



Statutory Planning Committee

**Notice is hereby given the next meeting of the Statutory
Planning Committee will be**

Meeting No. 7628

Tuesday, 21 January, 2020, 9:30 am

Level 3, Room 3.22, 140 William Street, Perth

This meeting is not open to members of the public

1.	Declaration of opening	
2.	Apologies	
3.	Members on leave of absence and applications for leave of absence	
4.	Disclosure of interests	
5.	Declaration of due consideration	
6.	Minutes	
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9.8 Review of Perth and Peel Local Government Strategies, Schemes and Reports of Review

10. Reports for noting
11. Stakeholder engagement and site visits
12. Urgent or other business
13. Items for consideration at a future meeting
14. Meeting closure

WAPC STRATEGIC PLAN 2018-2021

OUR VISION:

Creating better places to live and work for all Western Australians

OUR MISSION:

Ensuring the planning system develops policy and enables planning decisions for the long-term benefit of the Western Australian community

Our Functions	Our Focus	Our Priorities	Our Outcomes
<ul style="list-style-type: none"> State Planning Strategy and Policy Regional, Sub-Regional and Local Planning Strategies Regional and Local Planning Schemes Planning and Development Applications – Subdivision and Strata Title Structure Planning Improvement Plans & Schemes Infrastructure Planning and Coordination Research, Modelling & Analysis Improve the Planning System Finance & Property Management 	Jobs and infrastructure	<ul style="list-style-type: none"> Facilitate economic diversification and development Support development of a State Infrastructure Strategy Deliver a planning system and processes adapted for technological change in the community and economy Support delivery of METRONET through the planning system as part of a whole-of-government approach 	<ul style="list-style-type: none"> Sufficient urban, commercial, industrial and priority agricultural land for growth Long-term strategic industry, infrastructure planning and corridor protection Strong industry and employment hubs with particular emphasis on tourism, food and agriculture, education, research and technology Alignment and integration of land use, infrastructure and transport planning
	Liveable Communities	<ul style="list-style-type: none"> Facilitate infill development and sustainable urban growth Address barriers to affordable living and housing diversity through policy leadership 	<ul style="list-style-type: none"> Increased density and diversity around Activity Centres Achieve infill housing and density targets and greater housing choice Enable creation of liveable cities and towns with quality public and private spaces
	A Better Built Environment	<ul style="list-style-type: none"> Lead precinct planning to enable METRONET Develop a policy and decision-making framework to encourage greater housing options for changing demographic needs Promote and protect the urban tree canopy for all communities for amenity and health benefits 	<ul style="list-style-type: none"> Improved design of urban centres, corridors and stations Improved design quality of the built environment Greater community support for more diverse housing options, urban centres, corridors and stations Protection and enhancement of the urban tree canopy across diverse communities
	Transparent, Equitable and Efficient Planning Processes	<ul style="list-style-type: none"> Continued review and reform of the planning system and processes Greater early, effective and genuine communication and engagement with the community and industry on planning and development issues Improve collaboration and capability of all key decision-makers in the planning system, including local government Implement technological improvements including quality online reporting on planning performance for all WAPC functions 	<ul style="list-style-type: none"> Efficient, transparent and timely assessment and decisions on planning applications and processes Contemporary region and local planning strategies, schemes and regulations Improved transparency, efficiency and community support for planning processes Updated and effective <i>Planning and Development Act 2005</i> and regulations
	Environment and Natural Resources	<ul style="list-style-type: none"> Continue the Coastal Management and Planning Program to deal with the risks posed by climate change Ensure bushfire regulations reflect planning appropriate for the risk to community and the environment 	<ul style="list-style-type: none"> Sustainable development which protects, conserves and promotes natural assets (land and water) and biodiversity A planning system which addresses climate change Planning to mitigate risks from natural hazards and events
	Land and Finance Management	<ul style="list-style-type: none"> Contribute to the successful delivery of METRONET through strategic, efficient and innovative use of the Metropolitan Region Improvement Fund Ensure WAPC land and property assets are used for long-term community benefit 	<ul style="list-style-type: none"> WAPC land management in place to deliver METRONET Effective and sustainable stewardship and management of the Metropolitan Region Improvement Fund Increased regional open space in Greater Perth

STATE PLANNING STRATEGY PRINCIPLES:

Community

Enable diverse, affordable, accessible and safe communities

Economy

Facilitate trade, investment, innovation, employment and community betterment

Environment

Conserve the State's natural assets through sustainable development

Infrastructure

Ensure infrastructure supports development

Regional Development

Build the competitive and collaborative advantages of the regions

Governance

Build community confidence in development processes and practices

Information for SPC Members

Quorum: 5 of 10 members

Member	Representation in accordance with the <i>Planning and Development Act 2005</i>	Term of office ends
Mr David CADDY	Chairman, WAPC Schedule 2 clause 4(2)(a)	15/04/2021
Mr Vaughan DAVIES	Nominee of the Director General, Department of Planning, Lands and Heritage Schedule 2 clause 4(2)(b)	Current Nominee
Ms Paddi CREEVEY OAM	Nominee of the Regional Minister Schedule 2 clause 4(3)	Current Nominee
Ms Kym DAVIS	Community representative Schedule 2 clause 4(2)(d)	31/12/2020
Ms Marion THOMPSON	Professions representative Schedule 2 clause 4(2)(e)	31/12/2020
Mr Leonard KOSOVA	Local government representative Schedule 2 clause 4(2)(f)	31/12/2020
Ms Megan ADAIR	WAPC appointee Schedule 2 clause 4(2)(g)	31/12/2020
Mr Lino IACOMELLA	WAPC appointee Schedule 2 clause 4(2)(g)	31/12/2020
Ms Nina LYHNE	WAPC appointee Schedule 2 clause 4(2)(g)	31/12/2020

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* (PD Act)

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.

Membership (extract from PD Act):

The composition of the Statutory Planning Committee is in accordance with Schedule 2(4) of the *Planning and Development Act 2005*.

4. Statutory Planning Committee

- (1) The Commission is to establish a committee to be known as the Statutory Planning Committee.
- (2) Subject to subclause (5), the Statutory Planning Committee is to consist of —
 - (a) the chairperson, or a person nominated by that person and approved by the Minister; and
 - (b) the chief executive officer, or a person nominated by that person and approved by the Minister; and
 - (c) the member of the board referred to in section 10(1)©(viii) or a deputy appointed under subclause (3); and
 - (d) a person approved by the Minister and appointed to the Commission as having practical knowledge of and experience in community affairs; and

- (e) a person approved by the Minister and appointed by the Commission as having practical knowledge of and experience in one or more of the fields of urban and regional planning, commerce and industry, engineering, surveying, valuation, transport, housing, heritage, environmental conservation, natural resource management, urban design, the planning and provision of community services or infrastructure; and
- (f) a person approved by the Minister and appointed by the Commission to represent the interests of local governments; and
- (g) such other person or persons as the Commission, after obtaining the approval of the Minister, appoints from time to time.

Delegated Authority (Del 2009/05) Powers of Committee

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.

Quorum for meetings

In accordance with the Western Australian Planning Commission (WAPC), Governance Guide – Standing Orders, Section 5.1 - Quorum for meetings:

(2) A quorum for a meeting of a committee is at least 50 per cent of the number of current offices of members of the Committee.

Disclosure of interests

In accordance with the *Planning and Development Act 2005* and Section 4 of the Western Australian Planning Commission (WAPC), Governance Guide – Standing Orders, 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**” is one where a member has an 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 member.

An “**indirect pecuniary interest**” refers to an interest in a matter where a financial relationship exists between a member and another person who requires a WAPC decision in relation to the matter.

A “**proximity interest**” refers to an interest of a member, or close associate of the member, in a matter if the matter concerns –

- (a) a proposed change to a planning scheme affecting land that adjoins the person’s land;
- (b) a proposed change to the zoning or use of land that adjoins the person’s land; or
- (c) 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 organisation 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 cannot 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.



Statutory Planning Committee

Minutes

Meeting No. 7627
Tuesday, 10 December, 2019

- Members:
- David Caddy - Chairman WAPC
 - Megan Adair - WAPC Appointee
 - Paddi Creevey - Nominee of the Regional Minister
 - Vaughan Davies – Nominee of the Director General, Department of Planning, Lands and Heritage
 - Kym Davis - Community Representative
 - Lino Iacomella - WAPC Appointee
 - Nina Lyhne - WAPC Appointee
 - Marion Thompson - Professions Representative
 - Ross Thornton - WAPC Appointee
- Apologies:
- Leonard Kosova - Local Government Representative
- Others present:
- Nicole Alexander - Senior Planning Officer, Metro North
 - Cameron Bulstrode - Director, Metro South and Peel
 - Mario Carbone - Senior Planning Officer, Metro North
 - Garreth Chivell - Planning Manager, Schemes and Amendments
 - Andrew Cook - Planning Manager, Metro North
 - James Dorn - Senior Planning Officer, Schemes and Amendments
 - Martin Erlacher - Senior Planning Officer, Metro Central
 - Sam Fagan - Manager, Commission Business
 - Neil Fraser - Planning Manager, Regional South West
 - Glen Finn - Director METRONET Taskforce, Strategy and Engagement
 - Johan Gildenhuys - Principal Planning Officer, Metro North
 - Sally Grebe - Director Planning Appeals, Strategic Planning Projects
 - Lucy Gunn - Manager Projects and Policy, Strategy and Engagement
 - Jo Kempton - Senior Planning Officer, Metro South West
 - Georgina Lockhart - Administrative Officer, Commission Support
 - Michelle Matthewman - Commission Support Officer
 - Rohan Miller - Planning Director, Schemes and Amendments
 - Robert Moore - Senior Planning Officer, Regional North
 - Lilia Palermo - Senior Planning Officer, Metro South and Peel
 - Rebecca Risteski - Senior Planning Officer, Schemes and Amendments
 - Suzanne Roach - Senior Planning Officer, Metro Central

David Sands - Acting Planning Manager, Metro North
Katrina Shoobridge - Senior Planning Officer, Schemes and
Amendments
David Stapleton - Senior Planning Officer, Regional South West
Merindah Wright - Corporate Communications Officer, Strategy and
Engagement
Aamon Zothner - Planning Officer, Metro North

1. Declaration of opening

The Chairman declared the meeting open at 9:38am, acknowledged the Whadjuk people of the Noongar nation as the traditional owners and custodians of the land on which the meeting is taking place and welcomed members.

2. Apologies

Leonard Kosova - Local Government Representative

3. Members on leave of absence and applications for leave of absence

Nil.

4. Disclosure of interests

Ms Thompson declared an Indirect Pecuniary Interest on Item 8.8 Local Structure Plan – Department of Communities and Peet – First Stage, Lot 10 Woolcott Avenue, Lot 354 and 355 Murray Road, Brabham as Ms Thompson was employed by Peet in 2018 to work on visioning of the Brabham Project. Given Ms Thompson is no longer engaged by Peet, members agreed that Ms Thompson could be present during the discussion/and or decision making on the item.

5. Declaration of due consideration

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

6. Minutes

6.1 Confirmation of minutes - Meeting No. 7526 on Tuesday, 26 November 2019

Moved by Ms Creevey
Seconded by Ms Davis

That the minutes of the Statutory Planning Committee meeting held on Tuesday, 26 November 2019, be confirmed as a true and correct record of the proceedings.

The motion was put and carried

7. Deputations and presentations

7.1 City of Armadale - Town Planning Scheme No.4, Amendment No.97 - For final decision (Item 9.2)

Presenters: James Robertson - Manager of Planning Services and Colin Connor - Senior Statutory/Strategic Planning Officer - City of Armadale

Mr Robertson and Mr Connor presented to the Statutory Planning Committee on behalf of the City of Armadale and thanked the Committee for the opportunity to address the introduction of special rural zone in Amendment No. 97.

Mr Robertson gave background of the Local Planning Strategy and Scheme review that was submitted to the Department of Planning, Lands and Heritage proposing a review of Town Planning Scheme No. 4 via a scheme amendment. It was noted that the Scheme was endorsed by the Western Australian Planning Committee in 2016.

Mr Robertson discussed how the City held Councillor workshops and a survey in 2017, looking at rural zones and permissible land use within the City, as a result of these the City initiated three scheme amendments. Mr Robertson discussed how Amendment No. 94 - Special Residential Zone and Amendment No. 95 - General Rural Zone were gazetted in December 2018 and Amendment No. 97 was split into two zones being Rural Living and proposed Special Rural Zone.

Mr Robertson discussed how the City of Armadale has a small amount of rural land remaining and that the land is subject to bushfire risk. Mr Robertson noted that there are many regional parks and recreation reserves within the City and that there is significant growth in the area regarding lifestyle amenity and tourism. Mr Robertson discussed the gradual expansion of urban residential to the western boundary of the City.

Mr Robertson discussed the two proposals in responding to submissions received for Amendment No. 97. The first being the Special Rural Zone to safeguard bushland and semi-rural lifestyle amenity, with a discreet range of permissible uses to prevent intrusive developments which could affect lifestyle and visual landscape. The second proposal being Rural Living Zone to have location criteria for discretionary uses specific to lot zones that are suitable for intensive uses such as child care, educational, place of worship, restaurant and winery.

Mr Robertson noted that as a result of submissions the City modified the proposal to require those discretionary uses to be available on 2 hectare lots within 100 metres of primary or regional roads.

7.2 City of Swan – Local Planning Scheme No. 17, Amendment No. 142 – For final determination (Item 9.3)

Presenters: Damian Shephard - Stockland, Cameron Leckey – CLE/Parcel

7.3 City of Swan – Local Planning Scheme No. 17, Amendment No. 42 – For final determination (Item 9.3)

Presenters: Stephen Carter - CLE/Peet and Department of Communities, Craig Raynor – Peet Limited

7.4 City of Swan – Local Planning Scheme No. 17, Amendment No. 142 – For final determination (Item 9.3)

Presenters: Fenualla O’Brien and Matt Craven-Kelly – Parcel Property.

Mr Leckey presented to the Statutory Planning Committee as the lead planner for the Stockland Whiteman Edge development, alongside Mr Carter, Mr Shephard, Mr Raynor, Mr Craven-Kelly and Ms O’Brien. Mr Leckey stated the developers Peet, Parcel and Stockland of Whiteman Edge and Flamewood are presenting together as a united opposition to Amendment No. 142.

Mr Leckey stated how State Planning Policy places considerable need and nexus before costs are portioned to landowners, Mr Leckey stated there is complete absence of need and nexus regarding retrospectively funding the existing roundabout.

Mr Leckey discussed the background and construction of the roundabout stating that the need for the roundabout is indisputable and provides primary and sole access from Lord Street to Park Street. However, there was no reference to future DCP amendment with regards to the provision and neither was the provision appealed by the landowner. It therefore indicated a genuine need for the roundabout at this time.

Mr Leckey discussed how Stockland’s Whiteman Edge closest access is Youle Dean Road and Woolcott Road via Everglades Avenue; several kilometres from the roundabout. Mr Leckey stated that the primary access for both Flamewood, which is 50 percent developed and Whiteman Edge will be via Youle Dean Road and Henley Brook Avenue. Mr Leckey stated that development of Brabham land does not create a contribution need for the roundabout, rather that the need arises from the Avonlee project and other residents have been secondary beneficiaries.

Mr Leckey stated that the Brabham DCP has operated with certainty and that the proposed amendment would cause a knock-on effect to other DCP’s in the Metro area. Mr Leckey discussed how funding for retrospective cost recovery would see other developers follow suit and try to recover funds.

Mr Leckey summarised by stating that in a sense the DCP has been asked to fund a roundabout that has no nexus, but has also been

rebuilt by taxpayers as a part of recent upgrades and that clients have been asked to pay for a roundabout that already exists.

Members queried the contribution item cost the developers had already provided and it was noted that it was approximately \$19 million in total; all outside of the DCP in roads and upgrades.

Members queried the cost for the original roundabout built by the proponent and how you could verify the actual cost, it was noted the proponent should have receipts for what they paid for and did not appeal the decision based on a gentleman's agreement.

Members queried if it was known that the roundabout was sacrificial, and it was noted that planning for Lord Street has gone through many changes however the Park Street connection was to remain as permanent access.

7.5 City of Swan – Local Planning Scheme No. 17, Amendment No. 142 – For final determination (Item 9.3)

Presenters: Rachel Chapman and Julie-Anne Fitzgerald - Taylor Burrell Barnett

Ms Chapman and Ms Fitzgerald presented to the Statutory Planning Committee representing Cedar Woods and thanked the Committee for the opportunity. Ms Chapman stated that they had consulted with the other deputations prior to presenting and support the matters they raised.

Ms Chapman stated how in accordance with the SPP3.6 the Development Contribution for Infrastructure should be clearly identified at commencement of the development and noted the construction and funding of the item should have been considered at the time the Development Contribution Plan was prepared.

Ms Chapman discussed concern raised among developers should there be potential for items to be added after the finalisation of the DCP. Ms Chapman referenced text in the Schedule of Supplementary Submissions stating 'the WAPC may impose a condition of subdivision requiring the construction of a dual-lane roundabout at the intersection of Park and Lord Street by the landowner, at the landowner's costs'.

Ms Chapman stated how the developer proceeded with construction of the roundabout without written agreement from the City or WAPC that they would be reimbursed under the DCP. Ms Chapman discussed how if items are to be pre-funded by developers it should be clearly outlined in the DCP prior to advertising and adoption in the interest of transparency.

Ms Chapman discussed the need and nexus of the contribution noting the cost of infrastructure needs to be substantiated with traffic modelling. Ms Chapman stated that the amendment has not considered that traffic would extend beyond boundaries of the DCA, and the 2260 rezoned urban lots are in proximity to the existing roundabout.

Ms Chapman discussed equity and how 50 percent of DCA is already developed and continues to grow. Ms Chapman stated that the need for the infrastructure is generated by existing development and it is inconsistent with SPP3.6 to levy contributions for the infrastructure item solely on developers.

Members queried the text Ms Chapman referenced above, and it was confirmed it was quoted directly from the Schedule of Supplementary Submissions. Members discussed the cost of the infrastructure item and it was noted the City does not wish to burden existing rate payers with the cost.

7.6 City of Swan – Local Planning Scheme No. 17, Amendment No. 142 – For final determination (Item 9.3)

Presenters: Justin Page - Element and Warren Spencer - Director, Terranovis

Mr Page thanked the Statutory Planning Committee for the opportunity to present on behalf of Element representing the proponent of Avonlee Estate, alongside Mr Spencer representing Terranovis. Mr Page stated that the original dual lane roundabout was constructed in March 2014, and that the present-day roundabout was not needed before the Perth Darwin Highway was relocated. Mr Page stated the roundabout has been modified slightly to reflect the new Lord Street alignment and remains a pivotal piece of transport infrastructure for the northern gateway into Brabham.

Mr Page stated they agreed to the subdivision condition at the time to build a roundabout and made it clear to the City and Department of Planning, Lands and Heritage that the roundabout should have been included as a development contribution, however due to financial pressures they were unable to appeal the decision. Mr Page stated the roundabout was completed before the Development Contribution was finalised and the Scheme was gazetted.

Mr Page noted that the roundabout is one of two roundabouts that accesses the whole of the Brabham area; located next to Whiteman Edge and 1.2 kilometres from Avonlee. Mr Page stated that the roundabout is built to Main Roads specifications, so it could be incorporated into the new Lord Street. Mr Page stated that the retrospective issue is a result of the council failing to introduce the contribution item prior to the DCP being gazetted.

Mr Page indicated that the applicants traffic assessment confirms the urban development in Brabham triggered the need for the roundabout to support transport and serves a wider urban context. Mr Page discussed SPP3.6 and that if the amendment is refused it contradicts the policy and the developer of Avonlee would unjustly be paying higher development contribution costs than other developers despite the roundabout being common infrastructure used by all. Mr Page stated that 100 percent of the roundabout costs should fall within the DCA.

Members queried the remaining lots to be developed in Avonlee and it was noted to be approximately 100-300 lots are yet to developed and 250-300 remain to be subdivided.

Members queried why the contribution item was not put forward prior to the amendment despite multiple opportunities and it was noted that the applicant submitted written submissions 1.5 years before the DCA was gazetted. Mr Page stated that due to the length of time seeking legal advice and financial pressures there was delay in formally requesting the scheme amendment.

Members queried the upgrades to the roundabout and Park street and if it abutted Cedar Woods land, it was stated that the applicant upgraded Park Street to the wetland at their sole cost.

Members queried the financial pressure that the applicant was facing, and it was stated that 80 – 100 lots were pre-sold, that the LPS took approximately one year to finalise and in order for sales to not fall through the applicant began construction of the roundabout and at the same time wrote to the City of Swan asking that it be included in the contribution plan.

7.7 City of Canning - Draft Local Planning Scheme No. 42 – for final determination (Item 9.4)

Presenters: Steven Walker - Private citizen

Mr Walker presented to the Statutory Planning Committee as a private citizen and provided a brief summation of the Willetton District Centre plan and submissions he had made regarding the Local Planning Scheme and Willetton Activity Centre. Mr Walker stated he does not support the public open space provision. Members noted they had access to his written submissions for review. Mr Walker thanked the Committee.

7.8 City of Canning - Draft Local Planning Scheme No. 42 - For final determination (Item 9.4)

Presenters: Trent Will - Planning Solutions and David Judd - Woodthorpe School

Mr Will presented to the Statutory Planning Committee representing Planning Solutions on behalf of his client David Judd of Woodthorpe School in support of the Scheme as whole, and spoke to the zoning of the Woodthorpe School site. Mr Will stated that the Willetton site is the head campus for Woodthorpe School and sits on over 2 hectares split across two lots. Mr Will stated that the school is relocating to the eastern suburbs in the next two to three years and therefore seeks to rezone the site.

Mr Will stated that the site is currently zoned for mixed business, and advertised as 'private community purpose', however due to the relocation it is unlikely the site will be used for such in the future.

Mr Will stated the City of Canning resolved to modify the zoning of the school site to residential R30 density code, and whilst they support the

change to residential zoning their submission sought R80 density coding.

Mr Will noted that R30 would be a signification decrease in density given that there is a 7-hectare urban development housing estate abutting the western boundary of the site. Mr Wills stated that the school site should have at a minimum the same density coding. Mr Wills also noted that the site should warrant a higher density given its proximity to the local centre. Mr Wills noted that the site should be subject to more rigorous investigation given the site is an opportunity for quality residential infill and highly accessible to local services. Mr Wills asked that the Statutory Planning Committee support the Woodthorpe School site to be zoned urban development.

7.9 Request for Reconsideration of Subdivision Condition - Lot 803 Marsh Road, West Pinjarra (Item 8.3)

Presenters: Kris Nolan - Urbis and Phil Cuttone - Cuttone Property Group

Mr Nolan presented to the Statutory Planning committee representing Urbis with Mr Cuttone of Cuttone Property Group in relation to the subdivision of Lot 803 Marsh Road, West Pinjarra and the creation of 34 rural residential lots. Mr Nolan discussed how the approval on Condition 1 was deferred in July 2019 by the Statutory Planning Committee subject to additional investigation on the road widening. Mr Nolan stated that thorough investigation has taken place however the question of the validity of Condition 1 remains.

Mr Nolan discussed that throughout the report there is reference to the road widening of Greenland's Road being ceded free of cost however the requirement is not referenced in the Structure Plan.

Mr Nolan discussed doubt and that question of nexus, he noted the road widening be set aside free of cost and that the traffic volumes generated will be between 1600-1800 vehicles per day. Mr Nolan stated Greenland's Road is a regional function expanding Pinjarra to Forrest Highway, and the widening was not required as a result of the subdivision.

Mr Cuttone discussed how there is confusion working with Main Roads regarding location services, as originally, they were told they were splitting the reserve 50 percent to the south, however they have since been advised through Telstra it will also be 50 percent to the north of Greenland's Road.

Members sought clarification on the width of Greenland's Road and the difference in width required for mound buffers over walls. It was noted the current width is 20-30 metres of reservation, but could expand in and out from 80-100 metres.

Members queried if there is clarity on the land to the north, and it was stated they became aware of this through Telstra and that it has been difficult to put services in as Main Roads Bunbury has no specific plans and there has been a lack of communication. It was stated that Telstra

has now asked the applicant to seek another service provider as a result.

7.10 S31 Reconsideration – Subdivision to Create Five Residential Lots – Lots 94 and 95 Albert Street, North Perth (Item 9.7)

Written submission: Daniella Mrdja - Urbanista

7.11 S31 SAT Act 2004 Reconsideration - Draft Forrestfield North Residential Precinct Local Structure Plan (Item 9.6)

Written submission: Mitchell Brooks - Senior Strategic Planner, City of Kalamunda

The meeting was adjourned at 10:50am.

The meeting was resumed at 10:57am with all members present.

ITEMS FOR DECISION

8.1 High Street, Fremantle - Road Upgrade

Moved by Ms Adair

Seconded by Mr Iacomella

That the Statutory Planning Committee resolves to approve the application for High Street Upgrade Project - Stirling Highway Intersection upgrade and High Street upgrade between Carrington Street and Stirling Highway, as shown on the plan date-stamped 3 October 2019, subject to the following conditions:

CONDITIONS:

- 1. The development is to be carried out in accordance with the plans date stamped 3 September 2019, subject to any modifications as required by the conditions of approval.*
- 2. The development approval is valid for two years from the date of this approval. If the subject development is not substantially commenced within a two-year period, the approval shall lapse and be of no further effect.*
- 3. Prior to commencement of works, detailed design drawings shall be submitted to the City of Fremantle for review and to the satisfaction of the Western Australian Planning Commission.*
- 4. Prior to commencement of works, further details of the materials and construction of the proposed noise walls shall be submitted to the City of Fremantle for review and to the satisfaction of the Western Australian Planning Commission.*

ADVICE:

- 1. City of Fremantle advise work on construction sites shall be limited to between 7am and 7pm on any day which is not a Sunday or Public Holiday. If work is to be done outside these hours a noise management plan must be submitted and approved by the Chief Executive Officer, City of Fremantle prior to work commencing.*

2. *Effective measures shall be taken to stabilize sand and ensure no sand escapes from the property by wind or water in accordance with the City of Fremantle's Prevention and Abatement of Sand Drift Local Law.*
3. *Water Corporation advise there are several underground pipe assets within and adjacent to the works area, including pressurised water mains, gravity sewers and wastewater pressure mains. These assets will need to be accurately located, protected or relocated as part of the project works. The applicant/MRWA is to make relevant applications through the Water Corporation's Protection of Assets team by applying through the following link:*

<https://www.watercorporation.com.au/home/builders-and-developers/working-near-our-assets/approval-for-works/apply-for-approval-to-work-near-our-assets#form/59366015980718126ce57f25/app/5dad17a2fe2a9511c898016c>
4. *Western Power advise an application to relocate the distribution network is required by applying through the following link:*

<https://westernpower.com.au/safety/360-aware/working-near-transmission-andcommunication-assets/>
5. *Any development on the subject site shall be designed and constructed to protect Western Power infrastructure and interests from potential land use conflict. Proponents should refer to:*

<https://westernpower.com.au/safety/360-aware/industry-safety/>
6. *It is the landowners responsibility to ensure that the design and construction of any new structure on the land complies with all applicable laws including, without limitation, clearance requirements, of electrical infrastructure. We recommend you engage a suitably qualified independent person (surveyor, architect, engineer) to undertake an assessment of the proposed development to ensure that best methods of construction are utilised and compliance with all applicable laws (including clearance requirements of electrical infrastructure in general and those specified under Occupational Safety and Health Regulations 1996 (WA)).*
7. *ATCO Gas Australia has gas mains and infrastructure within this immediate area. ATCO Gas must be notified of any works affecting our network and gas infrastructure before those works begin.*
8. *Anyone proposing to carry out construction or excavation works must contact 'Dial Before You Dig' (Ph 1100) to determine the location of buried gas infrastructure.*
9. *ATCO Gas Australia advises that the location and invert level of all gas mains should be proven during the design stage of the project. Proving the location and depth of the gas mains will help ensure*

that the design meets ATCO Gas Australia requirements and minimises any potential delays to the project should the main require relocation or additional protection.

- 10. The ATCO Gas 'Additional Information' document details the requirements for working in the vicinity of the gas pipelines, that must be followed at all times, unless explicitly agreed otherwise in writing by ATCO Engineering. This document AGA-O&M-PR24 can be found on the ATCO Gas Australia website:*

<https://www.atco.com/en-au/for-business/natural-gas/safety.html>

- 11. The ongoing consultation between Main Roads and the ATCO Gas Engineering Team-Network Projects is to continue for the project, where ATCO assets are located and are being impacted.*
- 12. All costs associated with the additional protection of the gas mains and infrastructure due to the proposed design of the road project and associated works are to be met by the proponent.*

The motion was put and carried

8.2 Development Application - Proposed Outbuilding - Lot 18 Maxwell Road, Caversham

Moved by Ms Adair

Seconded by Mr Iacomella

That the Statutory Planning Committee resolves to approve the application for development at Lot 18 (No. 54) Maxwell Road, Caversham subject to the following conditions:

- 1. This approval relates to the attached plans date stamped 16 August 2019 by the Department of Planning, Lands and Heritage on behalf of the Western Australian Planning Commission.*
- 2. Stormwater runoff from constructed impervious surfaces generated by small rainfall events (i.e. the first 15mm of rainfall) must be retained and/or detained on-site as much as practical.*
- 3. Prior to the commencement of works, the applicant shall demonstrate that the on-site effluent disposal system (and associated irrigation/infiltration area) has secondary treatment and the capacity to attenuate both phosphorus and nitrogen to the satisfaction to the Department of Biodiversity, Conservation and Attractions.*
- 4. The on-site effluent disposal system and its associated irrigation/infiltration area shall have a minimum 100 metre horizontal separation from a waterway and a minimum 1.2 metre vertical separation from the highest known level of groundwater.*

Advice

- 1. In regard to Conditions 3 and 4, the Government Sewerage Policy (2019) requires on-site effluent systems within sewage sensitive areas (including the Swan Coastal Plain) to have secondary*

treatment with nutrient removal capability (for example aerobic treatment units - ATU) that can discharge treated sewerage with phosphorus and nitrogen concentrations of less than 1 mg/L and 1 0mg/L respectively. the Department of Health can provide a list of systems of that are certified to achieve these nutrient discharge targets. The Department of Biodiversity, Conservation and Attractions' Policy 51 - Planning for Wastewater Management Affecting the Swan Canning Development Control Area has further information on wastewater management requirements in the Swan Canning catchment.

The motion was put and carried

8.6 Local Development Plan – Icaria Stages 9b, 10b and 13 – the Glades, Byford - Variations under Clause 7.3.2 of the Residential Design Codes

Moved by Ms Adair

Seconded by Mr Iacomella

That the Statutory Planning Committee resolves to, pursuant to Clause 7.3.2 of State Planning Policy 7.3 - Residential Design Codes, to approve the amended deemed-to-comply provisions proposed by the;

The Glades Icaria – Stage 9b, 10b and 13 Local Development Plan

subject to the following modifications:

- 1. Delete the following provision 2.3:
Unless otherwise specified, driveway access to a garage for corner lots may be provided from the primary or secondary street frontage"; and*
- 2. Show garage locations on the LDP for all corner lots to the satisfaction of the Shire.*

The motion was put and carried

8.9 Proposed Revocation - Heathridge Structure Plan No. 22

Moved by Ms Adair

Seconded by Mr Iacomella

It is recommended that the Statutory Planning Committee resolves to:

- 1. revoke the Heathridge Structure Plan No. 22 pursuant to Schedule 2, Part 4, Clause 28(4) of the Planning and Development (Local Planning Schemes) Regulations 2015; and*
- 2. advise the City of Joondalup of its decision accordingly.*

The motion was put and carried

8.10 Town of Cambridge - Draft Local Planning Strategy – Consideration prior to advertising

Moved by Ms Adair

Seconded by Mr Iacomella

That the Statutory Planning Committee resolves to:

- 1. require modification of the Town of Cambridge Draft Local Planning Strategy, in accordance with the attached schedule of modifications (Attachment 5), in order for it to be suitable for advertising;*
- 2. subject to the above modifications being satisfactorily undertaken, certify that the local planning strategy is consistent with regulation 11(2) of the Planning and Development (Local Planning Schemes) Regulations 2015;*
- 3. authorise Department of Planning, Lands and Heritage officers to review the modifications to ensure they have been satisfactorily undertaken and execute the documents accordingly, prior to the advertising of the local planning strategy; and*
- 4. require the local planning strategy, upon completion of the modifications and review of the modifications by the Department of Planning, Lands and Heritage to be advertised in accordance with regulation 13 of the Planning and Development (Local Planning Schemes) Regulations 2015.*

The motion was put and carried

8.11 Shire of Collie - Local Planning Strategy - For final approval

Moved by Ms Adair

Seconded by Mr Iacomella

That the Statutory Planning Committee resolves to:

- 1. determine the submissions lodged on the Shire of Collie Local Planning Strategy, in accordance with the attached Schedule of Submissions (Attachment 3);*
- 2. require the Shire of Collie to modify the Shire of Collie Local Planning Strategy in accordance with the Schedule of Modifications set out at Attachment 2;*
- 3. subject to the above modifications being satisfactorily undertaken, endorse the Shire of Collie Local Planning Strategy under regulation 15 of the Planning and Development (Local Planning Schemes) Regulations 2015;*
- 4. authorise Department of Planning, Lands and Heritage officers to review the modifications to ensure they have been satisfactorily undertaken and execute the documents accordingly; and*
- 5. Request the local government to publish a notice advising of the endorsement of the Shire of Collie Local Planning Strategy in accordance with regulation 16 of the Planning and Development (Local Planning Schemes) Regulations 2015*

The motion was put and carried

8.12 City of Busselton - Local Planning Strategy - Endorsement

Moved by Ms Adair

Seconded by Mr Iacomella

That the Statutory Planning Committee resolves to:

- 1. determine the submissions lodged on the City of Busselton Local Planning Strategy, in accordance with the Schedule of Submissions set out at Attachment 18;*
- 2. require modifications to the City of Busselton Local Planning Strategy in accordance with the Schedule of Modifications set out at Attachment 19;*
- 3. subject to the above modifications being satisfactorily undertaken, endorse the City of Busselton Local Planning Strategy under regulation 15 of the Planning and Development (Local Planning Schemes) Regulations 2015;*
- 4. authorise Department of Planning, Lands and Heritage officers to review the modifications to ensure they have been satisfactorily undertaken and execute the documents accordingly; and*
- 5. advise the local government to publish a notice advising of the endorsement of the City of Busselton Local Planning Strategy in accordance with regulation 16 of the Planning and Development (Local Planning Schemes) Regulations 2015.*

The motion was put and carried

9.1 Resolution to Prepare an Improvement Scheme - West Ellenbrook

THIS ITEM IS CONFIDENTIAL

9.2 City of Armadale - Town Planning Scheme No.4, Amendment No.97 - For final decision

THIS ITEM IS CONFIDENTIAL

9.4 City of Canning - Draft Local Planning Scheme No. 42 – for final determination

THIS ITEM IS CONFIDENTIAL

9.5 Shire of Capel - Town Planning Scheme No. 7 Amendment No. 65 - For Final Determination - Development Contribution Plan

THIS ITEM IS CONFIDENTIAL

9.6 S31 SAT Act 2004 Reconsideration - Draft Forrestfield North Residential Precinct Local Structure Plan

THIS ITEM IS CONFIDENTIAL

9.7 S31 Reconsideration – Subdivision to Create Five Residential Lots – Lots 94 and 95 Albert Street, North Perth

THIS ITEM IS CONFIDENTIAL

9.8 S31 Reconsideration of Proposed Jetty – Lot 2 Banksia Terrace, South Yunderup

THIS ITEM IS CONFIDENTIAL

9.9 S31 Reconsideration of Subdivision to Create Two Survey-Strata Residential Lots - Lot 340 Kishorn Road, Applecross

THIS ITEM IS CONFIDENTIAL

9.10 Community Titles Act 2018 Discussion Paper - For noting

THIS ITEM IS CONFIDENTIAL

8.3 Request for Reconsideration of Subdivision Condition - Lot 803 Marsh Road, West Pinjarra

Members discussed various issues relating to the request to reconsider Condition 1, including the nexus and reasonableness of the condition, Main Roads WA's plans for Greenlands Road and the provision of noise bunds.

Members discussed the nexus and given there was not sufficient nexus in this circumstance to support the ceding of the land free of cost for the required widening of Greenlands Road, members resolved not to support the recommendation of the Department of Planning, Lands and Heritage to retain the existing condition one, but rather resolved to substitute condition one with the following condition:

“The land required for the widening of Greenlands Road as shown on the plan dated 17 October 2018 (attached) is to be set aside as a separate lot for acquisition pending future road widening requirements to the satisfaction of the Western Australian Planning Commission. (Western Australian Planning Commission).”

Members agreed to support the recommendation to delete Advice Note 6 and all other terms and conditions remain as per the February 2019 subdivision approval for Lot 803 Marsh Road, West Pinjarra.

Moved by Ms Adair

Seconded by Mr Thornton

The Statutory Planning Committee resolves to substitute Condition 1 with the following condition:

“The land required for the widening of Greenlands Road as shown on the plan dated 17 October 2018 (attached) is to be set aside as a separate lot for acquisition pending future road widening requirements to the satisfaction of the Western Australian Planning Commission. (Western Australian Planning Commission).”

And delete Advice Note 6. All other terms and conditions remain as per the Western Australian Planning Commission's original decision dated 1 February 2019 for the subdivision approval for Lot 803 Marsh Road, West Pinjarra.

The motion was put and carried

8.4 Proposed Subdivision - Lot 9056 Youle Dean Road, Brabham

This item was withdrawn prior to the meeting.

8.5 Proposed Subdivision - Lot 326 Bournebrook Avenue, Cardup

Members discussed the sewer and flood plain mapping and queried how the flood plain mapping was not conducive. Members discussed how the lot may be subject to minor levels of inundation in a one in a hundred years flood event, however following discussion and agreement with the Department of Health there was no objection to the subdivision and suitability of the site. It was noted that the 600 millimetres in fill achieved the minimum habitable floor levels for the site.

Members agreed to endorse the recommendation of the Department of Planning, Lands and Heritage.

Moved by Ms Lyhne

Seconded by Ms Creevey

That the Statutory Planning Committee resolves to approve the application for subdivision of Lot 326 Bournebrook Avenue, Cardup (as shown on the plan date stamped 10 May 2019 subject to the following conditions:

CONDITION(S):

1. The land being filled, stabilised, drained and/or graded as required to ensure that
 - a. *lots can accommodate their intended development; and*
 - b. *finished ground levels at the boundaries of the lot(s) the subject of this approval match or otherwise coordinate with the existing and/or proposed finished ground levels of the land abutting; and*
 - c. *stormwater is contained on-site, or appropriately treated and connected to the local drainage system (Local Government)*
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. *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).*
4. *Prior to commencement of subdivisional works, a detailed plan identifying building envelope(s) on all lots on the approved plan of*

subdivision is to be prepared in consultation with the local government to ensure the appropriate siting of development, to the satisfaction of the Western Australian Planning Commission. (Local Government)

5. *The landowner/applicant shall provide a written undertaking to the satisfaction of the Western Australian Planning Commission to advise prospective purchasers of the provisions of the local government's local planning scheme that relate to the use and management of the land. (Local Government)*
6. *A restrictive covenant, to the benefit of the local government, pursuant to section 129BA of the Transfer of Land Act 1893 is to be placed on the certificate(s) of title of the proposed lot(s) advising of the existence of a restriction on the use of the land.*

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

'No buildings and effluent disposal systems are to take place outside the defined building envelope(s), unless otherwise approved by the local government.' (Local Government)

7. *Information is to be provided to demonstrate that the measures contained in Section 4 of the approved bushfire management plan have been implemented during subdivisional works. This information should include a completed 'Certification by Bushfire Consultant' from the bushfire management plan. (Local Government)*
8. *A notification, pursuant to Section 165 of the Planning and Development Act 2005 is to be placed on the certificate(s) of title of the proposed lot(s) with a Bushfire Attack Level(BAL) rating of 12.5 or above, 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 land is within a bushfire prone area as designated by an Order made by the Fire and Emergency Services Commissioner and may be subject to a Bushfire Management Plan. Additional planning and building requirements may apply to development on this land". (Western Australian Planning Commission)

9. *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)*
10. *The proposed access way(s) being constructed and drained at the landowner/applicant's cost to the specifications of the local government. (Local Government)*

11. The landowner entering into an agreement with the local government to ensure reciprocal rights of access over adjoining battle-axe access ways. (Local Government)

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). As such, an on-site secondary treatment and disposal system for sewage (which includes nutrient removal) will be required. Therefore, the developable area of the lot is reduced. There are ongoing landowner obligations to ensure that the treatment and disposal system is regularly maintained in accordance with relevant health regulations. Contact the local government for further information.' (Local Government)

13. *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 mains potable water supply is not available to the lot/s.' (Local Government)

14. *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)*

15. *The transfer of land as a Crown reserve free of cost to Western Power for the provision of electricity supply infrastructure. (Western Power)*

ADVICE:

1. Further to Condition 4, building envelopes require sufficient separation from lot boundaries to ensure optimal functionality of effluent disposal systems. *Contact the local government for further information.*

2. *In regard to Condition 7 approved Bushfire Management Plan is the report prepared by Green Start Consulting dated 16 August 2019.*

3. In regard to Condition 14, Western Power provides only one underground point of electricity supply per freehold lot.

4. *The Department of Water and Environmental Regulation recommend that any proposed development (i.e. filling, building, etc) be located in the portions of the Lot which are outside of the 1% Annual Exceedance Probability (AEP) floodplain. A minimum habitable floor level of 500 mm above the relevant estimated flood*

level is required for any such residential development to ensure adequate flood protection.

The motion was put and carried

8.7 Local Structure Plan Proposal - Mount Helena

This item was withdrawn prior the meeting.

8.8 Local Structure Plan - Department of Communities and Peet - First Stage, Lot 10 Woolcott Avenue, Lot 354 and 355 Murray Road, Brabham

Members discussed the first stage of the Local Structure Plan and it was confirmed there are three stages to the Department of Communities and Peet Brabham Local Structure Plan.

Members queried the Public Open Space provision of the Structure Plan and it was noted that the City of Swan support POS two and three and recommend changes to POS four and five.

Members discussed the linear open space corridors adjoining major roads. It was noted that the applicant is prepared to increase the area of POS four to 1.5 hectares to address the City's modifications regarding minimum area. Members discussed liveable neighbourhoods and the allowance for restrictive open space.

Members discussed drainage of the site through pipes and channels designed as bio retention areas, it was noted that in a one in five-year event water impact would be reduced in 24 hours.

Members discussed how POS two connects to an adjoining lot owned by the Department of Communities and POS along Woolcott Avenue will be extended through the cell and created similar to POS three.

Members discussed the size of the Structure Plan and it was noted it is smaller than anticipated due to water allocation in the area. It was noted the open space accommodated a creek and due to this the green space is smaller, and will incorporate constructed wetlands. It was noted the layout of the POS varies from the District Planning Scheme to allow more lots to be within 400 metres of the POS.

Members agreed to endorse the recommendation of the Department of Planning, Lands and Heritage.

Moved by Ms Adair

Seconded by Mr Iacomella

That Statutory Planning Committee resolves to:

- 1. require the applicant to modify the First Stage Brabham Local Structure Plan in accordance with the Schedule of Modifications, appended as Attachment 7 and be resubmitted to the Commission for approval. Following the completion of the modifications, upon approval of the structure plan, the approval shall be valid for a period of 10 years; and*
- 2. advise the City of Swan of its decision.*

The motion was put and carried

9.3 City of Swan – Local Planning Scheme No. 17, Amendment No. 142 – For final determination

THIS ITEM IS CONFIDENTIAL

Mr Davies left the meeting at 12:13pm and did not return

10. Reports for noting

Nil.

11. Stakeholder engagement and site visits

Nil.

12. Urgent or other business

Nil.

13. Items for consideration at a future meeting

Nil.

14. Meeting closure

The next ordinary meeting is scheduled for 9:30am on Tuesday, 21 January 2019.

There being no further business before the Committee, the Chairman thanked members for their attendance and declared the meeting closed at 12:20pm

CHAIRMAN

DATE

REPORT TO	Statutory Planning Committee		
Meeting date	21 January 2020	File number	22-50215-1
Subject	Development Application for a Proposed Men's Shed		
Purpose	Requires WAPC decision		
Title of Approving Officer	Director - Metropolitan South and Peel		
Agenda Part for Reports (All parts are confidential unless otherwise stated) SPC - Non-Confidential (To be published to the website)			
SITE-SPECIFIC DETAILS			
Region/s	Perth		
Local government/s	City of Armadale		
Landowner/Consultant	Applicant - Kelvin Oliver Planning Consultant on behalf of Roleystone Men's Community Shed Inc. Landowner – Crown Land, vested in City of Armadale		
Bushfire Prone Area	YES		
SUMMARY			
<p>The Roleystone Men's Community Shed Inc. (RMCS) seeks development approval to erect a shed on Lot 3906 Springdale Road, Karragullen (Reserve 44389). The shed is intended to be a venue for meetings, manual arts and leisure activities (see Attachment 1 – Proposed Development, Attachment 2 – Location plan and Attachment 3 – Aerial Plan).</p> <p>The land falls within the State Forests reservation in the Metropolitan Region Scheme (MRS). It also falls within the Special Control Area – Water Catchments classification. The land is identified as bushfire-prone whereby <i>State Planning Policy 3.7 – Planning in Bushfire Prone Areas</i> (SPP 3.7) applies. In this respect, the proposal does not comply with Element 3 – Vehicular Access of SPP 3.7.</p> <p>The application is presented to the Statutory Planning Committee for consideration as the proposal will intensify the use of a Bushfire Prone site, is not consistent with all provisions of SPP 3.7 and proposes a performance based solution. The recommendation is for refusal as the performance based solution is not considered acceptable and the proposed development does not warrant a deviation from SPP 3.7.</p>			
DETAILS OF PROPOSAL			
<p>The proposal is located on a reserve known as Springdale Park which is located approximately 1 kilometre by road north-east of Roleystone. Springdale Park currently accommodates a large football oval that users divide into smaller fields for junior games and other sports when necessary, and a two-storey, 420m² building containing changerooms and spectator facilities. The western portion of the site is licensed as a small-scale solid waste depot, transfer station and green-waste mulching facility under the <i>Environmental Protection Act 1986</i> and operated by the City of Armadale (the City).</p> <p>The proposed development comprises a 30m x 15m (462m²) single-storey steel shed with a maximum height of 6 metres, and includes:</p> <ul style="list-style-type: none"> • parking for 18 vehicles; • a 25,000 litre non-potable water tank (3.7m diameter x 2.55m high); with • a septic tank leach-drain effluent system and stand-alone electricity generator. 			

Internally, the proposed shed includes a meeting/kitchen area, woodwork and metalwork rooms, and a games/computer area; the building has an estimated cost of \$200,000.

The shed is proposed to be located in a cleared area between the main internal access road and the fence around the south west edge of the football oval.

Hours of operation are proposed to be from 9am to 12pm on Tuesdays, Thursdays and Saturdays with a monthly Friday meeting from 4pm to 6pm. In 2018, RMCS had 88 members with an average attendance of 15 members per meeting.

Access to the site is via Springdale Road; a road carriageway that becomes a forest track. Its entrance is located on Springdale Road, approximately 560 metres from the Chevin Road intersection.

BACKGROUND

The RMCS is a not-for-profit organisation staffed by volunteers, established in 2011. It currently operates from the former Roleystone Primary School but has been searching for a site suitable for permanent premises since 2011.

In 2013, the City endorsed the *Cross Park Master Plan* which identified a site at Cross Park, in Roleystone, for a men's shed and other community uses. In 2016, the City approved a men's shed at Cross Park under the local planning scheme. The RMCS ultimately considered this building was too small and decided not to locate at Cross Park. Another community group has since established itself there.

In August 2017, the City approved a men's shed in Thompson Road, Roleystone. However, following negotiations with the landowner regarding lease conditions, the RMCS decided not to proceed with the Thompson Road option.

To summarise, the City has investigated 13 potential sites within the locality since 2011 however the sites were either not fit-for purpose or were subject of leasing/management or other site constraints.

In January 2018, RMCS approached the City proposing to establish its facilities at Springdale Park, leading to the present application. The City has assisted the applicant to pursue this application and has outlined its position of support.

KEY ISSUES

Consistency with WAPC Policies & Planning Framework	<i>State Planning Policy 3.7 – Planning in Bushfire Prone Areas</i>	Broadly inconsistent
Government Considerations	N/A	N/A
Budget	None	
Consultation	<p><i>The City of Armadale and the Department of Biodiversity, Conservation and Attractions raise no objection to the proposal.</i></p> <p><i>The Department of Fire and Emergency Services does not support the proposal and advises modifications are required as the development design does not meet the intent of Element 3 – Vehicular Access.</i></p> <p><i>The Department of Water and Environmental regulation advises that there is a possibility of site contamination due to possible historic waste disposal and recommends any approval should include conditions and appropriate advice.</i></p>	

PLANNING ASSESSMENT

Consideration under the Metropolitan Region Scheme

The general planning considerations related to the MRS are outlined below:

State Forests Reservation

The land falls within the State Forests reservation of the MRS. In this respect, the WA Regional Forests Agreement provides a strategic framework for delivering ecologically sustainable forests. One of its key elements is the identification of multiple-use forests outside reserves dedicated to conservation and production uses.

Springdale Park falls outside areas identified for conservation and production and is vested in the City of Armadale for 'Recreation'. Accordingly, a community purpose underpinned by recreational activities at this location is considered to be compatible with the principle of multiple use of land within State forests.

The Department of Biodiversity, Conservation and Attractions raises no objection to the proposal.

Special Control Area – Water Catchments Classification

The Department of Water and Environmental Regulation (DWER) has assessed the suitability of the site for a men's shed across a range of environmental parameters in addition to water catchment protection. Importantly, DWER advises of the possible contamination of land within the reserve as a result of the depositing of chemical, domestic, agricultural and industrial waste prior to 1973. Further, it is unclear whether the site of the men's shed was subject to past landfilling activities and it advises that ideally, further work should be undertaken to determine the contamination status of the site prior to further development.

Notwithstanding the uncertainty in respect of the contamination of the site, DWER has also advised that the building could be at risk of ground gas intrusion and accumulation unless the building is constructed in a manner that ensures adequate ventilation. In this respect, it advises that the proposed structure appears to have good passive ventilation and is therefore unlikely to represent a risk. However, DWER recommended a management plan be prepared to address this issues and ensure ongoing management/reduced risk of gas intrusion and accumulation.

Whilst the ventilation issue appears to be manageable when considered as an isolated issue, the ongoing surety of adequate passive ventilation within the building is at odds with the need to insulate the structure against fire and smoke in order to address non-compliance with SPP3.7, which is further discussed below.

State Planning Policy 3.7 – Planning in Bushfire Prone Areas

Springdale Park is identified as Bushfire Prone on the State Map of Bushfire Prone Areas. The applicant has submitted a Bushfire Management Plan (BMP). This proposes assessment utilising 'Performance Principles' rather than demonstrating compliance with the 'Acceptable Solutions' of the *Guidelines for Planning in Bushfire Prone Areas* (the Guidelines).

Assessment of the proposal against the Individual Elements are outlined below.

Evaluation of Bushfire Management Plan –

Element 1 – Location

The intent of the element is as follows:

“To ensure that strategic planning proposals, subdivision and development application are located in areas with the least possible risk of bushfire to facilitate the protection of people, property and infrastructure”

The *Position Statement: Planning in Bushfire-prone Areas – Demonstrating Element 1: Location and Element 2: Siting and Design* states that, to demonstrate compliance with Element 1: Location, “the hazards remaining within the site should not be considered in isolation of the hazards adjoining the site”.

In this respect, the site adjoins Korung National Park (Class A reserve) to its west, north and east, and heavily-vegetated holdings to its south. The site is surrounded by extreme-hazard vegetation (Class A Forest) and therefore does not comply with Element 1.

Element 2 – Siting and Design

The intent of the element is as follows:

“To ensure the siting and design of development minimises the level of bushfire impact”

The BMP proposes modification of some trees within the asset protection zone in order to reduce risk. By incorporating an asset protection zone, the BAL rating can be reduced to BAL-29.

Element 3 – Vehicular Access

The intent of this element is as follows:

“To ensure that the vehicular access serving a subdivision/development is available and safe during a bushfire event.”

Acceptable solutions for this element require two access routes and a maximum dead-end road/cul-de-sac length of 200 metres.

In this respect, the development is non-compliant as only one access route is available (Springdale Road) and this is, in effect, a dead-end road where the park entrance is located approximately 560 metres from Chevin Road. This exceeds the acceptable length of 200 metres.

Performance Principle-Based Solutions / Reasons for Non-compliance –

As an alternative to meeting the above ‘acceptable requirements’, the BMP has put forward performance principle-based solutions. In this respect, the performance principle for Element 3 – Vehicular Access is as follows:

“The internal layout, design and construction of public and private vehicular access and egress in the subdivision/development allow emergency and other vehicles to move through it easily and safely at all times”.

During processing of the application, the applicants withdrew one of the originally-proposed performance based solutions (to take refuge in the centre of the football oval) as they were advised by the department that this solution was unacceptable. Subsequently, reasons/justification have been provided in lieu of being able to achieve compliance with acceptable solutions. These do form part of the BMP.

Accordingly, the remaining performance principle-based solutions/reasons put forward as an alternative to meeting the ‘acceptable solutions’ for Element 3 – Vehicular access are as follows:

1. The men’s shed will remain closed on any days when a Total Fire Ban has been declared.
2. The shed is for the use of mature adults who mainly live in the Roleystone area and are very familiar with bushfire issues.
3. Bushfires do not happen spontaneously and there are adequate time periods for the members to enact evacuation procedures well ahead of a fire.
4. The shed is not a personal possession of members and therefore does not need to be

protected.

5. If required as a condition of approval, the structure can be built to a bushfire construction standard. Acknowledging this may increase building costs (said to be by about \$5,000), the RMCS consents to an appropriate condition being applied in the event of an approval being issued.

The Department of Fire and Emergency Services (DFES) has reviewed the application, the BMP and the proposed performance principle-based solutions/reasons provided by the applicant and advises that the proposed measures are insufficient and inadequate. DFES further advises that performance principle-based solutions (i) are not a justification for non-compliance and, (ii) must provide substantiated evidence and clearly demonstrate/document how the solution can meet or exceed the intent of the 'element' and objectives of SPP3.7; the solutions/reasons provided do not comply in this respect. On this basis, DFES does not support the application.

Having regard for these requirements, the following departmental comments are provided in regard to performance principle-based solutions put forward and/or reasons for non-compliance:

1. The occurrence of bushfires is not confined to days when a Total Fire Ban has been declared.
2. The familiarity of a locality/background of those who attend the men's shed is not an alternative solution or action, nor is their evidence to suggest the risk of fatality or injuries is significantly reduced on this basis. Rather, fatalities and injuries still have the potential to occur when premises subject to high bushfire risk are used by people who mainly live in the area, notwithstanding that they may be very familiar with bushfire issues.
3. The contention about lead-times available for evacuation procedures is not an alternative solution and is put forward as justification for non-compliance. The reserve is almost entirely surrounded by forest with considerable/dense understorey. In these circumstances, bushfires can start, intensify and move very quickly, leaving minimal time and opportunity for safe evacuation.
4. The view that the shed does not require protection is not an alternative solution and is put forward as justification for non-compliance. Although the shed is not a personal possession of members, this does not exclude a predisposition of some parties to:
 - o protect an asset in which they have a personal stake (as distinct from ownership); and/or
 - o protect and/or retrieve personal possessions within a building they do not own.

Additionally, the objective of SPP 3.7 is 'to protect life, property and infrastructure'. Accordingly, approval of a development on this basis that the building does not need to be protected remains inconsistent with the objectives of the policy.

5. Insufficient evidence has been provided to show that the structure can be built to a practical and cost-effective bushfire construction standard. Also, measures to insulate the building against fire and smoke would affect the ventilation requirements outlined by DWER in order to avoid potential ground gas intrusion and accumulation. While other methods to address ground gas intrusion may be available, insufficient evidence has been provided to show that these can be implemented in a cost-effective way in conjunction with a suitable bushfire construction standard.

Having regard for the above, the proposed 'performance-principle based solutions' do not adequately address the performance principle by demonstrating how the access allows vehicles to move through it easily and safely at all times.

Examination of Possible Second Access Route –

The City of Armadale owns Lot 2 which is located directly south of the site (see Attachment 2). An 20 metre wide unconstructed road reserve to the south connects Lot 2 with Chevin Road. Accordingly, the potential for an 'Emergency Accessway' through this land has been examined.

Although this route would traverse an area that is also classified as an extreme hazard, it could provide a secondary access in an emergency and DFES is supportive of this access if it could be secured and were constructed to the appropriate standard. SPP 3.7 Guidelines would require a 6 metre wide trafficable surface for such an access together with horizontal and vertical clearances.

The works required to facilitate a secondary/emergency access through Lot 12 and the unconstructed road reserve would involve considerable expense, require extensive clearing of remnant vegetation and offset requirements may arise through the (Commonwealth) *Environmental Protection and Biodiversity Conservation Act 1999*. Even if the funding and environmental constraints could be overcome, the City has advised that it is not supportive of using any portion of the unconstructed road reserve to facilitate a secondary/emergency access way. Unfortunately, obtaining a secondary, emergency access to the site does not appear to be a viable or legitimate solution at this time.

Evaluation of the proposal as Minor Development / Unavoidable Development –

Clause 6.7 of SPP 3.7 provides that development may be permitted in locations with a high BAL assessment if considered to be ‘minor’, or ‘unavoidable’.

The City has advised that it considers the proposal to be minor as there would be an approximate 10% increase of user numbers at Springdale Park per week.

However, the department does not agree that the proposed development could be considered minor for the following reasons:

- The proposal is to construct a new 460m² building with an approximate cost of \$200,000. This development constitutes a large building with a considerable footprint that will also contain goods and equipment of additional value. This is not a small addition to an existing building or a trivial figure should the infrastructure need to be replaced; and
- Notwithstanding the average attendance of 15 members per meeting, the community organisation currently has 88 members and presumably would seek to grow its membership over time. Restricting attendance (to no more than 15 members at a time, or thereabouts) in an attempt to be deemed ‘minor’ is considered challenging, difficult to ensure compliance and would be problematic for the future growth and potential of the organisation.

In respect of the development being ‘unavoidable’, the definition within SPP 3.7 states –

“development that, in the opinion of the decision-maker, represents exceptional circumstances where full compliance with this policy would be unreasonable; no alternative location exists; it is not minor development; and is not contrary to the public interest.”

The Guidelines also provide examples of unavoidable development which may include *“critical State infrastructure...development associated with the preservation of historical or cultural sites, or emergency services such as evacuation centres, fire stations/brigades, police or ambulance facilities”*.

As the proposed development is not comparable with the examples of State infrastructure outlined in the Guidelines, nor is it dependent on having a bush/forestry setting, the site selected to accommodate the RMCS development is considered avoidable.

In respect of avoidance and exploration of other potential and suitable sites, the City advised that it has investigated 13 other sites as options for the RMCS ahead of promoting this site. Whilst it appears that the other sites did not meet the needs of the RMCS or exhibited constraints that prevented those options from being advanced, this site is similarly not considered to be an appropriate fit for the RMCS given the intensification that would occur on a site subject to extreme bushfire risk, and the potential risk to life and property from bushfire, particularly where an appropriate secondary access cannot be secured to comply with the Element 3 of SPP3.7 Guidelines.

Conclusion

The proposed development is located in a high-risk area as it is surrounded by extreme hazard vegetation. It therefore conflicts with Element 1 of the Guidelines. As the site only has one access and no achievable second access is available, it also conflicts with Element 3 of the Guidelines.

The proponent has sought to demonstrate that the development could satisfactorily meet performance principles however, the measures put forward for this purpose have been prepared by a Level 1 practitioner and not a Level 3 Bushfire Planning Practitioner. Notwithstanding, the proposals/considerations put forward to address performance principles do not have sufficient merit and are not supported by DFES or department officers. The proposed development is not considered minor, or unavoidable, thereby not warranting a variation to SPP 3.7 and the associated Guidelines. The approval of this development and the variations would also set an undesirable precedent. The proposal is recommended for refusal.

RECOMMENDATION

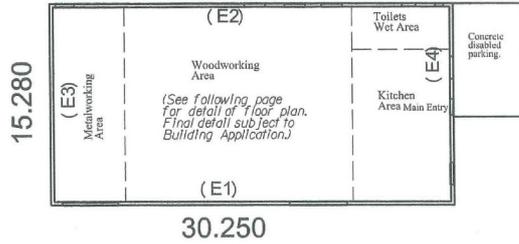
That the Statutory Planning Committee resolves to refuse the application for the proposed men's shed on Lot 3906 Springdale Road, Karragullen (Reserve 44389) for the following reasons:

- 1 The proposed development is inconsistent with State Planning Policy 3.7 – Planning in Bushfire Prone Areas and the Guidelines for Planning in Bushfire Prone Areas as it fails to meet the acceptable solutions for the following elements and thereby increases the threat of bushfire to people, property and infrastructure:***
 - i) Element 1 – Development Location: the development is surrounded by extreme-hazard vegetation and is neither minor or unavoidable which is contrary to the objective of locating development in areas with the least possible risk of bushfire to facilitate the protection of people, property and infrastructure, and***
 - ii) Element 3 – Vehicular Access: Springdale Road is a dead-end/cul-de-sac road greater than 200 metres in length and does not provide two-way access and, therefore, does not provide sufficient vehicular access and egress for users of the proposed development and emergency services in a bushfire prone area.***
- 2 The proposed development is inconsistent with State Planning Policy 3.4 – Natural Hazards and Disasters as it is not considered to minimise the adverse effects of natural disasters, including bushfires, on communities.***
- 3 Matters raised by the applicant as measures supporting approval on the basis of meeting performance principles do not have sufficient merit to justify approval on this basis.***
- 4 Approval of the development would set an undesirable precedent for approval to other similar development, thereby compounding the adverse outcomes in terms of bushfire considerations.***

ATTACHMENTS

Attachment 1 – Proposed Development
Attachment 2 – Location Plan
Attachment 3 – Aerial Plan

SPRINGDALE PARK -- ROLEYSTONE MENS SHED

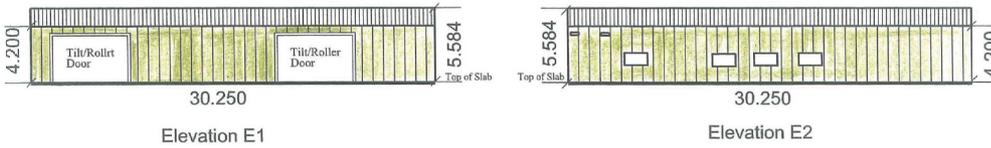
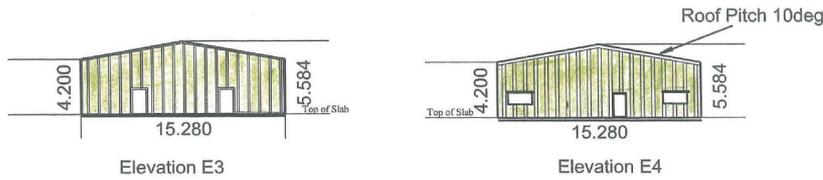


NOTES

For detailed dimensions refer to plans on following pages.

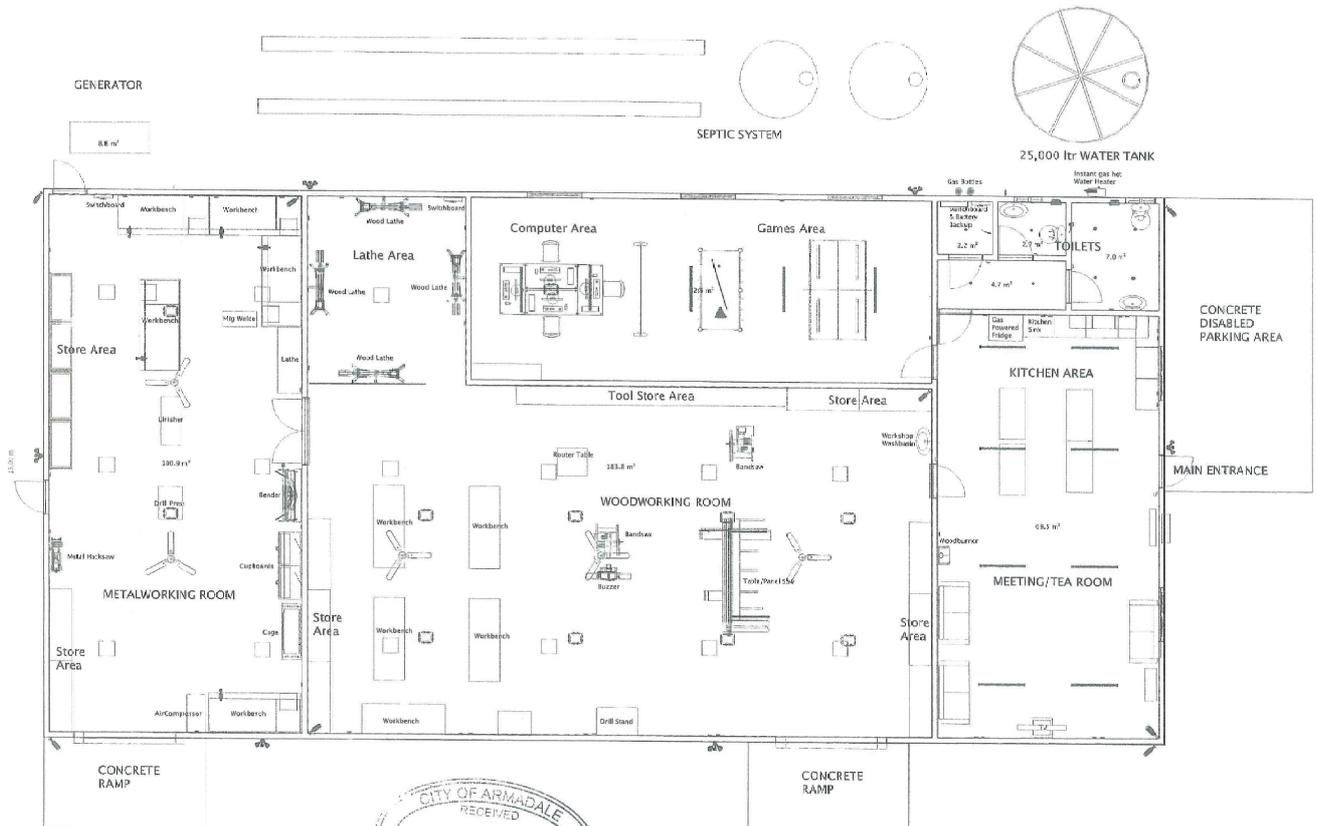
Roof and Wall cladding - to be 'Colorbond' Pale Eucalypt or pale tones (subject to availability).

All doors, windows and Roller type doors to be standard dimension fitting.

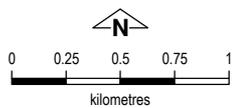
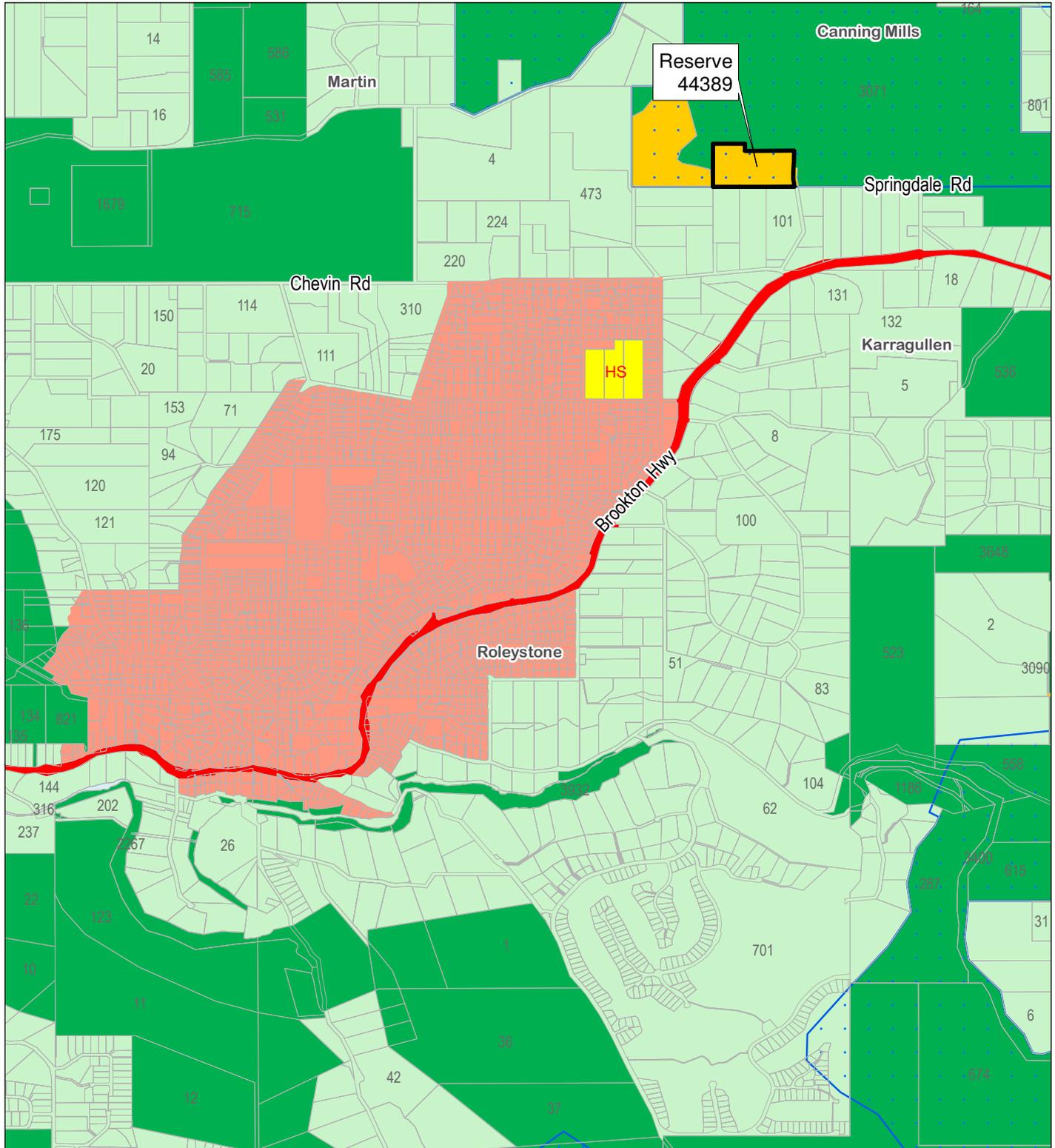


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DEPARTMENT OF PLANNING, LANDS AND HERITAGE
DATE 22-Feb-2019 FILE 22-50215-1



CITY OF ARMADALE RECEIVED
29 JAN 2019
DEPARTMENT OF PLANNING, LANDS AND HERITAGE
DATE 22-Feb-2019 FILE 22-50215-1



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Legend

Metropolitan Region Scheme

- | | | | |
|---|-------------------------------|---|------------------|
|  | Parks and recreation |  | State forests |
|  | Primary regional roads |  | Urban |
|  | Public purposes - high school |  | Waterways |
|  | Rural |  | Water catchments |



0 25 50 75 100
Metres

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(Scale 1:25,000; positional accuracy +/- 2m)

Legend

— Contours (5 metre)



REPORT TO	Statutory Planning Committee		
Meeting date	21 January 2020	File number	157749
Subject	Amendment to Local Development Plan - The Brook at Byford Plan 2 - Variations under Clause 7.3.2 of the Residential Design Codes		
Purpose	Requires WAPC decision		
Title of Approving Officer	Director, Metropolitan South and Peel		
Agenda Part for Reports (All parts are confidential unless otherwise stated) SPC - Non-Confidential (To be published to the website)			
SITE-SPECIFIC DETAILS			
Region/s	Perth		
Local government/s	Shire of Serpentine-Jarrahdale		
Landowner/Consultant	The Brook at Byford: Cedar Woods/Taylor Burrell Barnett		
Bushfire Prone Area	YES		
SUMMARY			
<p>The Western Australian Planning Commission (WAPC) has received an amendment to a Local Development Plan (LDP) from the Shire of Serpentine-Jarrahdale (the Shire) for its approval to vary deemed-to-comply provisions of State Planning Policy 7.3 – Residential Design Codes (R-Codes).</p> <p>The original LDP for the subject site, known as The Brook at Byford Plan 2, was approved by the Shire on 24 October 2015 and since that time the northern half of the LDP has almost been completely developed. The developer now proposes to market and develop lots in the southern half of the LDP area.</p> <p>Attachment 1 shows the location of the land subject to the proposed LDP and Attachment 2 is an aerial plan of the locality. The proposed amendment to the local development plan for The Brook at Byford is at Attachment 3.</p> <p>The amendment to the LDP proposes to vary the vehicular access provisions of the R-Codes to provide for contemporary design standards adopted in other LDPs throughout Shire. The variation is necessary to improve traffic safety and overcome unavoidable site constraints for specific lots.</p> <p>The Shire has recently prepared its draft Local Planning Policy 2.2 Residential Development Standards (R25 - R60) (LPP 2.2) which incorporates variations to the deemed-to-comply provisions that would otherwise need to be approved by the WAPC through LDPs. Draft LPP 2.2 was approved by the Shire for public advertising on 18 November 2019.</p> <p>It is anticipated that the WAPC will consider draft LPP 2.2 in early 2020, with the intent of removing the need for individual LDP's to be presented to WAPC on a regular basis, where variations to deemed-to-comply provisions are sought.</p>			
DETAILS OF PROPOSAL			
The current LDP contains provisions in relation to the following:			

- street setback requirements;
- lot boundary setbacks requirements;
- private open space and outdoor living areas;
- orientation to public open space; and
- location of vehicular access for certain lots.

Notwithstanding the above, the subject report only discusses those provisions of the LDP amendment, which propose to vary the deemed-to-comply provisions of the R-Codes and therefore require WAPC approval under Clause 7.3.2 of the R-Codes. These provisions relate only to 5.3.5 Vehicular Access provisions of the R-Codes for corner lots and for specific lots with access constraints.

BACKGROUND

The LDP area is zoned Urban under the Metropolitan Region Scheme. Under the Shire of Serpentine-Jarrahdale Town Planning Scheme No. 2, the Brook at Byford Plan 2 is zoned Urban Development and subject to structure plans. The LDP area is located at the urban front in the greenfield areas of Byford.

Structure Planning

The LDP area is contained within the Byford District Structure Plan (**Attachment 4**) and is identified for residential purposes with residential densities between R20 and R60. A local structure plan has also been prepared for the LDP area and is referred to as the Lot 2 Nettleton Road, Byford Local Structure Plan (**Attachment 5**). The local structure plan provides the planning framework for further subdivision and development.

The Brook at Byford Plan 2

The Brook at Byford residential estate is subject to two existing LDP's (Plans 1 and 2) dating from 2014 and are approximately 60% developed. The LDP's have contained R-Code variations since 2014 and relate to all lots within each progressive subdivision stage of the estate.

The LDP subject of this application (Plan 2) is proposing to vary vehicular access provisions of the R-Codes to provide for contemporary design standards that have been implemented in other LDP's in the Shire.

WAPC Referral

Historically R-Code variations have been applied through LDP's across the Shire's emerging greenfield areas. These LDPs have been approved by the Shire, but have historically not received WAPC approval as required under Clause 7.3.2 of the R-Codes. Housing development has proceeded on this basis and has been constructed on the ground in accordance with LDP provisions.

The Shire became aware of the need to refer LDPs to the WAPC for approval in 2016. The then Department of Planning advised that LDPs would not be supported where they proposed provisions which are inconsistent with Planning Bulletin 112/2016 Medium Density Single House Development Standards (RMD Codes). Since this time the Shire has been corresponding with the Department to resolve the issue and has continued to approve LDPs on the basis that these estates have historically been developed in accordance with these variations.

To remove the need for WAPC having to regularly consider individual LDPs for commonly approved variations to the R-Codes, the Shire has prepared a draft local planning policy outlining R-Code variations to be applied across the entire Shire. This is discussed further in the report

under the sub-section titled Draft Local Planning Policy 2.2 Residential Development Standards (R25 - R60).

Subdivision

The LDP is required to be prepared as a condition of subdivision approval to address R-Code variations related to vehicle access and facilitate contemporary house design on the proposed lots. The relevant subdivision plan is at **Attachment 6**.

KEY ISSUES

Consistency with WAPC Policies & Planning Framework	<i>Planning and Development Act 2005 Planning and Development (Local Planning Scheme) Regulations 2015 State Planning Policy 7.3 - Residential Design Codes</i>	Broadly consistent, some discretion required
Government Considerations	N/A	N/A
Budget	None	
Consultation	The Shire of Serpentine-Jarrahdale advised that it supports existing LDP provisions subject to minor modifications.	

PLANNING ASSESSMENT

State Planning Policy 7.3 – Residential Design Codes

Clause 7.3.2 of the R-Codes provides for the local government, with the approval of the WAPC, to amend deemed-to-comply provisions within the R-Codes by means of a LDP where it can be demonstrated to the satisfaction of the WAPC that the proposed variations:

- are warranted due to a specific need related to that particular locality or region;
- are consistent with objectives and design principles of the R-Codes; and
- can be properly implemented and audited by the decision maker as part of the ongoing building approval process.

The proposed R-Codes variations are currently implemented by the Shire through the building licence approval process. Development proposals for single dwellings are exempt from obtaining planning approval where they are consistent with an approved LDP. An assessment against the objectives and design principles of the R-Codes and the needs of the locality is contained in the sections below.

Planning Bulletin 112/2016 Medium Density Single House Development Standards (RMD Codes)

The RMD Codes provide a set of contemporary housing design provisions for R25-R60 density codes. They were prepared in response to the increased use of R-Code variations through LDP's and provide a basis for consistent application of medium density residential design across Western Australia.

Vehicular access provisions in the RMD codes relate to garage setback and width and are not relevant to the proposed LDP variations which relate to the location of the vehicular access points. Whilst the variations proposed in the LDP are not specifically identified in the RMD Codes, they are considered to broadly align with the intent of the RMD framework which seeks to provide for contemporary housing development at medium densities. More specifically the RMD Codes consists of variations that have previously been implemented in residential estates that have demonstrated good amenity outcomes.

Local Development Plan Framework

The WAPC's Local Development Plan Framework (WAPC 2015) states:

A local development plan is to be used in limited situations to guide and coordinate development outcomes for a particular site, and is not to be used purely as a means to vary the deemed-to-comply provisions of the R-Codes. It is only to apply to specific lots, or group of lots, and not to entire housing estates or subdivision stages within a development.

Some lots within the proposed LDP amendment require special design provisions due to their location abutting public open space or where access may be prevented by retaining walls, however the LDP covers a whole stage, as opposed to lots with site specific opportunities or constraints. Accordingly, the proposed LDP amendment is inconsistent with WAPC's LDP Framework.

Since the preparation of the LDP Framework in 2015 and RMD Codes in 2016 the Department has advised the Shire that LDPs should be phased out and that the RMD Codes should be adopted as a local planning policy to provide for contemporary residential design. However, the Shire does not support the RMD codes in its entirety, raising concerns with loss of an open country character, the loss of space for trees and landscaping and the proliferation of crossovers. The DPLH has been working with the Shire with the aim of progressing an acceptable LPP, thereby reducing the need for excessive numbers of LDPs being presented to the WAPC for determination.

Draft Local Planning Policy 2.2 Residential Development Standards (R25 - R60)

On November 18, 2019 the Shire resolved to advertise draft LPP 2.2 Residential Development Standards (R25 - R60) for public comment. The purpose of draft LPP2.2 is to outline the position of the Shire with regard to residential development standards that vary the R-Codes for lots with an R-Code of R25 – R60. Importantly, the policy aims to eliminate the need for the ongoing use of LDPs to be prepared and approved at each subdivision stage. To this end LPP 2.2 includes variations to the deemed-to-comply provisions of the R-Codes that require WAPC approval.

It is envisaged that LPP 2.2 Residential Development Standards (R25 - R60) will be presented to the WAPC early 2020. Should the WAPC approve LPP 2.2, the number of LDPs requiring approval to facilitate R-Code variations should be substantially reduced.

Assessment under Part 7 of the R-Codes (Vehicular Access)

The R-Codes deemed-to-comply provisions 5.3.5 C5.1 require vehicular access to be derived from the secondary street; under C5.2 driveway widths are required to be a minimum of 6m at the street boundary or a maximum width of 9m in aggregate; and under C5.3 driveways are to be no closer than 6m from street intersections or 0.5m from a side lot boundary. The LDP proposes to vary these provisions for the R20, R40 and R60 density coded lots.

The above provisions are required to be varied for the following reasons:

- Vehicular access cannot always be achieved from a secondary street (of a corner lot) due to side lot boundary retaining walls required to achieve level blocks on sloping land or for drainage purposes. In some situations, the vehicular access location to the secondary street is also restricted due to the presence of truncations and/or pram ramps.
- Vehicular access points for corner lots can also be difficult to achieve from the secondary street where narrow lot frontages make it difficult to ensure access is located 6m away from the intersection.

- Specific lots on the LDP (other than corner lots) are constrained by the relationship between lot configuration and road frontage and therefore require a unique shared crossover and driveway arrangement to improve traffic safety and reduce conflict between neighbouring properties.

Shires assessment

The Shire is supportive of the variations proposed on the LDP amendment, however it requests that the LDP be modified to show designated garage locations for specific lots on the proposed LDP. Garage locations for these lots are marked in red on the proposed LDP amendment at **Attachment 3**. As the location of garages typically correlates with the location of vehicular access points, it is recommended that the proposed LDP amendment as shown in Attachment 3 be modified to show garage locations (marked in red) to determine vehicle access points.

The relevant Objectives and Design Principles of the R-Codes are as follows:

Objectives

To ensure access to housing provides for security, safety, amenity and legibility to on-site car parking areas and footpaths for residents and visitors.

Design Principles

- *vehicle access safety;*
- *reduced impact of access points on the streetscape;*
- *legible access;*
- *pedestrian safety;*
- *minimal crossovers; and*
- *high quality landscaping features.*

The variations proposed in the LDP are consistent with the above objectives and design principles and are justified as they provide safe and legible vehicle access and allow for unavoidable site specific considerations (such as side retaining walls). The variations are also generally consistent with the intent of the RMD Codes that provides for contemporary design standards that have been implemented in other LDPs throughout the Shire. As such it is recommended that the amendment to the LDP for The Brook at Byford Plan 2 be approved, subject to minor modifications at **Attachment 3**.

Conclusion

The amendment to the LDP for The Brook at Byford Plan 2 requires WAPC approval for variations to deemed-to-comply R-Codes requirement for vehicular access. These variations are supported as they are considered consistent with the objectives and design principles of the R-Codes and generally consistent with the RMD Codes.

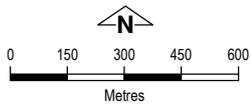
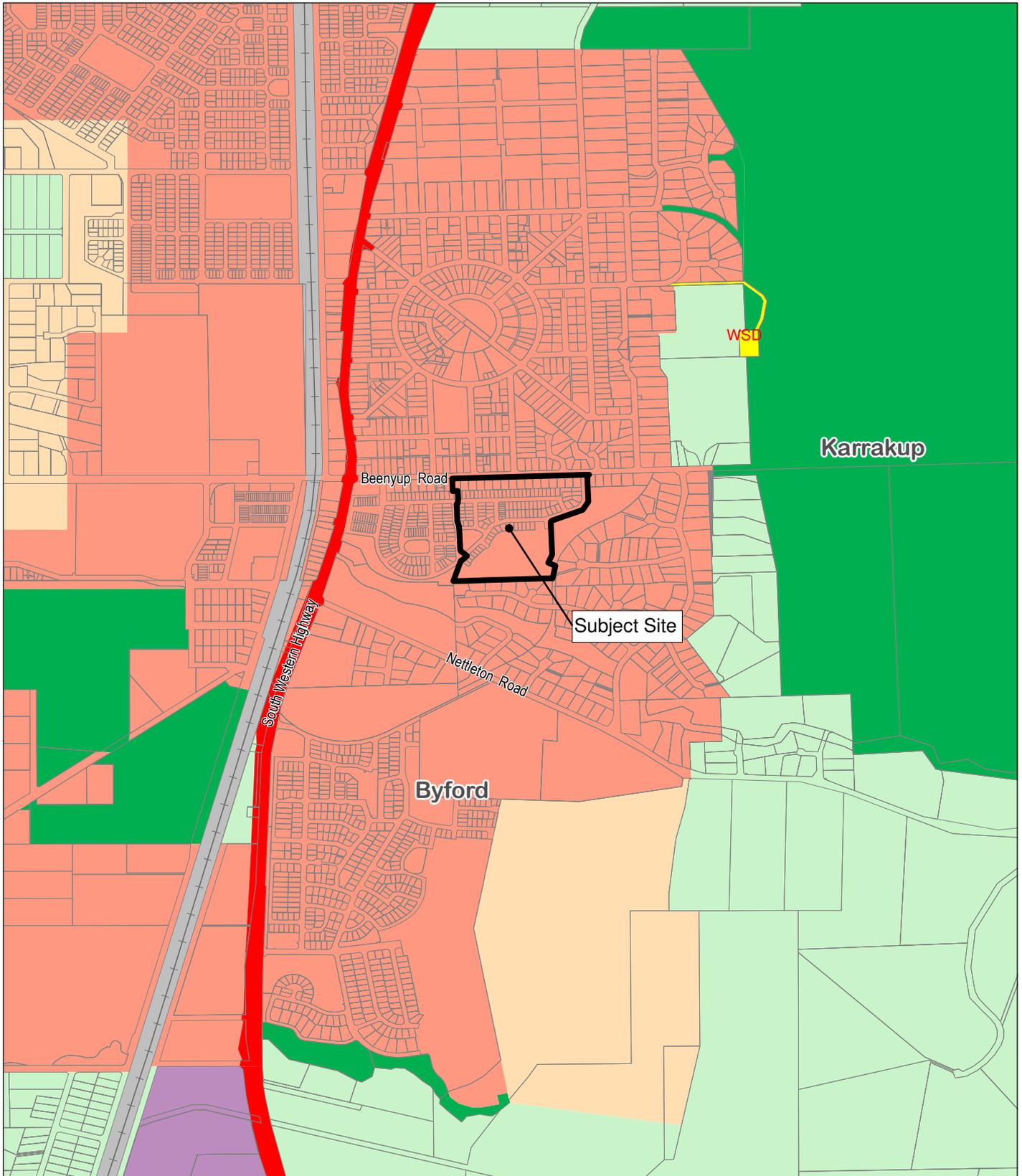
RECOMMENDATION

That the Statutory Planning Committee resolves to approve the amended deemed-to-comply provisions proposed by the amendment to The Brook at Byford Plan 2 Local Development Plan, at Attachment 3, pursuant to Clause 7.3.2 of State Planning Policy 7.3 - Residential Design Codes subject to the following modifications:

- 1. Show vehicular access and garage locations for those Lots marked in red at Attachment 3.***

ATTACHMENTS

- A1 - Location Plan
- A2 - Aerial
- A3 - The Brook at Byford Local Development Plan
- A4 - The Byford District Structure Plan
- A5 - The Lot 2 Nettleton Road Local Structure Plan
- A6 - Subdivision WAPC Ref 157749



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Legend



Subject Site

Metropolitan Region Scheme



Industrial



Parks and recreation



Primary regional roads



Public purposes - Water Authority of WA



Railways



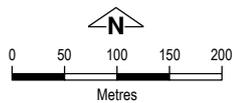
Rural



Urban



Urban deferred



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 (Scale 1:25,000; positional accuracy +/- 2m)

Legend

 Subject Site

Local Development Plan R-Code Variations

1 SCHEME AND RESIDENTIAL DESIGN CODE VARIATIONS

- 1.1 Town Planning Scheme No.2 and the Residential Design Codes are varied as described in these notations.
- 1.2 The requirements of Town Planning Scheme No.2 and the Residential Design Codes shall be satisfied in all other matters.

2 R-CODING

Lots Applicable	R-Code Density
Lots 173-180, 221-224, 266-274, 312-317, 319-330, 332 & 334	R20
Lots 147-172	R30
Lots 209-220, 225-233, 257-265, 275-289, 291-292, 297-298, 300-303 & 305-311	R40
Lots 181-208, 234-256 & 293-296	R60

3 STREETScape REQUIREMENTS

Setbacks	Lots Applicable	Minimum	Maximum	Averaging	
Primary Street	Dwelling	R20 Lots (excluding Lot 274)	4.0m	N/A	<ul style="list-style-type: none"> Averaging is not permitted to minimum.
	Garage	Squat Lots: Lots 218-220, 257, 258, 274-276, 281-289, 291-292, 297, 298, 300, 301 & 306-309	2.0m	N/A	<ul style="list-style-type: none"> Averaging is not permitted to minimum.
		R60 Lots	2.0m	N/A	<ul style="list-style-type: none"> Averaging is not permitted to minimum.
Secondary Street	Building	R20 Lots (excluding Lot 274)	4.5m	N/A	<ul style="list-style-type: none"> May be reduced to 4.0m where an existing or planned footpath is located more than 0.5m from the street boundary.
		Squat Lots: Lots 218-220, 257, 258, 274-276, 281-289, 291-292, 297, 298, 300, 301 & 306-309	3.5m	N/A	N/A

- 3.1 Dwellings are required to suitably address all adjacent street frontages as indicated to maximise visual surveillance. All visible house elevations (from building line to erected fence) from the secondary street shall feature a suitable level of detail in a manner consistent with the primary street elevation.
- 3.2 For all lots, no adjoining neighbour consultation is required where garages are built to one side boundary.

4 BOUNDARY SETBACK REQUIREMENTS

Setbacks	Lots Applicable	Requirements
Buildings on boundary (other than street boundaries)	Squat Lots: Lots 218-220, 257, 258, 274-276, 281-289, 291-292, 297, 298, 300, 301 & 306-309	<ul style="list-style-type: none"> Permitted to one side boundary only, for a maximum total length determined by the front and rear setbacks. Buildings built up to a second side boundary are permitted for the purposes of a garage/store only - 9.0m maximum length.
	R30, R40 and R60 Lots (excluding lots identified above)	<ul style="list-style-type: none"> Permitted to one side boundary only, for a maximum total length determined by the front and rear setbacks.

5 OPEN SPACE REQUIREMENTS

Lots Applicable	Minimum	Requirement
R20	40%	<ul style="list-style-type: none"> Outdoor Living Area (OLA) shall be located to maximise northern or eastern solar access.
R30 and R40 Lots	35%	
R60 lots	30%	

6 PUBLIC OPEN SPACE INTERFACE

- 6.1 Dwellings on Lots 332 and 334 adjoining public open space (POS) are to be designed to provide passive surveillance of the POS by incorporating:
 - At least one major opening to a habitable room with a clear view to the POS;
 - An outdoor living area located adjacent the POS and not obscured by visually impermeable fencing; and
 - Visually permeable fencing (in accordance with clause 5.2.4 of the R-Codes) to at least one third of the side boundary length adjoining the POS.

7 VEHICULAR ACCESS

- 7.1 Vehicular access for Lots 281-285 is preferred in the locations depicted on this LDP. A shared crossover is required for Lots 283 and 284.
- 7.2 Access to on-site car parking for corner lots may be provided from the primary or secondary street, except where No Vehicle Access Permitted is annotated on the LDP.
- 7.3 Where access to on-site car parking is provided from the primary street frontage, it may be located closer than 6 metres to a street corner or the point at which the carriageway begins to deviate. This represents an acceptable variation to the R-Codes clause 5.3.5.



Legend

- Extent of Local Development Plan
- R20 Subject Lots
- R30 Subject Lots
- R40 Subject Lots
- R60 Subject Lots
- Indicative Retaining Wall Locations (by developer)
- Primary Building Orientation
- Secondary Building Orientation
- No Vehicle Access Permitted
- Vehicle Access Point
- Shared Crossover Required
- POS interface provisions apply
- Bushfire management setbacks apply to Eastern boundary - refer to BMP



LOCAL DEVELOPMENT PLAN 2
The Brook at Byford



ENDORSEMENT TABLE
Detailed Area Plan approved pursuant to Cl 5.18.5.1 (c) of Town Planning Scheme No. 2

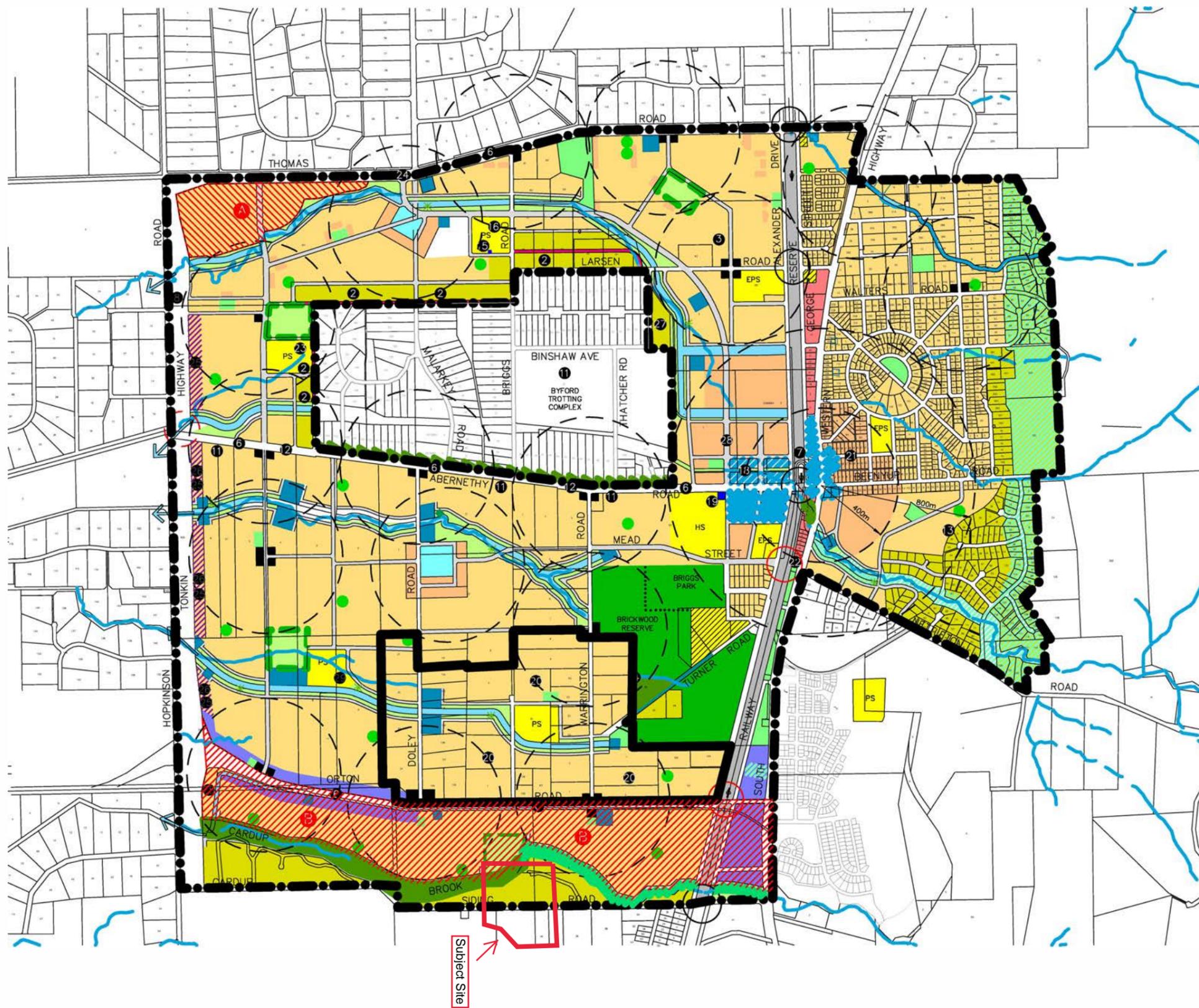
Authorised Officer _____
Date _____

Taylor Burrell Burnett Town Planning and Design
Level 7, 160 St Georges Terrace, Perth WA 6000
e: admin@lbbplanning.com.au
p: (08) 9226 4276

Scale: 0m 15 30m

12/09/2019

- LEGEND**
- STRUCTURE PLAN AREA
 - DOLEY/WARRINGTON ROAD DISTRICT BOUNDARY
 - RURAL RESIDENTIAL
 - RESIDENTIAL (R20)
 - RESIDENTIAL (R30-60)
 - LAND SUBJECT TO FURTHER STUDY, SEE NOTES 25 & 26 WHERE APPLICABLE
 - TOWN CENTRE SUBJECT TO LOCAL STRUCTURE PLAN AND DETAILED AREA PLAN AND DESIGN GUIDELINES
 - NEIGHBOURHOOD CENTRE
 - HIGHWAY COMMERCIAL
 - COMMUNITY PURPOSE
 - NEIGHBOURHOOD NODE
 - SCHOOLS
 - EPS - Existing Primary School
 - PS - Primary School
 - HS - High School
 - MIXED BUSINESS
 - MULTIPLE USE CORRIDOR (MUC)
 - WATERWAY
 - DRAINAGE BASIN INDICATIVE LOCATION
 - FUTURE ROADS
 - EXISTING MHS REGIONAL PARKS AND RECREATION RESERVE
 - EXISTING LOCAL PUBLIC OPEN SPACE
 - PROPOSED LOCAL PARK (Approx. 3000m²)
 - PROPOSED LOCAL PARK WITHIN MUC
 - PROPOSED NEIGHBOURHOOD PARK (Approx. 4800m²)
 - PROPOSED NEIGHBOURHOOD PARK WITHIN MUC
 - DISTRICT RECREATION (Approx. 4ha)
 - CONSERVATION
 - FORESHORE RESERVE
 - PUBLIC PURPOSES
 - BUFFER BETWEEN TROTTING COMPLEX, EQUESTRIAN RELATED ACTIVITIES AND RESIDENTIAL AREA INCLUDED WITHIN EXISTING LOTS
 - AREA OF LANDSCAPE SENSITIVITY
 - DRAINAGE DIRECTION FLOW
 - UNCONSTRUCTED ROAD / BRIDLE PATH
 - TURNER ROAD - POSSIBLE CLOSURE SUBJECT TO FURTHER INVESTIGATIONS BY COUNCIL
 - RAILWAY CROSSINGS
 - POTENTIAL RAIL CROSSING SUBJECT TO FURTHER INVESTIGATIONS
 - POSSIBLE FUTURE GRADE SEPARATED CROSSING
 - POTENTIAL FUTURE RAILWAY STATION
 - AND SUBJECT TO FURTHER STUDY TO ADDRESS THE REQUIREMENTS FOR DRAINAGE, AND DETAILED STRUCTURE PLANNING CONSIDERATION TO BE GIVEN TO THE PREFERRED ALIGNMENT OF THE TOWN HIGHWAY PRIMARY REGIONAL ROAD RESERVATION.
 - LAND SUBJECT TO FURTHER STUDY - PLANNING TO BE FINALISED SUBJECT TO RESOLUTION OF ALIGNMENT OF ORTON ROAD

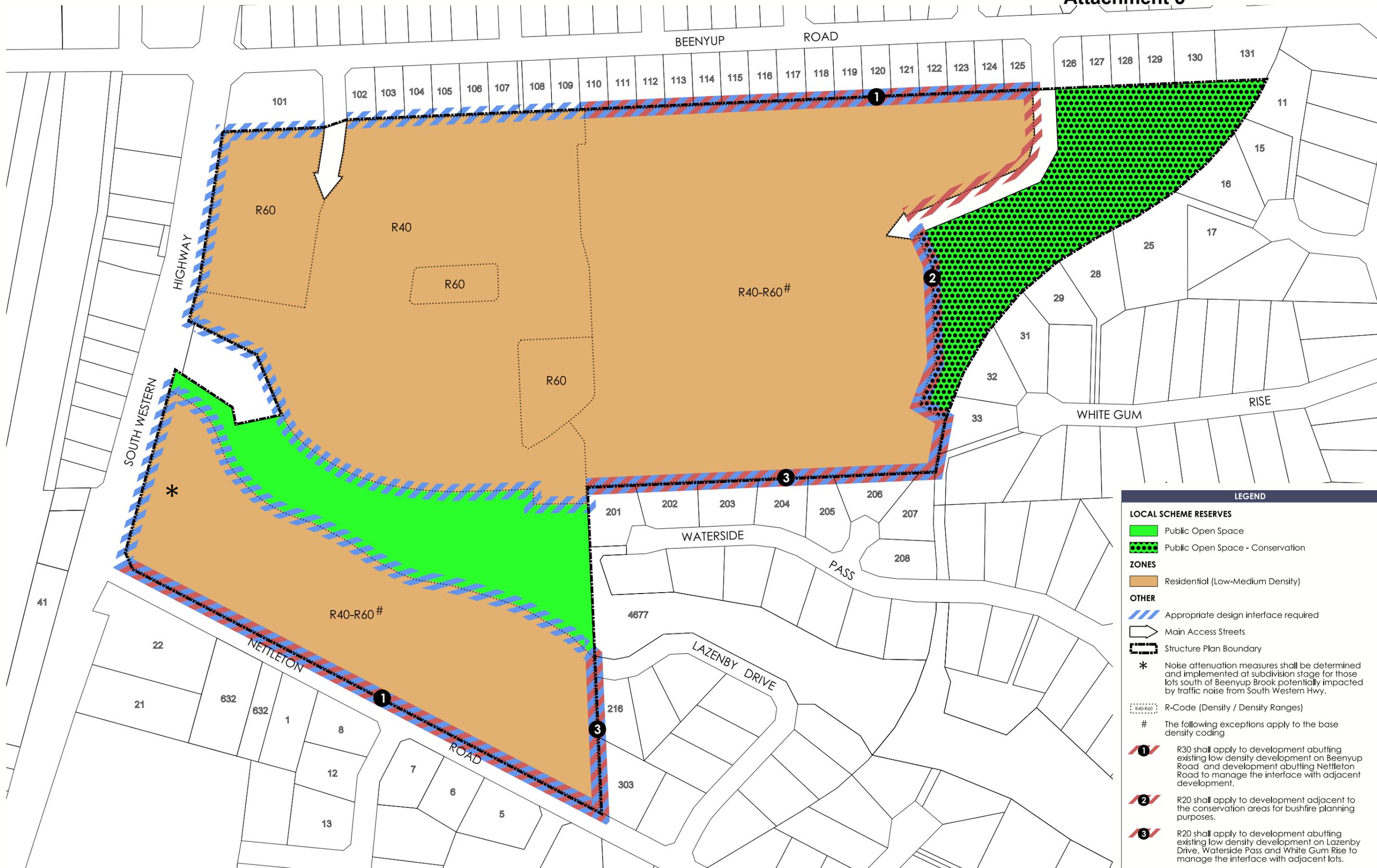


This is a District Structure Plan and shall be used as a basis for more detailed planning when read in conjunction with other documents and the Byford Structure Plan report

This Plan should be read in conjunction with Schedule 1 - Operative Part

Figure 1
Byford Structure Plan

Adopted by Council (Original) - 22nd AUG 2005
 Adopted by Council (Review No.1) - 13th FEB 2007
 Updated 23 June, 2009



LEGEND

LOCAL SCHEME RESERVES

- Public Open Space
- Public Open Space - Conservation

ZONES

- Residential (Low-Medium Density)

OTHER

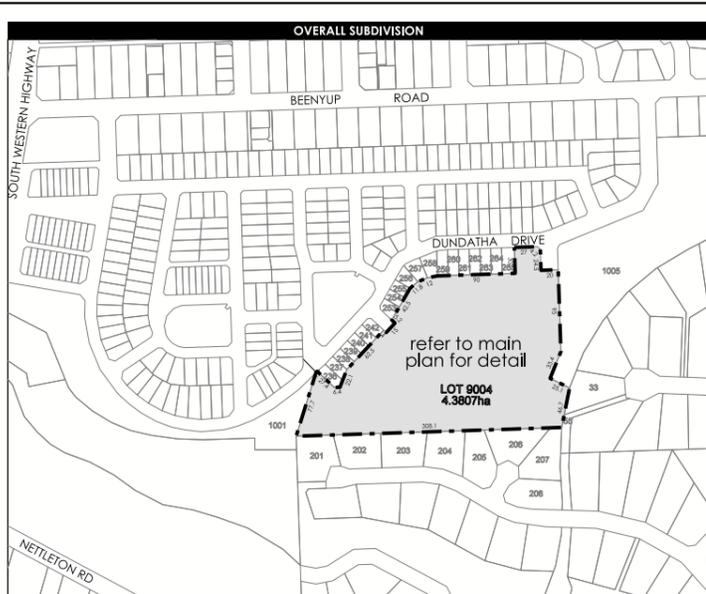
- Appropriate design interface required
- Main Access Streets
- Structure Plan Boundary
- * Noise attenuation measures shall be determined and implemented at subdivision stage for those lots south of Beenyup Brook potentially impacted by traffic noise from South Western Hwy.
- R-Code (Density / Density Ranges)
- # The following exceptions apply to the base density coding
- 1 R30 shall apply to development abutting existing low density development on Beenyup Road and development abutting Nettleton Road to manage the interface with adjacent development.
- 2 R20 shall apply to development adjacent to the conservation areas for bushfire planning purposes.
- 3 R20 shall apply to development abutting existing low density development on Lazenby Drive, Waterside Pass and White Gum Rise to manage the interface with adjacent lots.

LOCAL STRUCTURE PLAN (PLAN 1)
 Lot 2 Nettleton Road, Byford

0m 15 30 45m
 s: 1:3000@A3
 d: 21 May 2015
 p: 07/067/031F

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 Taylor Burrell Barnett Town Planning and Design
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SPC Agenda Page 49

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DEPARTMENT OF PLANNING, LANDS AND HERITAGE

DATE **13-Feb-2019** FILE **157749**

LEGEND

APPLICATION AREA (4.3807ha)

LOT YIELD		LOT AREA	
Size	No.	%	Average Total Area
235m ² - 319m ²	21	28.77%	292m ²
320m ² - 449m ²	19	26.03%	378m ²
450m ² - 499m ²	9	12.33%	455m ²
500m ² - 549m ²	6	8.22%	501m ²
550m ² - 599m ²	2	2.74%	580m ²
600m ² - 699m ²	13	17.81%	600m ²
700m ² +	3	4.11%	760m ²
Total Number of Lots		73	
Minimum Lot Size 245m ²		Average Lot Size 433m ²	
Maximum Lot Size 821m ²		Total Lot Area 31679m ²	



Plan of Subdivision

LOT 9004 DUNDATHA DRIVE, BYFORD - THE BROOK AT BYFORD ESTATE

A CEDAR WOODS PROPERTIES LIMITED PROJECT

TAYLOR BURRELL BARNETT

planned: 07/06/2019
date: 05/02/2019
projection: PCG94

designed: MB
checked: RC
drawn: FD

scale: 1:1000@A3 | 1:500@A1
0 10 20m

Taylor Burrell Barnett Town Planning & Design
Level 7, 140 St Georges Terrace, Perth WA 6000
p: (08) 9226 4274 e: admin@tbbplan.com.au

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SPC Agenda Page 50



REPORT TO	Statutory Planning Committee		
Meeting date	21 January 2020	File number	SPN/2208
Subject	Mount Helena Local Structure Plan Proposal		
Purpose	Requires WAPC decision		
Title of Approving Officer	Director - Metro North		
Agenda Part for Reports (All parts are confidential unless otherwise stated)			
SPC - Non-Confidential (To be published to the website)			
SITE-SPECIFIC DETAILS			
Region/s	Perth		
Local government/s	Shire of Mundaring		
Landowner/Consultant	Consultant – Statewest Planning Landowners –R.G.B. Brodie; R.G & D.E.E. Bacon; S.P. Brayley; R.J. & A.M.E. Lorkiewicz; H.M.A. Gill; S.M.F. & G.K. Pavey; R.A. Ragg; D.H. Parsons; M.J. & J.E. Cousins; Magnum Plant Hire Pty Ltd; R.F. & M. Beaman; R.R. & E.L. Hardy; A. Mercieca; M.R.J. Oliver; P.W. & J. Reilly; D.J. & L.A. Davies; N.J. Robertson; C.L. Melis; M.R. Vandenadort; R. & R. Oliver; and D.L. Tomasi.		
Bushfire Prone Area	YES		
Statutory Planning Committee - SMART/Structure Plans only			
Region scheme zoning	Urban		
Local Scheme Zoning	Development		
Council's recommendations	APPROVE		
Receipt date	12/4/2019	Process days	228
Property Address	Lots 29, 30 and 32 Johnston Street, Mount Helena; Lots 1, 2, 3, 28, 35, 36, 37 and 38 Bernard Street, Mount Helena; Lots 39, 42, 11, 12 and 13 Lion Street, Mount Helena; Lots 40 and 41 Hummerston Street, Mount Helena; and Lots 100 and 101 Dean Street, Mount Helena.		
SUMMARY			
<p>The Western Australian Planning Commission (WAPC) has received the Mount Helena Local Structure Plan No.77 (the Structure Plan) for determination. The Structure Plan relates to 42.77 hectares of land southeast of the existing Mount Helena townsite in the Shire of Mundaring and proposes to guide the future subdivision and development of land for residential purposes (Attachment 1 – Context Plan).</p> <p>The Structure Plan is traversed by a creek line (Charlotte Creek) which the applicant is proposing shall remain in private ownership. WAPC's policies generally require that watercourses and their foreshore edges be brought into public ownership, however, the Shire of Mundaring (the Shire) has indicated it does not wish to take on management responsibility for Charlotte Creek and is supportive of the applicant's proposal.</p>			

A decision from the Statutory Planning Committee (SPC) is sought on the appropriate land tenure for the creek, as this will have a significant bearing on how the Structure Plan is configured and the supporting documents that underpin it.

It is recommended that the applicant be advised that the Structure Plan be progressed on the basis that Charlotte Creek will be incorporated into a reserve.

DETAILS OF PROPOSAL

The Structure Plan relates to the area shown in Attachment 2 (**Attachment 2 – Local Structure Plan Map**) and consists of the following key elements:

- Creation of approximately 119 lots at R2.5 and R5 densities in accordance with minimum lot specifications of Table 1 of the Residential Design Codes;
- Retention of the south-eastern portion of Charlotte Creek in private land ownership;
- Establishment of a multi-purpose public open space and drainage reserve along the north-western portion of Charlotte Creek; and
- Identification of road connections and infrastructure upgrades.

The site is located to the southeast of the existing Mount Helena townsite and is bound by local roads (Johnston Street, Lion Street and Hummerston Street) and Rural zoned lots to the northwest.

The following technical documents were submitted to accompany the Structure Plan:

- Bushfire Management Plan;
- Flora and Vegetation Survey, and
- Local Water Management Strategy.

BACKGROUND

The area encompassed by the Structure Plan was rezoned from Rural to Urban via MRS Amendment 1277/27 which was approved on 6 October 2017. Subsequently, a separate amendment to the Shire’s Local Planning Scheme No. 4 (LPS 4) was approved by the Minister for Planning on 7 August 2018. This amendment rezoned the subject land from Rural Residential to Development and requires a structure plan to be prepared to provide comprehensive and coordinated planning for the subject land.

KEY ISSUES

Consistency with WAPC Policies & Planning Framework	<i>Planning and Development Act 2005</i> Planning and Development (Local Planning Scheme) Regulations 2015 Local Planning Scheme No.4 State Planning Policy 2 – Environment and Natural Resources Policy State Planning Policy 2.9 – Water Resources State Planning Policy 2.10 – Swan-Canning River System Development Control Policy 2.3 – Public Open Space in Residential Areas Liveable Neighbourhoods	Some inconsistency, variation not recommended
Government Considerations	N/A	N/A
Budget	None	
Consultation	Community Consultation	

The Shire of Mundaring advertised the proposed Structure Plan for a period of 28-days between 16 November 2018 and 14 December 2018. A total of 48 submissions were received comprising 5 objections, 13 identifying concerns; and 30 supporting with comments.

Matters of objection and concern related to:

- Environmental protection of both flora and fauna;
- Vegetation clearing;
- Protection and enhancement of Charlotte Creek as POS;
- Bushfire risk;
- Drainage, stormwater and effluent disposal;
- Proposed residential densities and lot sizes;
- Road network and traffic;
- Impacts on Aboriginal Heritage; and
- Water supply.

The following section is limited to a summary of agency submissions that relate to the consideration of Charlotte Creek and its tenure arrangements.

Agency Consultation

Shire of Mundaring

The Shire of Mundaring considered the proposed Structure Plan at its Ordinary Council Meeting of 9 April 2019. The Shire resolved to support the Structure Plan, which provides for the retention of the creek in private ownership.

Department of Water and Environmental Regulation (DWER) – Swan Avon Region

DWER has recently endorsed the Local Water Management Strategy (LWMS) and supports the progression of the planning process. DWER has provided additional advice confirming it is preferable a biophysical foreshore assessment is undertaken for Charlotte Creek to ensure proposed buffers to the waterway and foreshore management of the waterway is appropriate.

Department of Biodiversity, Conservation and Attractions (DBCA) – Swan Regions

DBCA – Swan Regions provided comments with respect to surface water management, native vegetation protection, Commonwealth protected fauna and fire management. DBCA noted that the LWMS proposes a 30m setback from Charlotte Creek for effluent disposal units and 20m setback for buildings. DBCA advised that development should avoid impacts to the watercourse and seek to retain native vegetation.

Department of Biodiversity, Conservation and Attractions (DBCA) – Rivers and Estuaries

DBCA – Rivers and Estuaries Division provided advice indicating that the Structure Plan should be considered in accordance with the Swan Canning Development Control Area Corporate Policy Statement No.42 (Policy No. 42). Policy No.42 promotes a minimum foreshore width of 30 metres for river foreshores.

PLANNING ASSESSMENT

Proposed Tenure of Charlotte Creek

The fundamental issue for consideration in the assessment of this Structure Plan is the land tenure arrangements for Charlotte Creek. The Creek is a minor watercourse that runs southeast-northwest through the Structure Plan area and is approximately 1-2 metres in width (**Attachment 3 – Charlotte Creek Photograph**).

The Creek joins together with several other small creeks to form Jane Brook approximately 1.2km downstream from the subject site, before eventually flowing into the Swan River. The upstream catchment of Charlotte Creek extends approximately 2km south-east of the subject site through land zoned Rural under the MRS.

Local Water Management Strategy

The LWMS proposes that all of the Creek remains in private ownership except for a portion in the north-western corner of the Structure Plan which is proposed to be included within a multi-purpose POS and drainage reserve (**Attachment 4 – Landscape and Drainage Concept Plans**).

The LWMS proposes that lots containing the watercourse, or within 10 metre of the top of the bank of the watercourse, are designated as 'Waterway Custodian Lots (WCL)'. These lots will be subject to a condition of subdivision approval requiring an easement to be registered over the land containing the watercourse and foreshore areas. The stated intent of these easements is to enable the Shire to access the waterway and surrounding revegetation areas to undertake management activities in the event that the land owners fail to manage the waterway. It is not intended that the general public will have access to the waterway. The Shire has proposed that modifications be required to the Structure Plan to facilitate the WCL arrangement and provide for the required conditions of subdivision approval.

The Shire is supportive of this private ownership arrangement and provided the following justification in the Council report for why the creek should not be ceded as a reserve:

- *The downstream impact on Jane Brook is limited;*
- *Practical enjoyment of the land for the general public would be limited;*
- *The land would create long narrow wet areas of riparian zones representing a significant maintenance burden for the Shire.*
- *The ecological function can still be enhanced via watercourse rehabilitation being required as conditions of subdivision approval; and*
- *Adverse impacts from unsuitable development are controlled via existing watercourse setback requirements within LPS 4.*

State Planning Policy

State Planning Policy 2 – Environment and Natural Resources Policy (SPP 2) identifies that planning decisions should actively seek opportunities for improved environmental outcomes. In particular, SPP 2 identifies that decision making should consider mechanisms to protect, manage, conserve and enhance waterways; provide for recreational opportunities and conservation functions through multiple use drainage systems; ensure the provision of adequate setbacks between development and foreshores of waterways and wetlands in order to maintain or improve the ecological and physical function of waterways.

State Planning Policy 2.9 – Water Resources (SPP 2.9) expands on the provisions of SPP 2 and provides guidance on the planning, protection and management of surface and groundwater catchments which includes waterways. The primary objective of SPP 2.9 is to protect, conserve and enhance water resources. Given the unique and varied nature of water resources, SPP2.9 is specific in requiring that detailed information be provided at the Structure Plan stage to identify suitable buffers and setbacks from a waterway, and sets out the approach to be taken in determining appropriate buffers for waterways. DWER has advised that a Biophysical Foreshore Assessment is the appropriate tool to be used to determine the suitable buffer, setbacks and revegetation requirements for Charlotte Creek.

Several of the public submissions received as part of the consultation process suggested that the entire length of Charlotte Creek should be ceded as a public purpose reserve for public enjoyment and to ensure that appropriate maintenance and management of the creek line can be undertaken by the Shire and various existing community groups.

The applicant's justification for why the creek should be retained in private ownership can be summarised as follows:

- The Shire of Mundaring has advised it does not wish to take on the management of the creek (outside of that currently shown within the Structure Plan as POS) as it does not have the resources to maintain the remaining creek and foreshore;
- There would be limited subdivision potential for lots containing the creek and subsequently no incentive for landowners to subdivide and rehabilitate the creek;
- A POS reserve would serve no practical function for the local community; and
- A number of existing houses would require demolition as they would be located within land required for a foreshore reserve.

The applicant's justification seems to be predicated on individual landowners implementing the structure plan in a piecemeal fashion. The purpose of the structure plan, however, is to ensure that the subdivision and development of the subject land is carried out in a coordinated fashion which responds appropriately to the site's constraints. The applicant's reasons are therefore not considered to be adequate justification to depart from Commission policy.

Advice from DBCA Rivers and Estuaries Division indicates it is supportive of the inclusion of Charlotte Creek within a public reserve but acknowledges that requiring the creek as a public reserve may be challenging if the Shire is not willing to take on its management.

The Shire's Local Planning Strategy (LPS), endorsed by the WAPC on 28 May 2013, provided the basis for MRS Amendment 1277/27. The LPS in supporting the site's residential development identified the following issues as important for resolution:

- On-site investigation demonstrating adequate effluent disposal capacity;
- Adequate protection of and setback from Charlotte Creek;
- Adequate stormwater management; and
- Appropriate integrated subdivision design across the site to retain Local Natural Areas in Public Open Space (POS) as far as practical.

The District Water Management Strategy (DWMS) prepared in support of MRS Amendment 1277/27 and endorsed by DWER on 3 August 2015 specifically identified the following requirement: *"A biophysical assessment of the watercourse to determine ongoing watercourse management, with a preference that the watercourse will be retained in one single lot and managed by the Shire of Mundaring as public open space. If that is not possible it should be located on a minimal number of lots with conditions and/or restrictions on the lot boundaries crossing the watercourse."*

This position was reflected in the conceptual Structure Plan submitted in support Amendment 1277/27. The conceptual structure plan identified a 20m buffer to Charlotte Creek and its ceding to the Shire as POS. It is the joint position of the WAPC and DWER, as expressed through the *Better Urban Water Management* document, that LWMS documents are to be consistent with an endorsed DWMS.

Given the matters outlined above, a formal position from the WAPC is sought to determine the appropriate land tenure arrangements for Charlotte Creek moving forward. Clarification on this matter will provide direction to the applicant, noting that this matter will have a significant bearing on how the Structure Plan is currently configured and the background documents that underpin it.

Other Issues

It is important to note there are a number of other unresolved issues which require additional information in order to be resolved. These are as follows:

- Bushfire planning, specifically with respect to mitigating risks identified by the Department of Fire and Emergency Services associated with Elements 1, 2, and 3 of the Guidelines for Planning in Bushfire Prone Areas;
- Environmental matters, specifically relating to the preparation of an up to date flora and vegetation survey that includes all land within the Structure Plan boundaries;
- Noise and odour buffer requirements associated with an adjacent poultry farm;
- Resolution of Main Roads WA's concerns, specifically regarding the submission of a traffic impact assessment (not yet completed);
- Aboriginal heritage considerations, specifically to determine whether further consultation is required prior to progression of the Structure Plan.

Conclusion

Having regard for the discussion above and the direction predicated within the LPS, DWMS and conceptual structure plan, it is considered fair and reasonable to adhere to the WAPC policy position and require that the Structure Plan be progressed on the basis that Charlotte Creek will become a reserve with foreshore widths to be established through a Biophysical Foreshore Assessment.

RECOMMENDATION

That the Statutory Planning Committee resolves to:

- 1. Advise the applicant that Local Structure Plan No.77 be progressed on the basis that Charlotte Creek will become a reserve, noting that this may require modifications to the Structure Plan; and***
- 2. Note that other issues in respect of:***
 - a. Bushfire planning and compliance with State Planning Policy 3.7;***
 - b. Preparation and submission of a comprehensive Flora and Vegetation Survey for all land within the Structure Plan boundaries;***
 - c. Resolution of noise and odour buffer requirements;***
 - d. Resolution of Main Roads' concerns and submission of a Transport Impact Assessment; and***
 - e. Resolution of Aboriginal heritage considerations; require further work before they may be resolved.***

ATTACHMENTS

A1 – Context Plan
A2 – Local Structure Plan Map
A3 – Charlotte Creek Photographs
A4 – Landscape and Drainage Concept Plans



Legend

Cadastre (View 1)

ATTACHMENT 1



Inquiry Map

DPLH BUSINESS USE ONLY

Internal Spatial Viewer



0 0.51 1.0 Kilometres

1: 20,000

at A4

Projection: WGS 1984 Web Mercator Auxiliary Sphere

Notes:

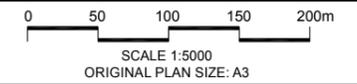
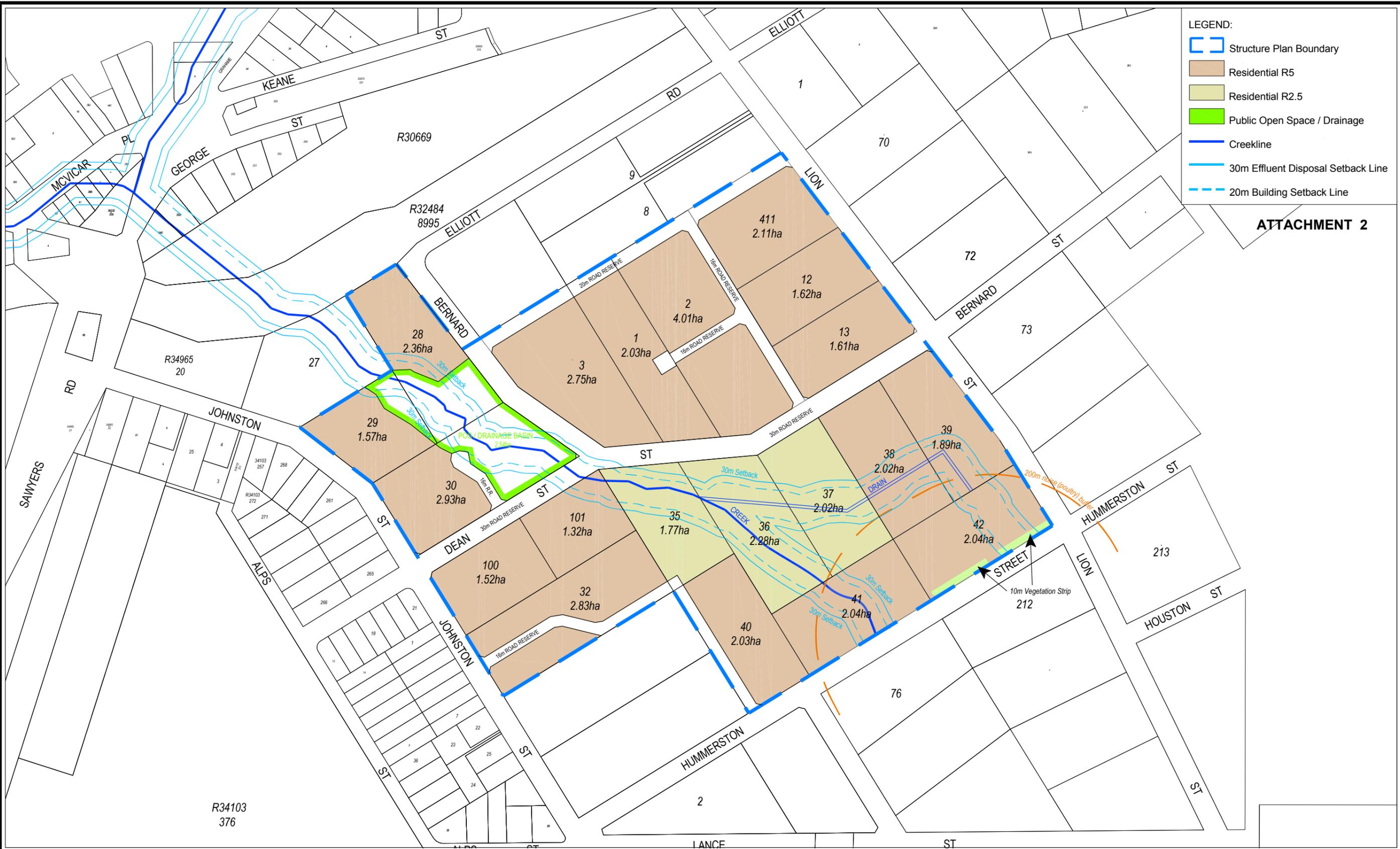
The data that appears on the map may be out of date, not intended to be used at the scale displayed, or subject to license agreements. The map should only be used in matters related to Department of Planning, Lands and Heritage business.

Map was produced using DPLH's InQuery.

Date produced: 22-Nov-2019

- LEGEND:**
-  Structure Plan Boundary
 -  Residential R5
 -  Residential R2.5
 -  Public Open Space / Drainage
 -  Creekline
 -  30m Effluent Disposal Setback Line
 -  20m Building Setback Line

ATTACHMENT 2



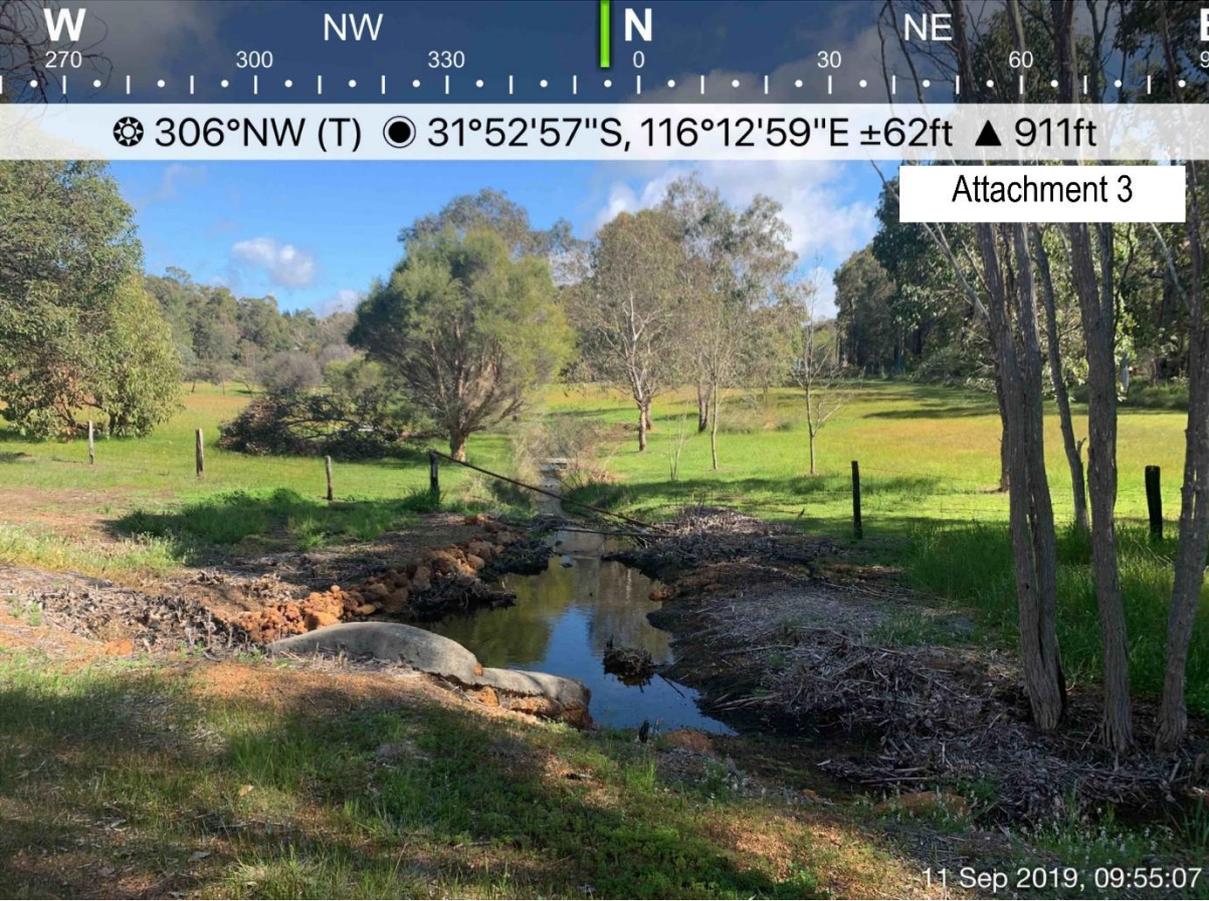
Statewest Planning
Midland House
69 Great Northern Highway, Midland
PO Box 1377, Midland WA 6936
t. 9274 1363 m. 0418 932 792
e. simon.ohara@statewestplanning.com.au

NOTE:
1. Areas and dimensions are subject to survey.

DATE: 20.09.2018

Plan 1 STRUCTURE PLAN

VARIOUS LOTS
MT HELENA
Shire of Mundaring



-  Project area boundary
-  Creek
-  Drains
-  Cadastre
-  Proposed lots
-  Constructed pools
-  Path
- Planting Zones**
-  Creeklime – Dense sedges, low shrubs. Density as required up to 10,000/ha.
-  POS – Sedges, low shrubs and scattered trees. Density 1,000 – 10,000/ha.

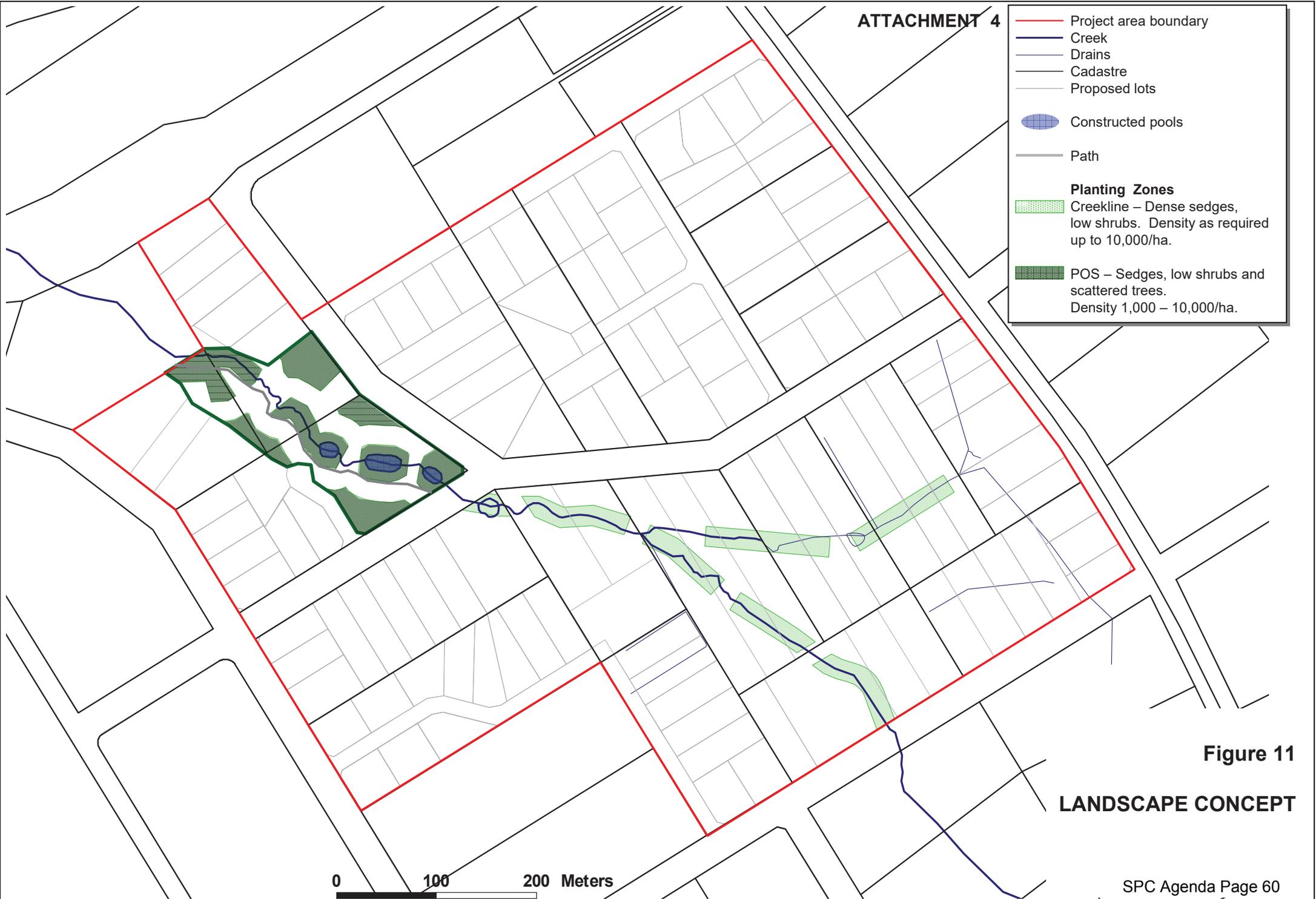
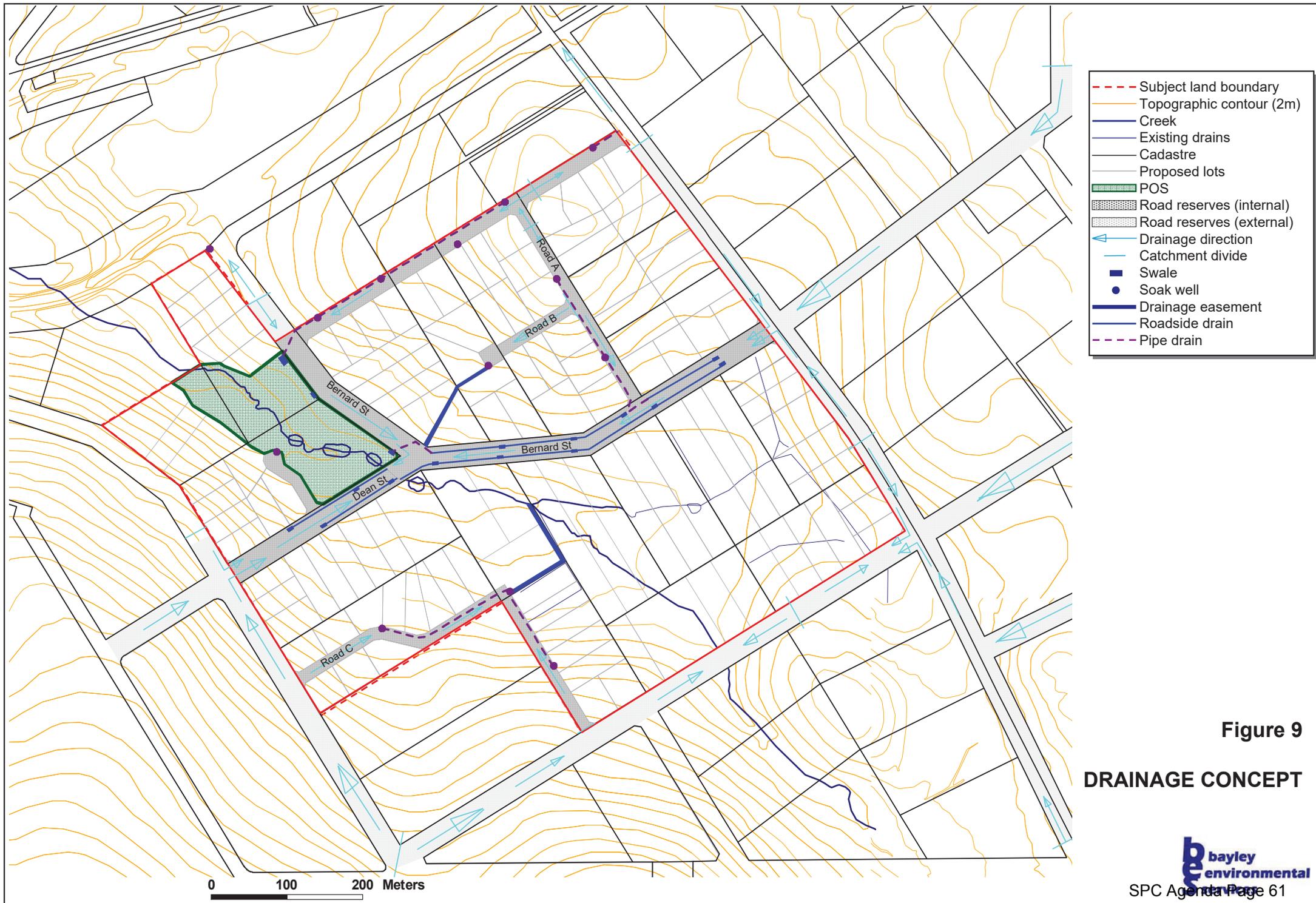


Figure 11

LANDSCAPE CONCEPT



- - - Subject land boundary
- Topographic contour (2m)
- Creek
- Existing drains
- Cadastre
- Proposed lots
- POS
- Road reserves (internal)
- Road reserves (external)
- ← Drainage direction
- Catchment divide
- Swale
- Soak well
- Drainage easement
- Roadside drain
- - - Pipe drain

Figure 9

DRAINAGE CONCEPT



REPORT TO	Statutory Planning Committee		
Meeting date	21 January 2020	File number	SPN/2151
Subject	SAT – Local Structure Plan No. 9 – Lot 660 La Perouse Road, Goode Beach		

KEY MATTERS IDENTIFIED BY THE DEPARTMENT OF PLANNING, LANDS AND HERITAGE

The key matters outlined below are those identified by the Department of Planning, Lands and Heritage and do not fetter the consideration of the proposal by the Western Australian Planning Commission, its Committees or the decision-maker.

The statutory consideration time has been extended on two occasions at the request of the proponent to allow additional groundwater monitoring to be undertaken, and for the proponent to address issues raised during assessment. The agreed extension was until on 1 October 2019. The applicant has now applied for a review in the State Administrative Tribunal (SAT) for a 'Deemed Refusal' as the application was not determined within the statutory timeframe.

The proposal is now presented to the SPC to confirm a position to take forward to the SAT proceedings.

In consideration of this proposal, DPLH has identified the following key matters for consideration by the SPC:

- Whether the proposal is appropriate given the current local government framework including the City of Albany Local Planning Strategy (2019), City of Albany Local Planning Scheme No.1 and the City of Albany Tourism Accommodation Planning Strategy (2010) which identifies this site for small scale, sensitive to the environment, development;
- Whether the proposal is appropriate given previous Commission decisions on Scheme amendments pertaining to the land including the ceding of land for Parks and Recreation pertaining to Lot 660 through the approved subdivision WAPC 119146;
- Whether the proposal is consistent with the objectives and direction provided in State Planning policies including:
 - SPP 2.6: Coastal planning - managed retreat;
 - SPP 2.9: Water Resources - groundwater flow and wetland buffer/development setback;
 - SPP3.7: Planning in bushfire prone areas - vehicular access, vegetation clearing for fire protection measures and risk assessment in accordance with WAPC Position Statement: Tourism land uses in bushfire prone areas;
- Government Sewerage Policy - on-site disposal; and
- Whether further evidence should be provided to demonstrate that the proposal has considered requirements under the Aboriginal Heritage Act 1972.



REPORT TO	Statutory Planning Committee		
Meeting date	21 January 2020	File number	TPS/2458
Subject	Amendment No. 176 to City of Rockingham Town Planning Scheme No. 2		
KEY MATTERS IDENTIFIED BY DPLH			
<p><i>The key matters outlined below are those identified by the Department of Planning, Lands and Heritage and do not fetter the consideration of the proposal by the Western Australian Planning Commission, its Committees or the decision-maker.</i></p>			
<p>In consideration of this proposal, the Department of Planning, Lands and Heritage has identified the following key matters for consideration by the Statutory Planning Committee:</p> <ul style="list-style-type: none"> • whether Park Home Park, Caravan Park and Camping Area should be made non-permitted, prior to the City's Scheme review and subsequent zoning of existing Park Home Park and Caravan Park/Camping Area sites to Special Use zones. 			



REPORT TO	Statutory Planning Committee		
Meeting date	21 January 2020	File number	TPS/2470
Subject	Town of Cottesloe Local Planning Scheme No.3 - Amendment No.8 - For Final Decision		
KEY MATTERS IDENTIFIED BY THE DEPARTMENT OF PLANNING, LANDS AND HERITAGE			
<p><i>The key matters outlined below are those identified by the Department of Planning, Lands and Heritage and do not fetter the consideration of the proposal by the Western Australian Planning Commission, its Committees or the decision-maker.</i></p>			
<p>In consideration of this proposal, the Department of Planning, Lands and Heritage has identified the following key matters for consideration by the Statutory Planning Committee:</p> <ul style="list-style-type: none"> • whether the density increases proposed by the Town are appropriate in the absence of a contemporary strategic planning framework. 			

REPORT TO	Statutory Planning Committee		
Meeting date	21 January 2020	File number	TPS/2291
Subject	City of South Perth Local Planning Scheme No. 6, Amendment No. 59 – For Final Determination		

KEY MATTERS IDENTIFIED BY THE DEPARTMENT OF PLANNING, LANDS AND HERITAGE

The key matters outlined below are those identified by the Department of Planning, Lands and Heritage and do not fetter the consideration of the proposal by the Western Australian Planning Commission, its Committees or the decision-maker.

- Whether the proposed amendment appropriately addresses State planning policy and the draft local planning strategy to optimise residential density in proximity to an urban corridor (Manning Road) identified in the Central Sub-regional Planning Framework.
- Whether the proposed R60 density in proximity to an urban corridor (Manning Road) identified in the Central Sub-regional Planning Framework is appropriate.
- Whether the proposed 10.5m building height limit in proximity to an urban corridor (Manning Road) identified in the Central Sub-regional Planning Framework is appropriate
- Whether the proposed requirement for a 6.0 metre setback to Manning Road is warranted.
- Whether readvertising of the amendment is warranted.



REPORT TO	Statutory Planning Committee		
Meeting date	21 January 2020	File number	TPS/2396
Subject	City of South Perth Local Planning Scheme No. 6, Amendment No. 60 – For final determination		
KEY MATTERS IDENTIFIED BY THE DEPARTMENT OF PLANNING, LANDS AND HERITAGE			
<p><i>The key matters outlined below are those identified by the Department of Planning, Lands and Heritage and do not fetter the consideration of the proposal by the Western Australian Planning Commission, its Committees or the decision-maker.</i></p>			
<ul style="list-style-type: none"> • Whether the proposed amendment appropriately addresses State planning policy and the draft local planning strategy to optimise residential density in proximity to an urban corridor (Manning Road) identified in the Central Sub-regional Planning Framework. • Whether the proposed R100 density in this locality is acceptable. • Whether the proposed 24.5m (7 storeys) building height limit in this locality is acceptable. • Whether the proposed 'purpose built student accommodation facility' definition and land use is acceptable. 			

REPORT TO	Statutory Planning Committee		
Meeting date	21 January 2020	File number	TPS/2307
Subject	City of Swan – Local Planning Scheme No. 17, Amendment No. 142 – For Final Determination		
KEY MATTERS IDENTIFIED BY THE DEPARTMENT OF PLANNING, LANDS AND HERITAGE			
<p><i>The key matters outlined below are those identified by the Department of Planning, Lands and Heritage and do not fetter the consideration of the proposal by the Western Australian Planning Commission, its Committees or the decision-maker.</i></p>			
<p>Amendment No. 142 seeks to modify the City of Swan’s Local Planning Scheme No. 17 to incorporate new infrastructure (dual-lane roundabout) in the Development Contribution Plan (DCP) for Development Contribution Area (DCA) 1 – Brabham.</p> <p>In consideration of this proposal, the Department of Planning, Lands and Heritage has identified the following key matters for consideration by the Statutory Planning Committee:</p> <ul style="list-style-type: none"> • Whether the proposed amendment is consistent with the intent and objectives of State Planning Policy (SPP) 3.6 – Development Contributions for Infrastructure; • Whether the proposed amendment is consistent with the principles of SPP 3.6, particularly: <ul style="list-style-type: none"> ○ The ‘nexus’ aspect of the Need and Nexus principle; and ○ Equity; • Whether further action on the amendment documents could be taken in achieving consistency with the intent, objectives and/or principles of SPP 3.6; • Whether further consultation with other stakeholders is appropriate in the context of any further action on the amendment documents. 			