1200-1300 dwellings. The lot yield and density estimate included in the structure plan estimates a yield of 15-17 dwellings per gross urban zoned hectare. The estimated yield achieves the density target of 15 dwellings per gross urban zoned hectare under *Directions 2031 and Beyond*. Liveable Neighbourhoods also sets a density target of 26 dwellings per site hectare, which is considered a more appropriate measure given the amount of land allocated for public open space within the LSP. In this regard the LSP projects a dwelling yield of 30-32 dwellings per site hectare for land identified as Residential.

Public Open Space

The structure plan proposes three main areas of POS including parkland around Blackadder Creek traversing the northern portion of the LSP area, parkland around Woodbridge Creek in the south of the LSP and a buffer area around and including the Farrall Road Bush Forever Site. The LSP also proposal several smaller parks. In total, the LSP provides for 14.55% of the site area as creditable POS. Of this, 12.55% is unrestricted which exceeds the minimum 8% requirement of unrestricted POS.

Although the LSP provides in excess of the minimum 10% POS requirement, the City has recommended a clause be included in the structure plan to clarify that a minimum of 10% POS is required as either land being ceded free of cost, or as a cash-in-lieu contribution where land is not identified as POS on the structure plan. Given the LSP area consists of multiple landowners, this is considered a reasonable requirement.

Traffic and Access

A Transport Assessment has been prepared to address traffic and transport matters relating to the structure plan. The land within the structure plan is connected to the local road network via Farrall Road, which connects to Toodyay Road in the north and Morrison Road to the south, and via Orchard Avenue which connects to Morrison Road (**Attachment 2**). The southern portion of Orchard Avenue and the Orchard Road / Morrison Road intersection are located within the Roe Highway Primary Region Reservation and may be affected by any future widening of the Roe Highway / Morrison Road intersection. Accordingly, Farrall Road is considered the primary access route for the LSP area and is designated as a District Distributor.

Farrall Road currently carries approximately 7000 vehicles per day (vpd) and is forecast to increase to 13,500vpd, reducing to 7500-8600vpd at the northern end, upon full development of the LSP area. The southern portion of Farrall Road is 30 metres in width, while the remaining length to the north is 20 metres in width. The LSP proposes the realignment of Farrall Road north of the Bush Forever Site, so that it curves towards the freight rail line. The purpose of the realignment is to assist in managing traffic speeds along Farrall Road in addition to minimising the impact of the rail line on residential land.

To accommodate the additional traffic volumes expected to be generated by the development of the LSP area, the structure plan anticipates the widening of Farrall Road where necessary. The City advises that the 20 metre wide sections of Farrall Road will be required to be widened to a minimum of 27 metres and the existing 30 metre wide section will require upgrading, and has recommended that these requirements be identified in the structure plan to clarify development requirements of affected land. The City has also requested that the structure plan include requirements for a roundabout where the Farrall Road realignment begins, in addition to requiring left-in left-out access to local roads opposite the Bush Forever Site.

Orchard Avenue has been identified as a Neighbourhood Connector to be extended north through the western portion of the structure plan before connecting to Farrall Road. The road is forecast to carry 570-1400vpd upon development of the LSP. The existing Orchard Avenue has a road reserve width of 20 metres, however, has a constructed width of only 5 metres and currently only carries local traffic. The extension of Orchard Avenue to the north will consist of a 19.4 metre road reserve in accordance with Liveable Neighbourhoods. However, given that the ongoing status of the southern portion of Orchard Avenue is uncertain, it is unlikely any upgrades to this portion of road or the intersection with Morrison Road will be considered until the future of Roe Highway is known. Although access to Morrison Road will still be available, it is expected that additional traffic volumes may require road users to access Morrison Road via Farrall Road. A Development Concept Plan indicates that

a number of local roads will provide an east-west connection between Farrall Road and Orchard Avenue (**Attachment 5** - Development Concept Plan).

Part of the City's resolution recommends that the applicant undertakes a further traffic study covering the entire regional area to ensure development does not have an adverse impact on the area. It is noted that the City's administration did not raise this as an issue. A Transport Assessment has already been prepared to accompany the LSP and was assessed by the City of Swan, and the relevant state agencies referred to in the consultation section of this report, which considered the assessment to be satisfactory in considering local and regional traffic impacts. Furthermore, regional traffic modelling has already occurred in the form of the MRWA's *Roe Highway Road Network Study (2012)*. The City has also commissioned district traffic modelling in the form of the *Greater Midland Traffic Study*, which is currently being prepared. Although not completed, the study is sufficiently progressed to provide traffic volume inputs. Both studies were used to inform the Transport Assessment for LSP 42.

Given that regional and district level traffic modelling has already taken place, and has been factored in the Transport Assessment, Council's resolution to require a further traffic study to consider regional impacts is not supported and would only result in the duplication of modelling.

Existing bus routes run along Toodyay Road and Morrison Road connecting to Midland Town Centre. While these are not considered to be within walking distance of much of the LSP area, PTA advises that it plans to operate a service which will travel from Midland Station to Jane Brook via Farrall Road. This service will be within approximately 400 metres of the majority of the LSP area.

Farrall Road Rail Crossing

Farrall Road crosses the Avon Freight Railway and is currently a boom gate controlled level crossing. Following stakeholder consultation, MRWA advised that based upon its assessment of the current use of the crossing, including existing traffic volumes and frequency of trains, grade separation of the crossing was warranted and therefore would only support the structure plan subject to a grade separated crossing being accommodated. PTA, however, has advised that based upon current and projected traffic volumes using the crossing, the cost of a grade separated crossing was not warranted. The City, with which Farrall Road is vested, has previously advised that the cost and construction of any grade separation of the crossing would not be the responsibility of the proponent for LSP 42, however, the LSP may be required to set aside land for this purpose.

Based on MRWA's advice that current traffic volumes warrant grade separation of the crossing, it is reasonable to conclude that the LSP is not the trigger for such a requirement. It is reasonable, however, to expect the land requirement for a grade separation to be included in the LSP so as not to prejudice this from occurring in the future. With regard to the immediate need for the grade separated crossing, based upon the projected vehicle movements through the crossing of up to 8600vpd in contrast to the current traffic volumes recorded at the existing level freight rail crossings for Toodyay Road (19,042vpd) and Morrison Road (17,000vpd), the Farrall

Road crossing is not considered an immediate priority. This position is also supported by the City of Swan.

The LSP identifies an area of land to be set aside subject to future investigation for a grade separate rail crossing at Farrall Road. The land area has been defined based on concept designs for three different bridge scenarios prepared by The Civil Group on behalf of the applicant (**Attachment 6 - Bridge Concept Designs**). The subsequent area of land identified is based on the most conservative, or largest, land requirement of the three designs to ensure either of the three designs could be considered in future.

These designs were submitted to PTA and MRWA for comment. PTA advised that a land requirement could not be determined until a bridge design is agreed upon. However, it is noted the purpose of the concepts is not to choose a bridge design, but to ensure all possible designs are accommodated by the structure plan. MRWA advised that the designs did not include sufficient detail to allow comments to be provided regarding whether they were acceptable, or the subsequent land requirements. The details MRWA referred to were structure depth, and subsequently clearance, and footing locations.

The applicant advises that bridge designs are based on design principles, industry standards and assumptions advised by PTA, and have stated the following:

- *The concept design for the crossing assumed in each case that a clear space of 7.2 metres (per PTA requirements) was set between the rail and the underside of the bridge deck;*
- *The design concepts assumed up to a 2.5 metre thick bridge deck. Actual deck thickness are likely to be thinner than this;*
- *The vertical and horizontal design criteria meet the Institute of Public Works Engineering Australia (IPWEA) and City of Swan requirements for this road that is classed as an Integrator 'B' and suitable for traffic flows between 7,000 and 15,000 vehicles per day. Usually such a road is limited to a maximum grade of 5% although IPWEA Guidelines and Austroads say grades can be steeper on a road like this perhaps to 7% or more over short lengths;*
- *It is not uncommon for a single span bridge crossing to be perhaps up to 50 metres (e.g. the Malaga Drive/Reid Highway intersection), yet this Midvale rail reserve is only about 40 metres wide; and*
- *The land requirements associated with each concept assumes battering and no retaining walls and is therefore representative of the most conservative (ie greatest land take) outcome. Installation of retaining walls would reduce the amount of land required – potentially significantly.*

In view of the above, the designs take into consideration height and clearance, span and width, which are considered the vital elements of the designs which inform land requirements.

To allow for even greater flexibility in any bridge design, the applicant has provided plans showing additional areas of land to be set aside for further investigation, if deemed necessary (**Attachment 7 - Additional Land Investigation Plans**). It is noted that this would have a slight impact on POS provision, however, due to the overprovision of POS already proposed by the structure plan, adequate provision of POS would not be affected.

Given that the structure plan is only intended to ensure a grade separation of the rail crossing can be accommodated in future, if required, the provision of three bridge concept designs is considered adequate to allow this to occur.

Road and Rail Transport Noise

The LSP is affected by road and rail noise from Roe Highway at the western boundary and the Avon Freight Railway on the eastern boundary. Both transport routes qualify for consideration under State Planning Policy 5.4 - *Road and Rail Transport Noise and Freight Considerations in Land Use Planning* (SPP 5.4). A Road and Rail Acoustic Assessment was prepared by the applicant to assess the extent of the noise impacts and inform the subsequent attenuation measures required to comply with noise criteria specified by SPP 5.4.

The LSP has been assessed as an infill site, based upon the existing built environment and constraints surrounding and influencing the land and, therefore, the noise limits (as opposed to targets for greenfield areas) defined for outdoor areas by SPP 5.4 have been identified as the appropriate noise criteria for assessment of the proposal. The outdoor noise limits for day and night are 60dB and 55dB respectively.

The acoustic assessment identified that without any noise control measures, residential land adjacent to Roe Highway and the railway line would exceed the noise limits defined by SPP 5.4. In order to allow development to comply with SPP 5.4, the acoustic assessment recommended the installation of a noise wall along the western boundary of the residential land and along the boundaries of the LSP abutting the railway line. The assessment also recommended that the first row of housing at affected locations be constructed in accordance with Quiet House Design Guidelines. Both requirements are reflected on the LSP map, with the areas identified as requiring Quiet House Design being subject to Local Development Plans. However, the LSP shows the location of the western noise wall to be located on the western side of the Western Power easement whereas the acoustic assessment requires it to be located east of the easement. This should be modified accordingly and a modification is recommended in this regard.

During the consultation period, DoP raised some concerns regarding the methodology used to inform the acoustic assessment. Following discussions with the applicant, a revised acoustic assessment was provided (May 2016) to provide additional information and address outstanding concerns. The revised acoustic assessment also identified additional lots, based upon the Development Concept Plan, which will require Quiet House Design. These additional areas should be reflected on the LSP map and a modification is recommended in this regard.

Subject to the construction of the identified noise wall and the construction of affected dwellings in accordance with Quiet House Design principles, the LSP complies with SPP 5.4.

Urban Water Management

The LSP area contains two main water courses being Blackadder Creek, which traverses the northern portion of the LPS, and Woodbridge Creek which traverses the southern portion of the LSP. Both creeks flow east to west and are recognised as

Water Corporation Main Drains and are to be retained, subject to minor realignment in some sections.

As part of the preparation of LSP 42, a Local Water Management Strategy (LWMS) was prepared, which has been reviewed and endorsed by DoW and considered acceptable to inform the subdivision of the land. It is expected that future subdivision application will be accompanied by an Urban Water Management Plan in accordance with State Planning Policy 2.9 - *Water Resources* and Planning Bulletin 92 - *Urban Water Management*.

The City's resolution included a request for a more detailed plan for the realignment and revegetation of Blackadder Creek. In addition to the endorsed LWMS, an Environmental Assessment and Management Strategy (EAMS) has been prepared and subsequently reviewed by DPaW, which raises no concerns. The LSP requires the preparation of Environmental and Urban Water Management Plans as conditions of subdivision. Given that a LWMS and EAMS have already been prepared and reviewed, it is considered appropriate to provide the additional details at subdivision stage.

The DoW's mapping also shows a water course identified as the 'Blackadder Tributary' which traverses the structure plan area, starting at the Bush Forever Site and flowing west to Roe Highway, and the Council's resolution recommended that the structure plan be modified to include this area as POS. However, it is noted that the LWMS identified that this area no longer performs a hydrological function, which was confirmed by DoW and DPaW, and was not required to be retained. Furthermore, the EAMS determined that no riparian vegetation associated with watercourses occurred in this location. Accordingly, given that no evidence of the 'Blackadder Tributary' exists and that the LSP already proposes POS in excess of the minimum requirements, it is not considered necessary for this area to be shown as POS.

Vegetation

As previously discussed, an EAMS was prepared to support the LSP design. The EAMS was reviewed and supported by DPaW and the City's technical officers as part of the assessment of the structure plan. However, subsequent to assessment of the EAMS, additional information was provided by the Blackadder-Woodbridge Catchment Group (BWCG) to DPaW and Council raising concerns about potential impacts on a potential Threatened Ecological Community (TEC) located on lot 102 Farrall Road. The area in question is bound by Farrall Road and the freight railway line and is located north of the Bush Forever Site.

The EAMS identified a portion of the Bush Forever Site to be representative of a Conservation Category Wetland (CCW) and subsequently applied a 50 metre buffer in accordance with the requirements of State Planning Policy 2.8 - *Bushland Policy for the Perth Metropolitan Region*. This buffer has been reflected as POS surrounding the Bush Forever Site.

As a result of the submission by the BWGC, Council resolved to recommend that the EAMS be repeated to a more rigorous standard and, if the land in question was found to show contain a TEC, then this land is to be included as POS. DPaW

subsequently conducted an additional site visit and assessment which determined that the vegetation condition assessment undertaken may not have accurately depicted the vegetation condition. Consequently, a finer scale assessment was undertaken, resulting in areas within the wetland buffer / POS being upgraded to very good condition and a small area (800m²) to the north of the buffer, which is identified as Residential being upgraded from Degraded to Good / Degraded (**Attachment 8 - Vegetation Assessment Map**)

DPaW's assessment found that two areas of Lot 102 contained remnant Floristic Community Types (FCT) classified as TEC's (FCT 20c), which included an area within the POS adjacent to the Bush Forever Site and within the 800m² area north of the POS. FCT 20c is protected by State and Federal legislation under the *Environmental Protection Act 1986* and the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) respectively. DPaW has discussed the findings with the applicant and has advised that they are required to consider their obligations under the EPBC Act in regards to any proposals likely to affect the TEC. To ensure adequate consideration and protection of the TEC, the structure plan map should be modified to set aside the portion of land identified as Good / Degraded on **Attachment 8** for further investigation and review of environmental values for possible retention. No further changes are required in respect of the other area identified to contain a TEC as it is already identified as POS.

DPaW recommends that the LSP be amended to include the provision that a Rehabilitation and Vegetation Management Plan (RVMP) will be prepared as a condition of subdivision approval. This should be submitted to DPaW for endorsement, prior to any subdivision works commencing.

Council's resolution also recommended that Banksia woodland areas outside the Bush Forever Site, which are apparently used for foraging by Black Cockatoos to be retained and added to POS. The resolution does not specify particular areas of land, however, the EAMS identifies significant areas of Banksia woodland being located within the area of POS adjacent to the Bush Forever Site, which includes habitat trees. Remaining areas were identified as having only low to moderate value as a foraging source due to its isolated and degraded nature. No concerns regarding this matter were raised by DPaW in its assessment of the EAMS. Furthermore, the proponent has considered its obligation under the EPBC Act in respect of any impacts to black cockatoo species and concluded that no significant impact to the species is likely to be caused by the structure plan.

Council also recommended that stands of Zamia palms are retained within the proposed POS and that the POS be expanded to accommodate additional palms. The proposed POS retains the majority of the palms identified on site, with the EAMS containing commitments to seek the relocation of additional palms not within the POS. The palms are not identified as a threatened or priority listed plant species and are not afforded additional protection above other native vegetation species.

As it is acknowledged that Zamia palms hold cultural significance for Aboriginal people, the LSP was referred to the Department of Aboriginal Affairs as an application under Section 18 of the *Aboriginal Heritage Act 1972* seeking consent to the proposal and approval was subsequently granted.

The area of the LSP located north of the Avon Freight Railway is identified as Resource Enhancement Wetland, which are identified as wetlands with moderate natural and human use attributes that can be restored or enhanced. The EAMS identified this plant community to contain a relatively intact overstorey layer of Melaleuca trees with the understory containing little to no native species and being dominated by pasture weeds, including a Declared Pest species. The plant community of this area was classified as Degraded or Completely Degraded. The EAMS did not recommend the area for the retention of vegetation. No issues or concerns were raised regarding this aspect of the LSP by DPaW or the City's technical officers.

Bushfire Matters

A portion of the LSP area is identified as being bushfire prone under the State Planning Policy 3.7 - *Planning in Bushfire Prone Areas* (SPP 3.7) mapping. A Bushfire Management Plan has been prepared in conjunction with the structure plan which identifies areas which will be bushfire prone post development, and these areas are identified on the structure plan map. Areas identified as bushfire prone may require additional Bushfire Attack Level (BAL) assessment at the time of subdivision to inform individual lot design. The land will also be serviced by a reticulated water supply. Any subdivision will require at least two separate routes of vehicular access to the surrounding road network. In this regard, the proposal is considered to comply with the relevant requirements of the *Planning For Bushfire Risk Management Guidelines* (Bushfire Guidelines), and the proposed increase in density and development potential is considered to be acceptable in the context of bushfire hazard.

Western Power Easement

The LSP contains a corridor of land adjacent to Roe Highway which contains high voltage power lines and is subject to a Western Power Easement. The LSP identifies the land as a 'Utilities/Infrastructure' local reserve. Western Power objected to this land use designation and recommended that it be shown as either POS or drainage reserve. The City advised that this would be inappropriate as the land is not intended to be utilised for either purpose. The City suggested that the land may be able to be included as part of the adjacent residential lots and subject to easements. Given this land will be physically separated from adjoining land by a noise wall, it could not functionally be used for any purpose in conjunction with the residential component of the LSP. Furthermore, the fragmentation of ownership of the corridor is not considered a good outcome and could prejudice the management of the land for its intended purpose. The land should remain under a single ownership, whether it be private or vested to a public authority. Accordingly, the designation of the land as shown on the LSP is considered appropriate.

Planning and Development (Local Planning Schemes) Regulations 2015

Under the new Planning and Development (Local Planning Schemes) Regulations 2015 (LPS Regulations), new structure plans can no longer vary the deemed to comply requirements of the R-Codes. Clause 61(4) of the deemed provisions provides that, for the purposes of the single house exemption, the deemed to comply

requirements can only be varied through a local development plan, an activity centre plan or a local planning policy.

Part One of LSP 42 include reference to R-Code variations. In view of the above, any references or provisions seeking to vary the deemed to comply provisions of the R-Codes should be removed.

CONCLUSION:

The proposal is consistent with WAPC policy and is considered appropriate for the purpose of guiding future subdivision and development. Accordingly, it is recommended that subject to modifications, the structure plan be approved.

ITEM NO: 9.11

Reconsideration of Condition of Approval – Subdivision to Create 75 Residential Lots – Lots 1 and 206 Winston Crescent and Lots 210-213 Bernley Drive, Viveash

WAPC OR COMMITTEE: Statutory Planning Committee

REPORTING AGENCY:	Department of Planning
REPORTING OFFICER:	A/Planning Manager, Metropolitan Planning North East
AUTHORISING OFFICER:	A/Planning Director, Metropolitan Planning North
AGENDA PART:	G
FILE NO:	153103
DATE:	8 June 2016
RECOMMENDATION OUTCOME:	1. Approval
ATTACHMENT(S):	1. Approved Plan of Subdivision 2. Area to be Excluded 3. Gross Subdivisible Area
REGION SCHEME ZONING:	Urban
LOCAL GOVERNMENT:	City of Swan
LOCAL SCHEME ZONING:	Residential Development
LGA RECOMMENDATION(S):	Approval
REGION DESCRIPTOR:	Metropolitan Planning North East
RECEIPT DATE:	25 May 2016
PROCESS DAYS:	16
APPLICATION TYPE:	Request for Reconsideration
CADASTRAL REFERENCE:	Lots 1 and 206 Winston Crescent and Lots 210-213 Bernley Drive, Viveash

RECOMMENDATION:

That the Statutory Planning Committee resolves to modify Condition 17 and Advice Note 5 of Western Australian Planning Commission Subdivision Approval 153103 as follows:

CONDITION:

- 17. An area of land at least 4,048.5m² in area, in a position to be agreed with the Western Australian Planning Commission, being shown on the diagram or plan of survey (deposited plan) as a reserve for recreation and vested in the Crown under Section 152 of the Planning and**

arrangements can be made for a cash-in-lieu contribution, subject to the further approval of the WAPC.

The applicant has requested that Condition 17 be amended to require the provision of 4,048.5m² of POS on the basis that the figure of 4,500m² exceeds the 10% requirement of gross subdivisible area being provided as POS, as required by the WAPC's Development Control Policy No.2.3 - *Public Open Space in Residential Areas*.

The applicant intends to fulfil their POS obligations by way of a cash-in-lieu contribution as the approved plan of subdivision does not include the provision of POS, with the exception of two small areas which were required to be shown as pedestrian access ways (PAW) as a condition of subdivision. The City recommended that the application be refused, or alternatively that it be approved subject to a number of changes being made to the proposal, including the reduction of the number of lots by 31, to be set aside as a bush reserve (**Attachment 2 - Area to be excluded**). This was not required by the WAPC as a condition of approval. The City, as clearing agency for Condition 17, has indicated that it would not accept a cash-in-lieu contribution in this case and would require the land to be provided. Subsequently, the applicant has requested that the WAPC amend Advice Note 5 as follows:

'In regard to Condition 17, the Western Australian Planning Commission hereby approves of a cash-in-lieu contribution in accordance with Section 153 of the Planning and Development Act 2005.'

The amended advice note is sought to gain the WAPC's approval for a cash-in-lieu contribution as the basis for the clearance of Condition 17 of the subdivision approval.

CONSULTATION:

The City advises that it supports the amendment of Condition 17 to require the provision of 4,048.5m² of POS. The City advises that it would require the condition to be fulfilled by the contribution of land rather than a cash-in-lieu contribution.

COMMENTS:

Condition 17

The figure of 4,500m² of POS being required was derived from the total application area and included areas of existing roads, being Colyton Street and Winston Crescent. POS contribution requirements are based upon the gross subdivisible area of land subject of an application. Existing roads are not included within gross subdivisible areas, therefore, the inclusion of the land area within the Colyton Street and Winston Crescent was done in error and reflected in the condition recommended by the City, which was subsequently imposed as a condition of approval.

The applicant has provided a plan of subdivision identifying the area of land to be considered within the gross subdivisible area, which excludes existing road reserves and balance areas, but includes proposed road reserves (**Attachment 3 - Gross Subdivisible Area**). The total gross subdivisible area is 4.0485 hectares, therefore

the 10% POS contribution requirement is 4,048.5m². Accordingly, it is recommended that Condition 17 be amended as follows:

"An area of land at least 4,048.5m² in area, in a position to be agreed with the Western Australian Planning Commission, being shown on the diagram or plan of survey (deposited plan) as a reserve 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)"

Advice Note 5

Advice Note 5 was recommended by the City and was included in the WAPC's approval and states:

"With regard to Condition 17, provisions of section 153 of the Planning and Development Act 2005 provide that arrangements can be made, subject to further approval of the Western Australian Planning Commission, for a cash-in-lieu contribution by the landowner/applicant to the local government."

The Department has sought further clarification from the City, as clearing authority for the condition, on whether the City would require the land to be provided or whether the City would accept cash-in-lieu for part or all of the land. In its response, the City has indicated that within the context of the Council decision, it would require the land to be provided for the purpose of bush reserve.

The applicant has requested the WAPC's approval of cash-in-lieu within the context of the advice note as part of the future clearing of the condition in accordance with the provisions of section 153 of the *Planning and Development Act 2005 (the Act)* and the subsequent amendment of Advice Note 5 to reflect the WAPC's approval.

The applicant's request for the WAPC to approve cash-in-lieu in this instance is made pursuant to Section 153 of the Planning and Development Act 2005, which relates to the payment of cash-in-lieu as follows:

(1) If the Commission has approved a plan of subdivision of land on condition that a portion of the land be set aside and vested in the Crown for parks, recreation grounds or open spaces generally and -

(a) the Commission, after consultation with the local government in whose district the portion is situated, so requires; or

(b) the Commission, the local government in whose district the portion is situated and the owner of the land so agree,

The owner of that land is to, in lieu of setting aside the portion, pay to the local government a sum that represents the value of the portion .

The City Administration's recommendation to Council was for the reduction of the number of lots by 12 in order to reduce the potential traffic impact; and no recommendation was made in relation to the retention of vegetation. The Council

recorded that its reason for departing from the officer's recommendation was to enable the creation of a reserve to protect the vegetation on site whilst still enabling the development of 44 lots. Although the condition and advice note included in this case requires the land to be provided and for cash-in-lieu to be considered subject to further approval (rather than approved as part of the subdivision), the inclusion of the advice note as requested by the City does create the expectation that cash-in-lieu would be considered.

Merits of setting land aside as a reserve

A flora and vegetation survey as part of an environmental assessment prepared and submitted on behalf of the applicant, for consideration as part of the subdivision, identified the majority of the site as degraded and that no threatened or priority flora species or ecological communities were present in the area. The proposal was referred to the Department of Parks and Wildlife (DPaW) which acknowledged that the environmental assessment does not identify any threatened or priority flora species or ecological communities present. The environmental assessment also included a black cockatoo foraging and significant tree assessment, to identify potential breeding and roosting trees, which considered that the survey area contain poor to moderate foraging habitat. Accordingly, a submission was made to the Commonwealth Department of Environment (DoE) whether the proposal requires referral under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). DoE advised that the proposal is unlikely to have significant impact upon matters of national environmental significance.

There is no legal basis for retaining the vegetation and if the vegetation on the land is cleared, then the provision of the land would be on the basis of POS provision only, which was not the intent of the Council resolution and should be considered within the context of the significant open space in the locality.

The subject land is located adjacent to the Swan River foreshore reserve and an extensive regional open space network within walking distance of all of the proposed lots, in order to provide for the recreational needs of future residents. This land is vested to the City through a management order for the purpose of public recreation. Due to this, it is not considered necessary to provide for additional POS within the subdivision area and the PAW's of 1540m² within the subdivision provide efficient access to these reserves from other areas of the locality.

Liveable Neighbourhoods states that the WAPC may agree to cash-in-lieu where there already is adequate public parkland, taking into account the overall objective of parkland provision and distribution. A survey of local and regional open space at this locality undertaken by the applicant indicates that this represents approximately 196% of the total 'Urban' zoned area of the Viveash locality which indicates that there is sufficient POS in the locality.

Although it is acknowledged that the Council had a different view, the earlier advice from the City's Administration to the applicant and the Department has been that the City would prefer the payment of cash-in-lieu for the land as there is sufficient POS in the locality and cash-in-lieu of POS would be used for the maintenance and embellishment of the existing surrounding POS including the river foreshore.

In view of the above, the City's recommendation that the number of lots in the subdivision be reduced by 31 lots and the land be set aside as a bush reserve to protect the vegetation on the site, totalling approximately 15,642m² of land, is not supported as it could not be justified within the context of advice received by DPaW and DoE.

Accordingly, it is recommended that the WAPC approves a cash-in-lieu contribution and that Advice Note 5 be amended as follows:

"In regard to Condition 17, the Western Australian Planning Commission hereby approves of a cash-in-lieu contribution in accordance with Section 153 of the Planning and Development Act 2005."

CONCLUSION:

It is recommended that Condition 17 of the WAPC's approval be amended to reflect the correct POS requirement of 4,048.5m² and that the WAPC approve a cash-in-lieu contribution as the basis for satisfying the condition, with Advice Note 5 being amended accordingly to reflect this decision.